

GENERAL TERMS AND CONDITIONS FOR PROVISION OF WASTE SERVICES BY FORTUM – YP 17

1 GENERAL

1.1 Waste in these general terms and conditions (hereinafter “General Terms and Conditions”) shall mean ordinary waste and hazardous waste (hereinafter collectively “Waste”), as defined in applicable legislation in force.

1.2 These General Terms and Conditions will apply to all services concerning Waste delivery and treatment performed by Ekokem Corporation and its affiliated companies (hereinafter collectively “Fortum”) to the buyer of these services (hereinafter the “Customer”) unless otherwise specifically agreed between the parties in writing. Any terms departing from these General Terms and Conditions indicated in an order placed by the Customer or otherwise will be binding on Fortum only if specifically approved by Fortum in writing.

1.3 The services delivered by Fortum to the Customer will be defined in writing in the order confirmation issued by Fortum in response to an order placed by the Customer, in a separate agreement or in the movement/transport document. Follow-up orders or new orders may be placed by telephone or email based on an earlier written agreement subject to unchanged conditions. Minimum response time for Fortum is five (5) days for pick-ups and deliveries.

1.4 Fortum will be liable for securing that it has all permits required for performance of the services and that it meets the required statutory qualifications. Fortum undertakes to perform the services in a professional manner in compliance with its environmental permits and regulatory requirements.

1.5 In addition to the General Terms and Conditions for the provision of services, the Regulation (EC) N:o 1013/2006 of the European parliament and of the Council on shipments of waste and the Basel convention on the control of transboundary movements of hazardous wastes and their disposal and provisions adopted on its basis, will apply to international shipments.

A) WASTE TREATMENT SERVICES

2 TRANSPORT AND RECEPTION OF WASTE

2.1 If the Customer delivers Waste to Fortum, the Waste shall be delivered to the place of delivery indicated by Fortum (delivery term DDP INCOTERMS 2010) at the receiving times indicated by Fortum. The Customer must prepare a movement/transport document conforming to the applicable regulations for each shipment of Waste. Unless otherwise agreed, each shipment is weighed at Fortum’s receiving point and a weighing certificate will be issued to the Customer. Fortum’s waste consignment/declaration number must be indicated on the packages in addition to the regulatory markings.

2.2 If Fortum collects the Customer’s Waste from a place indicated by the latter, the delivery term used is FCA INCOTERMS 2010.

2.3 The Customer is obligated to inform Fortum of the estimated amount of Waste in each shipment including accurate data on the composition and detrimental or hazardous properties of the Waste prior to the commencement of the service.

2.4 Fortum has the right to refuse reception of the delivery for a compelling reason. The following reasons, inter alia, are regarded as compelling:

- the data provided on the Waste is inaccurate or incomplete and the Waste cannot, in Fortum’s considered view, be treated safely in compliance with the law and regulatory requirements at Fortum’s facility.

- the Customer has any unpaid payments to Fortum or the payment has been cancelled for reorganization, liquidation or other insolvency

- the delivery is not packaged and marked in accordance with the applicable regulations. Alternatively, Fortum may rectify the flaws in packaging and markings on behalf of the Customer and charge the cost from the Customer. The Customer is liable for any costs and damages incurred by Fortum as a result of any incomplete or damaged packaging or missing markings.

2.5 Fortum will not assume liability for any Waste shipment until reception of the shipment is duly acknowledged by an entry in the movement/transport document or until Fortum has had the opportunity to check the amount and composition of the Waste at the receiving point. If after reception it appears that the data on the Waste given by the Customer are inaccurate and/or incomplete, Fortum is entitled to recover costs and damages that occurred due to the inaccurate and/or incomplete data given by the Customer.

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3 SAMPLING AND PROCESSING OF THE WASTE

3.1 Upon the arrival of a shipment of Waste at the treatment facility, Fortum may, at its discretion, take samples from it and/or document possible quality deviations. If the results of the analysis and the data on the Waste provided by the Customer differ, the Customer will have the right to have the sample re-analyzed at its own cost by a duly approved research facility. If the result of the re-analysis commissioned by the Customer is within the margin of error of the analysis method used, the analysis result obtained by Fortum will prevail. hree (3) months from the delivery of each Waste shipment.

3.2 The weighing, inspection and potential sampling of the Waste shipment on receiving will not diminish the sender’s and Customer’s regulatory liability or responsibility for the accuracy and completeness of the data provided on the Waste.

3.3 Unless otherwise specifically agreed, any amount of Waste due for treatment indicated in the order or agreement is an estimate and not binding on Fortum. Fortum may, at any point, suspend reception of Waste without any liability for damages. The Customer must be notified of any such suspension as soon as possible, but no later than five (5) days in advance. Such suspension will apply to all Waste shipments not confirmed in writing and not dispatched to Fortum before the effective date of the suspension.

