

GENERAL TERMS AND CONDITIONS

OF FCC AUSTRIA ABFALL SERVICE AG AND ITS SUBSIDIARIES

1. **General**

- 1.1. These General Terms and Conditions ("Terms") shall apply to all contracts entered into with FCC Austria Abfall Service AG (Regional Court File No. FN 52959g of Landesgericht Korneuburg), Hans-Hruschka-Gasse 9, A-2325 Himberg, its subsidiaries (see Item 1.2.) or any other user of these Terms.
- 1.2. Subsidiaries shall be all companies in which FCC Austria Abfall Service AG has a direct or indirect stake of more than 50%. These shall include, without limitations, the following:
 - FCC Inerta Engineering & Consulting GmbH (FN 46713x)
 - FCC Freistadt Abfall Service GmbH (FN 87652a)
 - FCC Zistersdorf Abfall Service GmbH (FN 90924m)
 - FCC Mostviertel Abfall Service GmbH (FN 103763v)
 - FCC Halbenrain Abfall Service Gesellschaft m.b.H. & Co. Nfg KG (FN 108782z)
 - FCC Entsorga Entsorgungsgesellschaft m.b.H. & Co. Nfg KG (FN 111811d)
 - FCC Wiener Neustadt Abfall Service Gesellschaft m.b.H. (FN 119149w)
 - FCC Neunkirchen Abfallservice GmbH (FN 121426v)
 - FCC Textil2Use GmbH (FN 160492v)
 - FCC Environment CEE GmbH (FN 32957t)
 - FCC Abfall Service Betriebsgesellschaft m.b.H. (FN 104349f)
 - FCC Industrieviertel Abfall Service Gesellschaft m.b.H. & Co. Nfg KG (FN 107156h)
- 1.3. No change made in any stake held in a subsidiary after conclusion of the contract shall affect the applicability of the Terms to the contractual relationship.
- 1.4. Each user of these Terms shall be known hereafter as "FCC". The party contracting with FCC shall be known hereafter as "Contractual Partner".

- 1.5 Any terms of the Contractual Partner as well as any contractual clause deviating from these Terms shall be effective solely upon the express written agreement between the Parties.
- 1.6 These Terms shall not apply to contracts made via the online shop of FCC Austria Abfall Service AG on its website www.abfallserviceonline.at. Such contracts shall be governed solely by the terms and conditions specified in the online shop.
- 1.7 These Terms shall apply to contractual relationships entered into between FCC and an entrepreneur as well as those entered into between FCC and a consumer within the meaning of Section 1 of the Austrian Consumer Protection Act (KSchG). Clauses which apply solely to entrepreneurs and thus not to consumers are introduced by "(does **NOT** apply to consumers)". Clauses which apply solely to consumer transactions are introduced by "(applies **SOLELY** to consumers)".
- 1.8 Any and all terms and definitions used in these Terms are in line with the relevant Austrian laws as amended, especially in the most recent versions of the Waste Management Act (AWG) and the Consumer Protection Act (KSchG).

2. Prices, quotations and quality classifications

- 2.1 Quotations and cost estimates shall be prepared by FCC to the best of its expert know-how. However, FCC shall not warrant or guarantee the correctness and completeness of quotations and cost estimates.
- 2.2 (does **NOT** apply to consumers) The prices given by FCC in quotations, bids or otherwise shall include all public levies (including without limitations the contribution for legacy sites), with the exception of VAT.
- 2.3 (applies **SOLELY** to consumers) The prices given by FCC in quotations, bids or otherwise shall include all public levies including VAT.
- 2.4 Any precontractual prices given by FCC as well as contractually agreed prices determined on the basis of:
 - a) quantities or qualities specified by the Contractual Partner and/or
 - b) price bracket classifications based on samples or specimens provided by the Contractual Partner or obtained by FCC

shall be binding only to such extent as:

- c) the Contractual Partner's information on quality and quantity is correct, and
- d) the contractual material corresponds to the samples or specimens.

