

General Terms & Conditions for Suppliers

last updated 28th February 2019

1. Validity

- 1.1. Supplies (Goods), services and offers of a Supplier of Ependys GmbH (herein called "Ependys") shall be governed by the general terms and conditions provided herein. These are part of all contracts/agreements, which Ependys shall execute with the Supplier regarding the Supplier's supplies and services. They hold valid for any supplies, services and offers to Ependys by the Supplier, without the requirement to be again expressly agreed upon.
- 1.2. Any terms and conditions of the Suppliers that deviate from the present ones shall not apply, even if Ependys has not expressly objected to their validity. A reference of Ependys to a document that contains or refers to terms and conditions of the Supplier shall not suggest any agreement to the validity of such terms and conditions.

2. Prices and Invoicing

- 2.1. The prices quoted by Ependys are net prices, excluding any applicable statutory value added tax.
- 2.2. Prices may be adjusted regularly according to price-adjustment mechanisms to be agreed by the Parties. Regular adjustments of agreed prices shall be reasonable and shall not be used as a means of forcing termination of a supplies' agreement earlier than agreed.
- 2.3. Unless otherwise agreed, invoicing will be carried out based on the weight recorded at pick-up location (i.e. weight of loaded material) and the quality assessment at the point of material pick-up. However, the weight shall be deemed to be the weight recorded by Ependys or its end-customer, i.e. the final recipient of the supplies (also referred to as recycling plant, recycler, or reprocessor), should Ependys or the end-customer, upon delivery of the Goods, record a weight that is at least 1 % or 100 kg lower (whatever is smaller) than the weight recorded by the Supplier.
- 2.4. The weight, set as per clause 2.3 above, shall be corrected further and directly proportionally to an identified weight disadvantage, should Ependys or end-customer, upon delivery of the Goods;
 - 2.4.1. discovers rejects (waste) at the surfaces of or within the bales of the Goods that account for at least 1 % of the Goods' weight or 100 kg (whatever is smaller); or

- 2.4.2. visually rejects entire bales that account for at least 1 % of the Goods' weight or 100 kg (whatever is smaller); or
- 2.4.3. establishes a moisture content that is at least 1% of the Good's weight, or equals to 100 kg (whatever is smaller); or
- 2.4.4. record a sum of weight of rejects (as per 2.4.1) and weight of rejected entire bales (as per 2.4.2) and moisture (as per 2.4.3) that is at least 1 % of the Goods' weight, or 100 kg (whatever is smaller).

- 2.5. The weight shall be determined by using a weighing scale that is verified for use in legal metrology. The Supplier shall provide Ependys with the last certification of the weighing scale, within 1 (one) workday from the day requested.
- 2.6. Shall the weight of a load (e.g. the amount of Goods loaded on a truck, or in a container, or any other applicable transport means) differ from the reference payload (i.e. the payload that applies to the agreed price), the price shall be adjusted according to a weight-and-price-scale to be agreed.
- 2.7. Quality assessment upon loading at the point of material pick-up shall be performed by the Supplier. Ependys maintains the right of appointing a different assessor (e.g. a third party, or Ependys' staff itself). The identity of the quality assessor shall not affect the validity of the terms of this document in any regard.
- 2.8. Supplier's Invoices shall be accompanied by all necessary documents for the assessment of the contractually agreed delivery of the Goods. Those include, but are not limited to, the weighing scale report, delivery note, consignment note/bill of lading, Annex 7 (EC Regulation 1013/2006), and the Agreement on the Shipment and Recovery of Waste (in accordance with Article 18, paragraph 2 of the European Commission's Regulation N^o 1013/2006. Any delays caused to Ependys by any of those documents being missing, incomplete, or false, shall cause the invoice settlement periods to extend to account for the corresponding delays.
- 2.9. Supplier's invoices, credit/debit notes, notifications, claims and other request related to Goods' loads shall contain the Ependys' reference number (i.e. load number).

