

## **General Terms and Conditions of GSB GmbH for the Acceptance of Waste for Disposal**

**(legally non-binding translation)**

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GSB - Sonderabfall-Entsorgung Bayern GmbH is the responsible body for hazardous waste disposal. GSB therefore fulfils a central task of providing a public service. It fulfils this task in particular by maintaining and operating state-of-the-art disposal facilities for the incineration, chemical-physical treatment and disposal of hazardous waste. At the same time, GSB maintains and operates a network of regional collection points for the collection of the hazardous waste. In some cases, collection points are operated by third parties on behalf of GSB.

GSB's legal relationships with waste producers and owners (hereinafter: Customers) are of a private-law nature. GSB provides its services in accordance with the following General Terms and Conditions (hereinafter referred to as: GSB GTC).

With the delivery of waste, the Customer accepts these GSB GTC for the collection of waste by GSB.

### **1. General**

- 1.1 The term 'collection point' in the following GSB GTC includes all locations through which GSB accepts waste directly itself or through third parties contractually obligated to do so.
- 1.2 Our GSB GTC apply exclusively. Any deviating, conflicting or supplementary terms and conditions of the Customer or third parties shall not apply, even if GSB does not specifically object to the validity of such in individual cases. Even if GSB refers to a letter containing or referring to the terms and conditions of the Customer or a third party, this shall not constitute an agreement to the validity of such terms and conditions. Any consent by GSB must be granted expressly in writing. Silence shall not be deemed as acceptance of any deviating conditions or agreements.
- 1.3 The GSB GTC shall also apply in their respective version to all future contracts arising from any current, existing business relationships between the Customer and GSB, with no need to include or refer to these GSB GTC again after the initial agreement. For each new version and amendment of our GSB GTC, we will inform the Customer in writing of any amendment(s).
- 1.4 Subject to evidence to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.
- 1.5 Any declarations and notifications issued to us by the Customer that are legally relevant after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declarations of withdrawal/reduction, etc.) must be in text form as a minimum requirement (e.g. email, fax) to be effective. Statutory formal requirements and further evidence, in particular in the case of doubt about the legitimacy of the declarant, shall remain unaffected.

## **2. Transport of waste to GSB**

- 2.1 The transport of waste between the source of the waste generation and a GSB collection point is the sole responsibility of the Customer, unless the Customer has placed a transport order with GSB.
- 2.2 The Customer shall ensure that the waste delivered is packaged and labelled in accordance with the relevant regulations before and during transport and upon delivery, and that the transport documents required in accordance with the respective dangerous goods regulations are available. The Customer shall be solely responsible to ensure that the Customer's own containers are suitable to transport.
- 2.3 Customers who use third parties to transport waste must ensure that the third parties commissioned can provide the guarantee of execution in compliance with the respective waste and dangerous goods legislation. Here, it is also important that the Customer ensures that the third party is able to speak and write German or English. In addition, prior to awarding the contract to the third party, the Customer must ensure that the third party has adequate insurance cover within the meaning of § 6 EfbV (Ordinance on Specialised Waste Management Companies) or in accordance with § 9 para 3 no. 7 and no. 8 AbfAEV (Display and Permit Ordinance).

## **3. Safety requirements**

- 3.1 Customers are obliged to provide full and correct information required for the transport, storage, treatment and disposal of their waste.
- 3.2 Customers must ensure compliance with the legal and official regulations, in particular the Closed Substance Cycle and Waste Management Act (KrWG), the legal ordinances issued in this regard, the technical guidelines and the relevant EU regulations. Transboundary waste shipments are also subject to the conditions of the European Waste Shipment Regulation (hereinafter: WSR).
- 3.3 Deliveries shall be made after prior notification at the collection point provided for this purpose on the basis of an acceptance commitment issued by GSB. The time and modalities of delivery must be agreed with GSB prior to delivery.
- 3.4 The Customer and his agents must ensure strict compliance with the operating regulations of the respective facility where the waste disposal will take place, with the instructions issued by our personnel and the respective accident prevention regulations. A ban on entering the facilities may be imposed in the event of non-compliance.
- 3.5 The material delivered must be precisely marked in accordance with the quantity, type, composition and hazardous nature of such material, and clearly labelled with the Customer's name and address. The Customer must therefore confirm on the accompanying document that the material is identical to the material declared prior to delivery. Part of this declaration is the GSB waste profile form. Labelling and hazard symbols are available from GSB to label the drums.
- 3.6 If the Customer is exempt from the requirements of the Ordinance on Waste Recovery and Disposal Records, the GSB waste profile completed by the Customer shall be deemed the basis for acceptance.
- 3.7 The Customer is solely responsible for determining the relevant analysis values, for the correct processing of the declaration analysis and the GSB waste profile.

This also applies if GSB provides support to the Customer.