2.5. If during FCC's performance it is found that:

- a) quoted or estimated prices or
- b) agreed prices

cannot be observed for reasons specified in Item 2.4. above, FCC shall be entitled to invoice to the Contractual Partner the higher or lower prices deriving from such deviations. As soon as it becomes foreseeable that the price actually to be invoiced to the Contractual Partner will exceed the quoted, estimated or agreed total price by more than 15%, FCC will inform the Contractual Partner accordingly. In such case, the Contractual Partner shall be entitled to rescind the contract within three days of receiving the notification. In the event of such a rescission the Contractual Partner shall be obliged only to pay the *pro rata* remuneration due upon the date of rescission. If the Contractual Partner does not rescind, FCC shall fully perform the contract and shall invoice the price calculated from the actual quantities and price bracket classifications of the material. Deviations of up to 15% shall entitle FCC to adjust the prices accordingly without informing the Contractual Partner who has no right of rescission.

2.6. If within the scope of implementing the contract the Contractual Partner places any additional orders or agrees to any changes of the order or contract without making any separate agreement on payment for the changed or additional contract/order, FCC shall be entitled to invoice a reasonable payment.

3. Invoicing, payment

3.1. FCC shall be entitled to make out its invoice upon completion of its performance and, in the event that works and/or services can be divided, to send in partial invoices. The Contractual Partner consents to receiving electronic invoices by e-mail.

3.2. Invoices made out by FCC shall be due and payable within two weeks of the date of invoicing. The due date of other claims (such as damages, interest on arrears) results from the law and does not require any invoice.

- 3.3. FCC accepts the following types of payment: cash, remittance, cash dispenser and direct debit. FCC does not accept any bills of exchange or cheques.
- 3.4. Payments shall be made without any deductions and in euros. If a payment is made in another currency, FCC reserves the right to reject such payment or to assert exchange rate differences and other attendant costs.
- 3.5. A discount shall be granted only if expressly agreed in writing. The price shall be reduced by such discount only if the payment has been received or the remittance order has been made out not later than the last day of the period of discount. A discount may be granted only when, apart from the relevant invoice, no other claims by FCC or any of the undertakings listed in Item 1.2. above vis-à-vis the Contractual Partner are outstanding.
- 3.6. Any rebates agreed with or promised by FCC shall be subject to the condition precedent of full and due payment by the Contractual Partner.
- 3.7. (does **NOT** apply to consumers) The Contractual Partner shall not offset any counterclaims against the claims of FCC. The Contractual Partner furthermore waives any right to retain payments to FCC or to raise objections that would entitle it to delay payment. Without limitations, the Contractual Partner waives the right to plead and assert retention rights under Section 1052 of the Austrian Civil Code.
- 3.8. (applies **SOLELY** to consumers) The Contractual Partner may cancel its liabilities by way of offsetting only when FCC is insolvent or when the counterclaims are legally linked to FCC's claim, have been declared by the court or recognised by FCC.
- 3.9. Incoming payments shall be counted, in that order, against costs, interest and principal.
- 3.10. No claims against FCC may be ceded to a third party except with the prior written consent of FCC.
- 3.11. In the event of payment default, FCC shall be entitled to:
 - a) stop performance until complete payment by the Contractual Partner; (does **NOT** apply to consumers) this shall also apply to performance under other contractual relationships.

- b) advance the due date of other claims (e.g. from instalment payment agreements);
- c) (does **NOT** apply to consumers) advance the due date of claims under other contractual relationships;
- d) charge statutory default interest;
- e) (does **NOT** apply to consumers) charge a compensation of € 40.00 for the cost of collection, with any such costs in excess of this to be reimbursed pursuant to Section 1333 (2) of the Austrian Civil Code;
- f) subject to a respite of two weeks rescind the contract; (does **NOT** apply to consumers) after unsuccessful expiry of the respite, FCC may also rescind other contracts that have not yet been completely performed.