3.4 Upon completion of hazardous waste treatment Fortum will subject to a charge issue a treatment certificate at the Customer’s request unless the waste treatment falls into the scope of the EU Regulation on shipments of waste (N:o 1013/2006), in which case the treatment certificate is given free of charge.

B) OTHER SERVICES

4 TRANSPORTATION

4.1 In transportation services, liability for Waste is determined in accordance with the currently applicable legislation.

4.2 The Customer's staff will participate in loading the vehicle using the Customer's machinery, equipment or utilities free of charge.

4.3 Fortum may prepare the movement/transport document according to the information provided by the Customer. Responsibility for preparing the movement/transport document remains with the Customer. After loading, the Customer confirms the movement/transport document with its name and signature.

5 RENTAL OF CONTAINERS AND OTHER EQUIPMENT

5.1 Fortum rents to the Customer empty containers, packages and tanks (hereinafter Containers) for the storage and/or transportation of Waste. If the Customer does not notify Fortum of any irregularities or defects in the Containers in writing upon delivery or immediately after realizing the irregularity or defect, the Containers are deemed received by the Customer intact and in the condition specified in the order. Fortum will retain ownership of the Containers. The Customer will not have the right to assign the right of rental or the use of the Container to a third party.

5.2 Fortum will be responsible for ensuring that, upon commencement of the rental period, the Containers bear the regulatory markings indicating any type approval and the service life required by law. The Customer will notify Fortum of the need to replace a Container, if the Customer detects that the stipulated service life of a Container is about to expire.

5.3 The Customer will be liable for any damage to the Containers (e.g. corrosion or other mechanical damage) as long as they remain in the Customer's possession. The Customer will not be liable for any normal wear and tear of the Containers. Any damaged Container must be returned by the Customer to Fortum for repair or treatment and exchange.

5.4 The Customer will be liable for ensuring that the rented Containers will only be used for the intended purpose and intended substance. The Customer will be liable for ensuring that the rented Containers are not damaged or contaminated with chemicals. As a dispatcher of hazardous materials, the Customer will be liable for ensuring that the classification and method of packaging of the hazardous substances and the condition and markings of the Container satisfy applicable regulatory requirements. The Customer does not have the right to remove the markings or make any own markings on the Containers unless the parties have agreed otherwise in writing.

5.5 Return, pick-up and cleaning of reusable Containers and packages are subject to prior agreement.

6 SERVICES PROVIDED ON THE CUSTOMER'S SITE

6.1 In case the entire or part of the service is performed on the Customer's site, the Customer is required to inform Fortum of the environmental permits, instructions and safety regulations to be complied with on the Customer's site. Fortum undertakes to comply with the environmental permits, instructions and regulations while operating on the Customer's site. The Customer is liable to ensure that the information and instructions given to Fortum for the purpose of providing the services are accurate and complete and that the site, equipment, accessories and supplies allocated to Fortum for the provision of the services are in a condition that satisfies the regulatory requirements. The Customer's equipment, accessories and supplies

for the performance of the services on the Customer's site are to be made available to Fortum free of charge.

6.2 The Customer will be responsible for the occupational safety of its staff. The Customer will be liable for any environmental impacts and damages occurring on the Customer's site or in its surroundings except if such impact or damage can be shown to have been caused solely by a wilful act or negligence of Fortum or its staff.

C) GENERAL PROVISIONS

7 PRICE

7.1 The price of the services will be determined according to Fortum's current price list or contract and the weighing and potential sampling and analysis carried out by Fortum. The price list will be submitted to the Customer upon request. If the Waste is weighed in Containers that are not to be returned, the weight of the Container will be included in the total weight of the Waste. The price for transportation is also affected by the volume based weight of the Container. Cost of travel and daily allowance will be charged in accordance with the criteria specified by the National Tax Authority.

7.2 Any price confirmed in connection with the order is binding upon Fortum only if the data provided on the Waste is accurate and complete.

7.3 In conjunction with any emergency type services ordered from Fortum, the Customer is obliged to pay compensation to Fortum for materials and supplies used and the working hours expended by Fortum's staff even if these items are not specifically identified in the order, provided that such services have been justified and reasonable given the circumstances.

7.4 Value added tax at the applicable rate and any other statutory taxes and charges will be added to all the prices.

7.5 If tax increases, charges or surcharges, that affect Fortum's service prices directly or indirectly, change, Fortum has the right to revise the service prices accordingly.