- 3.8 If the delivery is made in containers, drums, canisters, IBCs, etc. (hereinafter referred to as: containers), these must meet the requirements of the GGVSEB/ADR (Ordinance on the Transport of Dangerous Goods by Road, Rail and Inland Waterways and the European Agreement concerning the International Carriage of Dangerous Goods by Road) in the version applicable at the time of delivery.

#### **4. Acceptance inspection / Acceptance restrictions**

- 4.1 GSB shall carry out the acceptance inspection after the waste is delivered. Should this inspection or a subsequent inspection, e.g. at the disposal facility, reveal that the waste does not correspond to the declaration (declaration analysis, waste profile) or the contractually prescribed form, or if the accompanying documents are not complete, GSB reserves the right to refuse acceptance of the waste within the framework of the legal regulations, to reject the waste or to dispose of it in a correct manner with the Customer liable for any additional costs of such disposal. If GSB has already accepted the waste, GSB reserves the right to return it and shall charge the Customer for such return. The Customer is responsible for the fulfilment of the sender's obligations under the respective dangerous goods legislation in cases of returned material. Any ordinances issued by the regulatory authorities shall be authoritative.

#### **5. Excluded substances**

In principle, the following substances are excluded from acceptance:

- Explosive waste in accordance with ADR Class 1
- Radioactive waste in accordance with ADR Class 7
- Municipal waste/household waste
- and substances listed in § 2 para 2 KrWG (Closed Substance Cycle and Waste Management Act).

An exception may be made in individual cases for ADR Class 1 substances. This must be agreed in advance with GSB.

The Customer shall be liable for any damages arising from the non-observance of this exclusion rule. The Customer shall notify us, without being asked, of any potential hazards emanating from the waste of which the Customer is aware - in particular in the event of incorrect handling.

#### **6. Waiting times**

Any additional costs incurred for transport, e.g. due to an incorrect declaration causing waiting times at the facilities, shall be borne by the Customer.

#### **7. Payment terms and adjustments to the remuneration**

- 7.1 The costs for the disposal of waste and for other ancillary services provided by GSB shall be charged by GSB based on the prices valid at the time of delivery plus the rate of VAT applicable at the time of the performance of the service. Prices are shown in euros.
- 7.2 The decisive factors are the pollutant potential and the quantity of the delivered waste, which is determined in a binding manner when weighed at the GSB collection point. Other weight determinations and the information in the consignment note and other documents shall not be taken into account for payment

if they deviate from the weight ascertained by GSB.

A subsequent invoice will be issued to the Customer for deliveries that deviate from the declaration of the waste by the Customer in the consignment note. The Customer reserves the right to prove that there is no discrepancy between the waste delivered and the waste declared in the consignment note.

The basis of calculation for waste transported via a GSB collection point to a third party, e.g. an underground landfill, is the calibrated weight of the third party. Written information from GSB regarding costs prior to a delivery is non-binding as long as the Customer's information from the waste Producer's Declaration of Responsibility, the declaration analysis, the waste profile, the consignment note and other accompanying documents has not been confirmed by the incoming goods inspection carried out by GSB. Verbal information on costs prior to a delivery are only estimates and, as such, are non-binding at all times. These estimates are provided to the best of our knowledge and to the exclusion of any liability.

- 7.3 Containers are weighed and disposed of with the waste they contain. There is no entitlement to the return of containers. The costs of the disposal of such will be determined by the cost of the respective contents.
- 7.4 We do not, however, dispose of reusable containers. The disposal of waste delivered in reusable containers also excludes the cleaning of the reusable containers. The emptied, reusable container generally still contains residues of the transported waste.
- 7.5 Payments are due without deduction immediately after invoicing, with the exception of cash payment in accordance with no. 7.8. The payment obligation is independent of the time of the actual disposal of the waste. The date of receipt by GSB shall be decisive for the date of payment. Payment by cheque or bill of exchange is excluded.
- 7.6 In the event of a default with more than one liability, all the payment claims will be due immediately.
- 7.7 In addition to the losses arising from delays in payment, the assertion of higher damage by GSB is not excluded. The Customer reserves the right to prove that no damage at all or only significantly less damage has occurred.
- 7.8 In cases of doubt, GSB may request cash payment, advance payments or securities on or before the delivery of the waste. Doubts may arise, for example, if the Customer has been sent repeated, written reminders of payment for previous disposal measures or in the case of poor or unclear creditworthiness.
- 7.9 GSB reserves the right to adjust the contract to the changed conditions if the costs on which the price calculation is based, in particular wage and ancillary wage costs, fees, taxes, levies, relevant raw material price indices and costs for third-party services etc., change for services that will only be provided after the expiry of 4 months after the conclusion of the contract, or which originate from continuing obligations. The same applies to the charges arising from BEHG (German Fuel Emissions Trading Act), namely the CO<sub>2</sub> levy, the amount of which is stated separately in the invoice.
- 7.10 The adjustment must be stated in text form, indicating the reason for the change, and must be announced at least 2 months before the proposed date. The Customer may terminate the contract with a notice period of 4 weeks to the end of the

quarter if the price adjustment pursuant to paras 7.9 leads to a cost increase of over 10% of the agreed total price. The adjustment shall apply on the date specified in the adjustment letter unless the Customer raises an objection to such adjustment. The Customer shall be specifically informed of this right of termination.