3.12. If FCC has reasonable doubts as to the Contractual Partner's solvency, it shall be entitled to perform solely against prepayment, to revoke respites previously granted and to advance the due date of payments.

4. Title

- 4.1. The title of objects purchased by FCC shall pass to FCC upon their handing-over.
- 4.2. The title of objects sold by FCC shall pass upon handing them over to the Contractual Partner and complete performance (including but not limited to payment) by the Contractual Partner.

5. Warranty and damages

- 5.1. FCC shall be liable only for such loss or damage as is caused wilfully or by gross negligence. This shall not apply to damages for personal injury.
- 5.2. (does **NOT** apply to consumers) Any claim for damages by the Contractual Partner shall be limited to the amount of the contractual consideration for each contractual relationship, except when it involves personal injury. FCC shall not be liable for any non-pecuniary damage, lost profit, indirect loss or consequential damage.

- 5.3. FCC shall not be liable for any loss or damage incurred by the Contractual Partner due to the use or provision, under its own responsibility, of unsuitable containers, lacking or incorrect markings, improper or non-contractual handling of waste or introduction or handing-over of non-contractual material.
- 5.4. (does **NOT** apply to consumers) The Contractual Partner shall promptly check any goods, waste or other works or services handed over or rendered by FCC in the course of its contract performance and shall notify any defects within three days of handing-over or rendering of the works or services, in writing and exactly specifying the defect. Any failure shall cause the Contractual Partner to lose its claims for warranty, compensation for the defect and for a mistake regarding the faultless condition of the asset (Section 377 of the Business Enterprise Code – UGB).
- 5.5. Any costs incurred by the Contractual Partner from waiting or idle times for its staff and resources (including but not limited to motor vehicles) shall be reimbursed by FCC solely in the event of gross negligence.

6. Collection, transport and handling of waste

- 6.1. The Contractual Partner is contractually as well as otherwise obliged to comply with any and all duties under waste management laws and other public law.
- 6.2. *Receipt* (Annahme) of waste shall mean the physical taking-over (holding) by FCC.
- 6.3. Waste shall be considered to have been *accepted* by FCC only when in addition to its physical taking-over all prerequisites for *acceptance* (Übernahme) under public law, including but not limited to waste management law, have been met. This shall apply, specifically but without limitations, in connection with hazardous waste (Section 18 of the Waste Management Act 2002 – AWG).
- 6.4. Any waste handed over to FCC in compliance with the contractual regulations and the statutory requirements shall become the property of FCC upon its *acceptance*. FCC shall not acquire any title to waste for which it has no licence for its collection.
- 6.5. If waste is delivered to FCC by the Contractual Partner, the latter shall receive a weigh bill (Wiegeschein) or (in the case of hazardous waste) a consignment note (Begleitschein). *Acceptance* of waste by FCC shall require the Contractual Partner's signature to the weigh bill or consignment note.