3. Place of fulfilment, Risk transfer, and Supply

- 3.1. The Supplier makes the material available at the pick-up location as defined by means of Incoterms (e.g. Ex-Works, CFA, FOB etc.). This is the place of fulfilment.
- 3.2. The risk of deterioration and of accidental destruction of goods is transferred to Ependys upon the transfer of the goods to Ependys at the place of fulfilment.
- 3.3. The latest 3 (three) workdays before the agreed pick up date for any load, the Supplier shall provide Ependys with representative photos of sufficient quality and number of the actual lot of Goods to be picked up. Ependys has the right to demand partial or entire replacement of the Goods, should they judge that they do not satisfy the agreed quality.
- 3.4. The Supplier shall provide representative photos of sufficient quality and number during the loading activity as follows: a) photo of the truck number and empty truck loading space, or of container; b) photos of the Goods at approx. 1/3 of load, 2/3 of load, and 100 % of load. Ependys has the right to demand partial or entire replacement of the Goods, should they judge that they do not satisfy the agreed quality. Replacements dictated during loading shall be carried by the Supplier quickly to prevent extra costs due to delays in completing the loading process.
- 3.5. Ependys has the right to change the agreed pick-up date and/or time by giving at least a 3-day notice, by means of paper or electronic message (email), or telephone call. Any reasonable, proven costs incurred by the Supplier in such a case, which were not to be avoided by means of exercising reasonable efforts by the Supplier, shall be met by Ependys. The Supplier shall, to this effect, provide in writing a careful estimate of the incurred costs within 1 (one) workday following the submission of the change of date and/or time notice by Ependys.

4. Product properties/composition, Safety, and Environmental Protection

- 4.1. The supplier guarantees that the supplies (Goods) and the rendered services possess the agreed properties and qualities and are suitable for the intended application.
- 4.2. The Supplier guarantees that the supplies and services satisfy the applicable statutory regulations, particularly the ones pertinent to health and safety and environmental protection, including, however not limited to, the regulations for dangerous substances, and wastes from electrical and electronic equipment.
- 4.3. Should it be requested by Ependys, the Supplier shall provide Ependys with an appropriate statement/proof regarding the origin of the supplied Goods.

5. Warranty Claims

- 5.1. In case of Goods' defects, Ependys is fully entitled to legal claims. The warranty period shall be defined based on the statutory requirements regarding the limitation of claims for defects.

- 5.2. Claims regarding goods' quality shall cover, but not limited to, loss in value due to inferior quality of goods, any cost incurred due to separation of unsuitable materials from the Goods and their safe disposal, increases in expected costs of the processing of the Goods, costs of transport in case Goods are returned to Supplier or re-routed to another recipient and/or transported for interim processing/storage. In case of Goods having to be returned to Supplier or re-routed to another recipient, in addition to the aforementioned costs, Ependys will charge the Supplier with a flat administration fee of €200 (in words; Euro two hundred) per truck or container returned.
- 5.3. In the event of there being quality and/or quantity deviations from the agreed ones, a notice for obvious defects (i.e. defects identifiable by means of a visual examination of the goods) shall be deemed to have been submitted on time to the Supplier, if given within 10 workdays from the day of delivery of the goods to Ependys' Client (also referred to as end-customer, or offtaker, or recycler, or re-processor, or sorting-plant), or, for hidden defects, within 90 (ninety five) days from the day of delivering the Goods to Ependys' end-customer.
- 5.4. The Supplier has the right to, either personally, or by appointing a third party, inspect Goods for which Ependys has raised a claim about quality or otherwise defects. Ependys and the end-client (e.g., re-processor, sorting plant etc.) will also have the right to attend such inspections, either personally or by pointing a third party). Inspections will be carried out within 15 (fifteen) workdays from the date on which the Supplier received the complaint from Ependys, unless agreed otherwise.
- 5.5. If an inspection proves that the subject Goods do not comply with the agreed quality, the total costs of the inspection shall be borne by the Supplier. In the over situation, they shall be borne by Ependys, inclusive of the cost for the participation of the Supplier's representative in the inspection activity.
- 5.6. Shall the entire or a part of a load of Goods have to be returned to the Supplier, the Supplier has to arrange for its pick-up within 15 (fifteen) days from the day Ependys notified the Supplier about the need for the return. Ependys has the right to arrange the return of the Goods without involving the Supplier, if the Supplier fails to pick-up the Goods within the aforementioned period of fifteen days. While the material (Goods) awaits collection for being returned to Supplier, Ependys shall make every reasonable effort to ensure that it does not undergo any further quality deterioration due to weather or otherwise conditions.
- 5.7. Should the origin of the material not be identifiable, due to insufficient documentary evidence, or inability of the competent authorities to carry out the identification, the Supplier is obliged to compensate Ependys for any suffered damages and release Ependys from any claims made by third parties.

- 5.8. If the Supplier utilises third parties for the provision of services, he shall be liable for those Services as if the Supplier itself had rendered them.

6. Import and Export Provisions, and Customs

- 6.1. If the Supplier is based in an EU member state other than Germany, the supplier shall provide Ependys with its EU value added tax number.
- 6.2. Imported goods shall be supplied duty-paid. The supplier is obliged, according to the EC Regulation N^o 1207/2001, to provide, at his own expense, the required declarations and information, to allow inspections by the customs officials, and furnish the necessary official confirmations.
- 6.3. The Supplier is obliged to inform Ependys in detail and in writing of any license and otherwise requirements regarding (re)exports and customs regulations at the place of fulfilment.