8 TERMS OF PAYMENT AND SECURITY

8.1 The treatment charge for the Waste will be invoiced by Fortum on reception of the Waste by the treatment facility. All the other services will be invoiced subject to special agreement. The invoices will fall due in 14 days from the date of the same. Overdue interest is payable in accordance with the applicable Interest Act. In addition Fortum is entitled to claim the Customer for an applicable standard compensation regulated by law due to late payment as well as all collection charges in excess of such standard compensation.

8.2 The Customer who has ordered the service is liable for payment in accordance with the terms of payment defined herein even when the Customer is entitled to compensation from an insurance company, public funds or other sources.

8.3 Fortum may at its own discretion perform a credit evaluation on the Customer. Fortum is entitled to require at any time, as a precondition for the reception of Waste or performance of any other service, the Customer to provide Fortum with a bank guarantee or other security acceptable to Fortum as surety for the payments due to Fortum. A bank guarantee or other security acceptable to Fortum must be given for the performance of Waste services worth more than 50 000 €. Furthermore,

Fortum has the right to require the Customer to make the payments for services in advance.

9 SPECIAL OBLIGATIONS AND LIABILITIES OF THE CUSTOMER

9.1 The Customer is required to deliver the Waste in compliance with the applicable Waste Act and Waste Decree and other applicable regulatory requirements. The Customer ensures and guarantees that each waste shipment conforms exactly to the data submitted to Fortum.

9.2 The Customer assumes liability in respect of Fortum and any third parties for any loss and damage or costs incurred as a result of any inaccurate or incomplete data provided to Fortum on the waste shipment or because the waste delivery is completed in violation of the law or contractual provisions or the written instructions issued by Fortum. Liability for damages also concerns the Customer's subcontractors.

10 DELAY AND DEFECT IN THE PROVISION OF THE SERVICE

10.1 The Customer is required to promptly notify Fortum of any defect or flaw in the provision of the service, but no later than eight (8) days from the date of completion of the service performance. If Fortum's act or omission is likely to cause any risk or loss or damage, such a notice must be given immediately. If no itemized claim is filed with Fortum within six (6) months of the date when the defect in the provision of the service was, or should have been detected, the Customer is deemed to have waived its right to present any claims invoking such a defect.

10.2 Fortum is required, at its discretion, either to promptly remedy the defect or flaw in the provision of the service if due to Fortum, or to reimburse the Customer for any direct loss incurred. Fortum's liability for any defect in the provision of the service or loss or damage caused by Fortum is limited as provided in Section 11 hereof.

10.3 Treatment of the Waste delivered to Fortum will take place at the time determined by Fortum. If Fortum fails to provide a service at a time specifically agreed between the parties, and provided that the delay is not due to force majeure circumstance or a reason attributable to the Customer, the Customer will be entitled to liquidated damages equivalent to 0.5% of the price of the delayed service for each full week of delay; the maximum, however, being 5% of the price of the delayed service. Aside from the liquidated damages, the Customer will not be entitled to any other compensation for delay. If the provision of the service is delayed for reasons attributable to the Customer, the Customer is required to compensate Fortum for any extra cost incurred as a result of such delay.

11 FORCE MAJEURE AND LIMITATION OF LIABILITY

11.1 The following circumstances are deemed to constitute force majeure, if they prevent or make performance hereunder unreasonably complicated: labour conflict and other circumstances beyond the control of the parties, including but not limited to, fire, war, mobilisation, act or imminent threat of terrorism, seizure, equipment failure, limitation of or disruption to the supply of energy or telecommunication, government action or accident. The party wishing to invoke force majeure must

promptly notify the other party of the onset and cessation of such circumstance in writing.

11.2 Fortum's liability for damage incurred by the Customer as a result of a defect in the provision of the service is limited to the price charged for the service involved; the maximum, however, being € 200,000 for each occurrence and 1 million euros for the agreement period. Fortum will not, under any circumstances, be liable for indirect or consequential loss or damage, such as loss of income, sales or markets, suspension of production or service, loss of profit or other comparable loss or damage.

12 TERMINATION OF THE AGREEMENT

12.1 Fortum may terminate the agreement with immediate effect by a written termination notice, if (i) the Customer commits a material breach of contract and fails to remedy such breach within thirty (30) days after having been given written notice in respect thereof, (ii) the Customer is insolvent or commits an act of bankruptcy or goes or is put into liquidation, goes into restructuring or other similar procedure, (iii) there is a significant change in the ownership or control of the Customer or (iv) if the Customer informs or it otherwise becomes evident that the Customer will be fundamentally delayed in any payments.

12.2 Fortum is entitled to immediately cancel the agreement, if the Customer's payment is in delay for more than fourteen (14) days and the Customer has not provided a security acceptable to Fortum as intended in Section 8.3.

12.3 Termination of the agreement shall be without prejudice to the rights and obligations of the parties which have accrued up to the date of termination.