- 6.6. If waste is picked up by FCC from the Contractual Partner, the latter shall receive a delivery note (Lieferschein) or (in the case of hazardous waste) a consignment note (Begleitschein). *Acceptance* of waste by FCC shall require the Contractual Partner's signature to the delivery note or consignment note.
- 6.7. The waste quantities relevant for performance and pricing are determined by a weighing machine operated by FCC or a public weighbridge named by FCC.
- 6.8. The Contractual Partner shall accurately and fully categorise all waste by type, composition and hazardousness. If the Contractual Partner hands over hazardous waste to FCC, it shall declare its type, quantity, origin, whereabouts and ID number in a consignment note. Special hazards which may be associated with its handling shall be notified (Section 18 (1) of the Waste Management Act 2002 – AWG).
- 6.9. All receptacles used by the Contractual Partner shall comply with the applicable laws and Austrian Standards, labelled with the Contractual Partner's name and address in a permanent and weather-proof manner, storable, weather-proof, sealed and secured against easy opening. FCC shall refuse to receive non-compliant receptacles, including but not limited to damaged, unsuitable or incorrectly or inadequately labelled receptacles. The labelling shall match that of the consignment note or delivery note. Any additional costs incurred by FCC due to defective or incorrect labelling or declaration of waste or the use of unsuitable or defective receptacles shall be borne by the Contractual Partner.
- 6.10. The cost of tests and expert opinions necessary for waste treatment shall be borne by the Contractual Partner.
- 6.11. If FCC has reasonable doubts as to the correctness or completeness of documents, labels or declarations, a test shall be carried out by authorised experts or bodies within the meaning of Section 2 (6) 6 of the Waste Management Act 2002 – AWG, the cost of which shall be borne by the Contractual Partner. Such experts or bodies shall decide on further treatment and charging which decision shall be binding upon the contracting parties. Any findings or expert opinions submitted by the Contractual Partner shall be binding upon FCC only on condition of the latter's written acceptance.
- 6.12. If the Contractual Partner fails to comply with any of its obligations under this Item 6., FCC may refuse both *receipt* and *acceptance* of the waste. In the event that FCC has already *received* such waste the Contractual Partner shall be obliged to take it back promptly upon being requested to do so by FCC. If the Contractual Partner delays or refuses to take back such waste, it shall bear any

and all associated costs which may be incurred by FCC. (does **NOT** apply to consumers) FCC may charge the Contractual Partner for at least 10% of the disposal costs as monthly storage costs.

- 6.13. (does **NOT** apply to consumers) FCC may refuse *receipt* and *acceptance* of waste, i.a., if the Contractual Partner has failed to fully pay its due debts from the business relationship between the Contractual Partner and FCC.
- 6.14. In the event that FCC refuses *acceptance* of waste the Contractual Partner shall remain obliged to comply with all requirements under public law and in particular under waste management law. This shall also apply upon *receipt* by FCC.
- 6.15. If the Contractual Partner violates its obligation to take back its waste, FCC shall be entitled to commission the requisite treatment of such waste at the expense of the Contractual Partner.
- 6.16. It shall not be permitted to hand over to FCC any radioactive substances. FCC shall be entitled to check all waste for radioactivity. If radioactivity is detected, FCC may instruct a qualified expert (Section 2 (29) of the Radioactive Protection Act – Strahlenschutzgesetz) to properly assess the waste supplied. If such assessment finds that the material must not be received by FCC but must be taken to a government-authorized undertaking (such as Nuclear Engineering Seibersdorf GmbH, hereinafter NES) for further treatment, the following shall apply:
 - a) The Contractual Partner shall be informed by FCC of the finding of the assessment.
 - b) The Contractual Partner shall be obliged as soon as possible – but not later than 12 o'clock noon of the next working day – to commission a government-authorized undertaking with fetching and properly disposing of the material and send FCC an e-mail or fax copy of such commissioning and of the government authorisation of the undertaking thus commissioned. The radioactive waste shall be picked up as soon as possible, but not later than two working days after submission of the finding of the assessment.
 - c) If the Contractual Partner fails to comply or delays complying with its obligations under Item b) above FCC, shall be entitled to instruct a government-authorized undertaking (such as NES) with proper disposal.

- d) In the event of imminent danger and if it is found that the waste needs to be promptly removed to an authorised disposal company, FCC shall be authorised without previously informing the Contractual Partner to instruct a government-authorised undertaking (such as NES) with proper disposal.
- e) Any and all costs incurred in connection with the delivery, handing-over or relinquishment of radioactive substances shall be borne by the Contractual Partner.