7. Confidentiality and Non-Compete

- 7.1. Both Ependys and the Supplier shall be a "Disclosing Party", with respect to Confidential Information, which that Party discloses to the other Party, and a "Receiving Party", with respect to Confidential Information, which that Party receives from the other Party. „Confidential Information“ shall mean any private, confidential, trade secret or other proprietary information relating to any actual or anticipated business affairs of Ependys/the Supplier, disclosed verbally or in writing, or in electronic form. Confidential Information does not include any information that
- was known to the Receiving Party before receipt from the Disclosing Party;
 - at the time of the disclosure by the Disclosing Party, was in the public domain;
 - is or becomes generally available to the public through no breach of the Terms and Conditions herein;
 - is similar to information that was rightfully in the Receiving Party's possession prior to receipt from the Disclosing Party, as evidenced by written record other than through prior disclosure by the Disclosing Party;
 - or
 - is independently developed by the Receiving Party without the use of any Confidential Information from the Disclosing Party.

The Receiving Party shall have the duty of proof of the aforementioned exceptions.

- 7.2. For a period of 3 (three) years from the disclosure of Confidential Information, the Receiving Party in each instance shall not, directly or indirectly, disclose, disseminate, publish, divulge or otherwise reveal any Confidential Information, and will take all reasonable steps to protect the secrecy of and avoid disclosure or use of the Confidential Information in order to prevent it from falling into the public domain or the possession of unauthorised persons. The Receiving Party will not disclose Confidential Information to anyone, but

only to its employees, agents and business partners that are absolutely necessary to have access to such Information for the conduct of business agreed between the Receiving Party and the Disclosing Party. In addition, the Receiving Party shall ensure that employees, agents and business Partners to whom it discloses Confidential Information obey by the same Terms and Conditions regarding confidentiality, as the ones referred to herein. If the Receiving Party wishes to pass Confidential Information to a legal or natural person (other than its employees, agents and business partners), the Receiving Party shall obtain permission by the Disclosing Party, subsequently notify the Disclosing Party of passing the Confidential Information, and ensure that the subject legal or natural person treats Confidential Information as per the Terms and Conditions herein.

- 7.3. For a period of 3 (three) years from the point in time at which either Ependys or its agents or associates disclosed the identity of a subject "New Client" (sorting plant, recycler, re-processor, compounder etc.) to Supplier, or served a subject "New Client" with Goods/Services from the Supplier (whichever of these two points in time occurs most recently), the Supplier shall ensure that the Supplier itself, its employees, agents, associates, and business partners shall not, directly or indirectly, contact, deal with, supply Goods/Services to, or otherwise become involved with such "New Client", without the specific written approval of Ependys. "New Clients" are Clients of whom the identifies disclosed to Supplier by Ependys and with whom the Supplier, at the time of the disclosure of their identities, had not dealt during the course of the last 2 (two) years. If required, the Supplier shall have the duty of proving that a Client disclosed to him by Ependys is not a New Client.

8. Data Protection

- 8.1. Ependys stores contractual data in accordance with the German Federal Data Protection Act and reserves the right to share data with third parties (e.g. insurances) for the supplies of goods and services to Clients.

9. Force Majeure

- 9.1. Neither the Supplier nor Ependys shall be liable for any breach of their obligations stipulated in this document due to causes beyond their reasonable control including, but not limited to fires, labour disputes (of their own or other employees), insurrection or riots or delays in transportation, inability to obtain supplies, acts of terrorism or regulations of any civil or military authority.

10. Amendment

- 10.1. Any alterations of addenda hereof, if agreed among the parties (Supplier and Ependys), shall be deemed as valid only on the condition of being made in writing, and executed by authorized representatives of the parties hereto. Such addenda or amendments will form an integral part hereof.

11. Applicable Law, Disputes Venue

- 11.1. These Terms and Conditions have been developed and shall be governed and construed in accordance with the laws of the Federal Republic of Germany except for the UN Sales Convention and the conflict rules of IPRG. The applicable, contractual and business language is English. The language to be employed in any legal proceedings will be German.
- 11.2. The proper venue for all disputes arising from the arrangement and performance of the present contract is the location in which Ependys has its registered office. Any mandatory provisions of applicable law providing for exclusive jurisdiction shall remain unaffected by this clause.
- 11.3. Should legal proceedings take place, the party to be found guilty by the courts will cover all pertinent fees, costs and expenses.

12. Severability

- 12.1. If individual provisions in this document should be void, ineffective, incomplete or unenforceable, this shall not affect the validity of the document in other regards. In this event, an effective, complete and enforceable provision, which approximates to the purpose of the invalid provisions, will apply. This will also apply in the case of an omission in the provisions.