#### **8. Complaints about invoices**

Complaints about our invoices must be made in writing by the Customer within a period of 30 days after receipt of the invoice. The respective invoices shall be deemed to have been accepted if this deadline passes with no objection issued by the Customer.

#### **9. Offsetting and right of retention**

The Customer may only offset or assert a right of retention against claims of GSB if the counterclaim is undisputed or has been legally established.

#### **10. Liability**

10.1 The Customer is liable to GSB for damages arising from non-compliance with:

- These GSB GTC
- Information provided by the Customer
- Specific requirements for the acceptance of waste
- The relevant accident prevention regulations
- The relevant provisions of waste legislation, in particular the Closed Substance Cycle and Waste Management Act (Kreislaufwirtschaftsgesetz) and its subordinate regulations, the provisions of dangerous goods law and the provisions of the Road Traffic Act (StVO), which apply accordingly on the respective factory premises of the collection points
- The instructions issued by GSB personnel working at the collection point
- And the relevant regulations stipulated by the EU.

10.2 The Customer is also liable to GSB insofar as GSB is obliged to pay damages to a third party due to the non-observance of the regulations stated in no. 10.1. In this respect, the Customer shall indemnify GSB against all claims from third parties.

10.3 The provisions in nos. 10.1 and 10.2 shall also apply in favour of such third parties who operate a collection point for GSB based on a contractual agreement with GSB. The performance obligations assumed by GSB do not release Customers from their responsibility under waste management law.

10.4 Customers shall be liable for damages and expenses incurred arising from the use of unsuitable or defective containers or an insufficient, incomplete or incorrect labelling/declaration of the hazardous waste.

10.5 GSB shall not be liable in the event of simple negligence, insofar as this does not involve a breach of material contractual obligations.

Material contractual obligations are contractual obligations the fulfilment of which is a prerequisite for the compliant performance of the contract and for the fulfilment of which the other party regularly relies and may rely.

Insofar as there is simple negligence in relation to material contractual obligations, GSB's liability shall be limited to the typically foreseeable damage. Liability for injury to life, limb and health, warranty or under the German Product Liability Act

(ProdHaftG) remains unaffected.

The same applies to bodies, legal representatives, employees or other vicarious agents of GSB.

- 10.6 GSB accepts no liability for damage to tank containers or other containers, the associated connections and operating elements and other connected objects (e.g. vehicles) which occur in the process of emptying the waste by employees or agents of GSB.

This does not apply to such damages caused by intent or gross negligence.

## **11. Obligations of the Customer**

- 11.1 The Customer shall maintain liability insurance with a sufficiently high level of coverage, which must be proven to GSB upon request.

- 11.2 The Customer shall notify GSB immediately in writing of any official orders which could have an impact on the conditions for the service provided by GSB.

## **12. Force majeure and similar events**

- 12.1 Unforeseeable events of force majeure, e.g. freezing conditions, black ice, strike or lockout, terrorist attacks, official orders or the preservation of public welfare or other events whereby the causes are outside the sphere of influence of GSB, i.e. events caused externally by elementary forces of nature or by the actions of third parties, and which cannot be prevented or rendered harmless by economically acceptable means, even with the utmost care that would be reasonably anticipated in the circumstances, and which are unavoidable and extraordinary, despite the observance of reasonable care, entitle us to interrupt or postpone the performance of the service at any time without observing a period of notice and with no obligation to pay compensation. GSB reserves the right to withdraw from the contract in whole or in part insofar as such events make it considerably more difficult or impossible for GSB to accept the delivery and the obstruction to acceptance is not only of a temporary nature. In this event, the Customer shall bear the cost of taking back waste materials that have already been accepted.

The same applies to internal events such as sabotage, fires, explosions, industrial accidents and other operational disruptions.

- 12.2 This shall also apply if such events occur during an existing delay.

- 12.3 Claims for damages for the cases mentioned in no. 12.1 are excluded.

- 12.4 GSB will immediately inform the respective Customers should any **unscheduled** acceptance bottlenecks occur that would impact the delivery of the waste.

## **13. Miscellaneous**

- 13.1 Every provision of our GSB GTC is valid on its own. Should any individual provisions of these GSB GTC be or become invalid, the validity of the other GSB GTC and the disposal contract shall remain unaffected. In this event, the statutory provisions shall apply.

- 13.2 Baar-Ebenhausen shall be the place of jurisdiction if the Customer is a commercial enterprise, a legal entity under public law or a special fund under public law.
- 13.3 Unless expressly agreed otherwise, the law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 13.4 Insofar as the contract or these GSB GTC contain loopholes, the legally effective provisions shall be deemed agreed to fill such loopholes which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these GSB GTC had they been aware of the loophole.