7. Provision of receptacles

If FCC provides receptacles (skips, containers) for waste the following shall apply, without prejudice to Item 6. above:

- 7.1. The Contractual Partner shall provide a suitable location with a sufficiently paved area for setting up skips and containers which offers sufficient space and access for heavy trucks. It shall be incumbent upon the Contractual Partner to fill the receptacle at such location, treat it with proper care and ensure that a government permit is obtained, if such receptacle is installed in a public traffic space. The Contractual Partner shall not be allowed to shift, displace or remove a skip or container from its location. Once the skip or container has been installed and handed over, the Contractual Partner shall be responsible for observing its legal duty to maintain safety and shall be liable for any loss or damage to the receptacle.
- 7.2. If circumstances within the Contractual Partner's control make it impossible to carry out delivery or collection or observe the delivery/collecting time desired by the Contractual Partner, notified by FCC or agreed between the parties, including but not limited to the failure to procure a permit for installation on public or third-party land, FCC shall be entitled to charge the cost of the empty drive caused by the Contractual Partner and deduct it from a payment already made. If so requested by FCC, the Contractual Partner shall furnish the respective permits to FCC at any time. If delivery or collection is not possible for reasons within the Contractual Partner's control, such as the lack of a permit for installing the ordered receptacle or the actual impossibility of installing or collecting it (e.g. no access, no way to install it at the customer's location due to lack of space), FCC shall be entitled to cancel the contract and shall not be obliged to offer a new delivery date. FCC shall be entitled to trust that a government permit has been obtained for installation on public or third-party land and to trust in its content, and shall not be obliged to check the existence of such a permit.

- 7.3. If, for reasons within the Contractual Partner's control, it is impossible to collect waste at the time desired by the Contractual Partner, notified by FCC or agreed between the parties, FCC shall be entitled to charge a higher rental of skips and containers of EUR 1.90 per day due to the longer standing time, as well as any further costs which may have accrued and any (economic) loss resulting from the non-availability of the receptacle for FCC's operation.
- 7.4. If the contractual party is responsible for extraordinarily long waiting or standing periods for delivery or collection of receptacles, FCC shall be entitled to charge to the Contractual Partner any costs arising from such delay.
- 7.5. The Contractual Partner undertakes to fill the receptacles with not more than the agreed quantity of the agreed types of waste. The use of a receptacle for any other purpose than filling with the agreed type of waste shall not be permitted.
- 7.6. If the Contractual Partner hands over any other than the agreed type of waste, it shall pay the actual cost of its environmentally responsible and correct disposal, recovery or treatment, including but not limited to any cost of disposal upon handing-over to the scrapyards (Altstoffsammelzentrum – ASZ) or take-over point.
- 7.7. If the agreed maximum quantity is exceeded, FCC shall charge for collection of additional quantities, with due account of actual quantities and additional expenditures (e.g. additional transportation), if any.
- 7.8. If receptacles are filled with an obviously incorrect, i.e. non-agreed, type of waste or overloaded or excessively filled or filled with hazardous waste (such as waste oil, varnishes, paints), FCC shall be entitled, and obliged under waste law regulations, to refuse collection and disposal of such receptacles and to charge the Contractual Partner for the cost of the collection attempt (travel cost), any further costs which may have accrued due to the higher rental of skips or containers of EUR 1.90 per day due to the longer standing period, any further costs which may have accrued and any (economic) loss resulting from the non-availability of the receptacle for FCC's operation, and to specify towards the customer a reasonable period of time for correct filling. If such period of time expires without any result, FCC shall be entitled, at its choice, to proceed in line with Item 7.7. above, possibly by using a special transport vehicle required by law for hazardous waste, or to rescind the contract. In the event of a rescission, the Contractual Partner shall be obliged to completely empty and clean the receptacle at its cost and to reimburse FCC for any and all costs accrued to it.

- 7.9. If a Big Bag has been ordered, the Contractual Partner undertakes to choose a collection date which is not later than 12 months after delivery of the Big Bag. FCC shall not be obliged to accept a collection date which is later than 12 months after delivery of the Big Bag.
- 7.10. FCC shall not be liable for any loss or damage caused by the incorrect use of receptacles or by circumstances beyond normal operating conditions, including but not limited to the filling of a receptacle with prohibited waste or substances or a higher than the maximum total weight allowed or the improper or non-consensual setting-up of the receptacle, especially the nonconsensual setting-up on public land. The Contractual Partner shall indemnify and hold FCC harmless for any and all claims asserted against FCC.