12.4 Fortum has the right to suspend the services, if the Customer has any unpaid payments to Fortum or otherwise does not comply with Fortum's practices as provided for by the agreement.

13 USE OF SUBCONTRACTORS

13.1 Fortum has the right to rely on subcontractors to provide the services hereunder. Fortum will be responsible for its subcontractors' performance in respect of the Customer. The provisions of the agreement concerning the Customer's obligations in respect of Fortum and the limitation of Fortum's liability will apply in favour of Fortum's subcontractors as well.

14 INSURANCES

14.1 Fortum maintains an appropriate liability insurance. The Customer is required to obtain adequate insurance for its property, general liability and business interruption at its own cost. If the Customer does not have such insurance or fails to claim compensation under the insurance, the Customer will be solely responsible for any loss or damage that could have been covered by such insurance.

15 CONFIDENTIALITY

15.1 Fortum and the Customer undertake to keep in confidence all material and information, including but not limited to technical, commercial, product, financial or other confidential and proprietary information, documents and software, received from the other party and marked as confidential or which should be understood to be confidential. A party shall have the right to: (a) use the said material and information only

for the purposes set forth in the agreement; (b) copy the said material and information only to the extent necessary for the purposes of the agreement; and (c) disclose the said material and information only to those of his employees who need to know the said material and information for the purposes set forth in the agreement. Fortum may further disclose confidential material and information to its suppliers and subcontractors, provided that they agree to be bound by written confidentiality obligations not less restrictive than those provided for herein.

15.2 The confidentiality obligation shall, however, not be applied to any material or information which: (a) is generally available or otherwise public; (b) a party or its affiliated company has rightfully received from a third party without any obligation of confidentiality; (c) was in the possession, as proven by the written records, of the receiving party or its affiliated company prior to receipt of the same from the other party without any obligation of confidentiality related thereto; (d) a party or its affiliated company has developed independently without using material or information received from the other party as proven by written records; or (e) a party or its affiliated company shall disclose pursuant to a law, degree or other order issued by the authorities or judicial order.

15.3 Each party shall cease using confidential material and information received from the other party promptly upon termination of the agreement or when the party no longer needs the material or information in question for the purpose stated in the agreement. Each party shall, however, be entitled to retain copies required by law or regulations. Each party is entitled to use the feedback and residual knowledge given or acquired in connection with the agreement.

15.4 Affiliated companies, engaged in the performance of the agreement shall not be deemed as third parties on condition that disclosure of confidential material and information occurs on a need to know basis only and that the respective party ensures their full compliance of all of the provisions of this Section.

15.5 The rights and obligations under this Section shall survive the expiry, termination or cancellation of the agreement for a period of three (3) years.

16 ASSIGNMENT OF AGREEMENT

16.1 Fortum is entitled to assign the agreement or part of it to another company in the Fortum Group without consulting the Customer. Otherwise any assignment of the agreement requires the written permission of the other party.

17 GOVERNING LAW AND DISPUTE RESOLUTION

17.1 In the event the delivery takes place in Sweden, the agreement shall be construed and governed exclusively in accordance with the laws of Sweden without regard to its choice of law provision. In the event Swedish law is applicable, disputes arising out of the agreement shall be finally settled by arbitration in accordance with the Arbitration Rules of the Institute of the Stockholm Chamber of Commerce. The arbitration tribunal shall consist of one (1) arbitrator. The arbitration shall take place in Stockholm, Sweden.

17.2 In the event the delivery takes place in Denmark, the agreement shall be construed and governed exclusively in accordance with the laws of Denmark, without regard to its

choice of law provision. In the event Danish law is applicable, disputes arising out of the agreement shall be finally settled by arbitration in accordance with the Arbitration Rules of the Danish Institute of Arbitration Commerce (Voldgiftsinstituttet). The arbitration tribunal shall consist of one (1) arbitrator. The arbitration shall take place in Copenhagen, Denmark.

17.3 In the event the delivery takes place in Finland or in another country than Sweden or Denmark, the agreement shall be construed and governed exclusively in accordance with the laws of Finland without regard to its choice of law provision. In the event Finnish law is applicable, disputes arising out of the agreement shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The arbitration tribunal shall consist of one (1) arbitrator. The arbitration shall take place in Helsinki, Finland.

17.3 Any dispute, controversy or claim arising out of or in connection with the agreement including without limitation existence or potential existence of proceedings, actual proceedings, any oral statements made, documents and data submitted, as well as the final award shall be deemed to be confidential material and information as specified herein.

17.4 Despite of the arbitration procedure, Fortum is always entitled to make a motion in order to collect the receivables from the Customer in front of any competent ordinary court.