8. Conditions for carriers

- 8.1. To the extent applicable, these Terms and Conditions shall also apply to the contractual relationship between FCC and carriers.
- 8.2. By signing the delivery note or consignment note, the carrier confirms that it holds the waste.
- 8.3. If the carrier takes over any waste with regard to which it has not been authorised by FCC, it shall promptly notify FCC thereof. If no instruction has been given by FCC, the carrier shall not have any claim for compensation. If such non-instructed carrier has already passed such waste into the safekeeping of FCC, FCC may require the carrier to recollect it or treat it (or have it treated) at the carrier's cost.

9. Data secrecy

- 9.1. Responsibility for data processing shall rest with the undertaking with which FCC has entered into a contractual relationship (see Item 1.1. above). If a subcontractor is used in order to perform the contract the Contractual Partner's data specified in Item 9.2. below may be passed on to such subcontractor to the extent necessary for performance, which subcontractor processes such data in its capacity of processor under data protection law.
- 9.2. FCC shall process the Contractual Partner's data made known to FCC in the course of concluding the contract solely to perform such contract. The said data may include, without limitations, the name/company name, address, e-mail address, content of the works/services within the scope of the contract as well as invoicing and payment information.

- 9.3. In order to check the credit rating and collect payment, data on the contract, address, payment history regarding compliance with time allowed for payment and history of uncontested debts which remain unsettled after becoming due are furnished to CRIF GmbH, Diefenbachgasse 35, A-1150 Vienna, for their legal use within the scope of its trade licence under Section 152 of the Industrial Code 1994 (Gewerbeordnung 1994 – GewO). This is necessary in order to protect FCC’s justified interests.
- 9.4. The data shall be recorded in accordance with applicable data secrecy regulations and on the basis of statutory obligations for data storage.
- 9.5. The Contractual Partner shall be entitled to be informed of which of its personal data are processed by FCC, to have them corrected, deleted or limited in their processing, to object to their processing, especially with regard to its special situation, and to data portability. Such rights may be asserted to FCC Austria Abfall Service AG, Hans-Hruschka-Gasse 9, A-2325 Himberg or by e-mail to info@abfallserviceonline.at.
- 9.6. The Contractual Partner shall furthermore be entitled to complain to a supervisory body, especially in the Member State of its domicile, its workplace or the location of an alleged infringement, if it considers that the processing of its personal data infringes Regulation (EU) 2016/679 (General Data Protection Regulation); in Austria such body shall be the Data Protection Authority (Datenschutzbehörde).

10. Jurisdiction, applicable law

- 10.1. (does **NOT** apply to consumers) Any disputes from or in connection with contracts made between FCC and the Contractual Partner shall be exclusively settled by the Vienna Commercial Court.
- 10.2. This contractual relationship shall be governed solely by Austrian law; the UN Sales Convention and other foreign systems of law shall be excluded. (applies **SOLELY** to consumers) Agreement on Austrian law shall not deprive consumers who have their habitual residence in another EU Member State than Austria the protection of mandatory provisions of the law which would have to be applied except for this choice of law.

11. Miscellaneous

- 11.1. (does **NOT** apply to consumers) Delivery to the contractual party shall be effective upon being posted to the address known to FCC or to the Contractual Partner's e-mail address.
- 11.2. The Contractual Partner shall promptly inform FCC in writing or by e-mail of any change in its contact data.
- 11.3. No change of or addition to the contract shall be effective except when made in writing and signed by both parties. This shall also apply to a change in the requirement of the written form.
- 11.4. If any provision(s) of these General Terms and Conditions should be or become invalid or ineffective in whole or in part, this shall not affect the validity or effectivity of the other provisions.