

## N&P TERMS AND CONDITIONS

### Chapter 1. General provisions

#### 1. Definitions

<u>N&amp;P:</u>	the private company with limited liability N&P Recycling BV, with its registered office in Nieuw-Bergen under Ch. of Comm. number 12034168
<u>Terms and Conditions:</u>	the N&P general terms and conditions
<u>Other Party:</u>	each company that is party to any agreement with N&P
<u>Parties:</u>	Other Party and N&P
<u>Agreement:</u>	all agreements between N&P and the Other Party concerning the purchase and sale of Waste Materials and/or the provision of services by N&P, as well as every other Agreement that the Other Party provides to N&P, as well as all (legal) acts that are related to all this
<u>Subcontractor:</u>	each party that is involved by N&P during the performance (in part) of an Agreement
<u>Goods:</u>	the Waste Materials including packaging material concerning which N&P and the Other Party conclude an Agreement
<u>In Writing:</u>	messaging by mail with the exclusion of fax and email

#### 2. Applicability

- 2.1 The Terms and Conditions apply to all offers, orders, tenders, deliveries, invoices and other aspects of legal relationships between Parties. N&P expressly rejects the applicability of terms and conditions of the Other Party, unless expressly agreed otherwise In Writing.
- 2.2 Derogation from and/or addendums to the Terms and Conditions can only be agreed expressly In Writing. In the event that the Agreement derogates in its contents from the contents of the Terms and Conditions, the contents of the Agreement will prevail.
- 2.3 N&P retains the right to amend and/or add to these Terms and Conditions.
- 2.4 The invalidity of any provision of the Agreement and/or of these General Terms and Conditions will not have any consequences for the validity of the other provisions of the Agreement and the General Terms and Conditions. If and insofar as a provision of the Agreement and/or these Terms and Conditions are null and void, or might be unacceptable in accordance with criteria of reasonableness and fairness in the given circumstances, a provision will apply between Parties that will be acceptable taking all circumstances into consideration.

#### 3. Duration and coming into effect of agreements

- 3.1 An offer from N&P takes place without obligation and can be revoked, withdrawn or amended within 5 calendar days after acceptance thereof. Errors or omissions occurring in an offer or in advice provided by N&P in the context of an offer and not (general) information exclusively addressed to the Other Party will not bind N&P. Orders, assignments and acceptances of offers by the Other Party will apply as being made irrevocably and cannot be withdrawn or amended other than with the permission from N&P.
- 3.2 The Other Party guarantees the accuracy and completeness of the data provided by or on behalf of the Other Party to N&P, on which N&P bases the offer.
- 3.3 If an offer is made by N&P, an Agreement will come into effect by the unconditional acceptance by the Other Party of the offer of N&P, provided that N&P does not within 5 calendar days after the time of the receipt of this acceptance withdraw its offer and after the Other Party has fulfilled the conditions set out with the offer, or by the performance of an Agreement of the Other Party by N&P. The offer of N&P, or as the case may be the invoice of N&P for the performance of the Agreement, will exclusively be deemed to correctly represent the contents of the Agreement.
- 3.4 If no offer is made by N&P, an Agreement will only come into effect by the acceptance In Writing or by the performance of an Agreement of the Other Party by N&P. The acceptance In Writing of the Agreement by N&P, or as the case may be the invoice of N&P for the performance of the Agreement, will be deemed to correctly represent the contents of the Agreement.

3.5 Agreements are always entered into for the duration of 12 months, unless expressly agreed otherwise In Writing. After the expiry of the term of the Agreement this will always be automatically extended by the same period, however at least by one year, unless the Agreement is terminated by one of the Parties In Writing by registered mail with effect from the end of the month, with due regard to a notice period of three months, unless otherwise determined in the Agreement.

#### **4. Rates**

4.1 The prices and rates agreed by Parties are in principle fixed, unless the Agreement states the circumstances which can cause price adjustment and determines the manner in which the adjustment will take place and/or otherwise is agreed In Writing.

4.2 The agreed prices and rates are in Euro and excluding VAT and any duties and taxes imposed by authorities, insofar as not otherwise agreed. N&P can charge for contract extras, unless Parties have agreed otherwise In Writing.

4.3 The price or prices stated in offers, tenders and/or confirmations from N&P are based on cost factors (including but not limited to the prices of raw materials/materials/fuel/wages/social insurance contributions/taxes/exchange rates/interest etc.) that apply on the date of dispatch. If one or more of the composite parts referred to in this subclause is/are increased during the period between the date of dispatch of the offer/tender/confirmation and the date of delivery, N&P will be entitled to adjust the agreed price accordingly, also if the cost price increase was foreseeable at the time of the dispatch of the offer/tender/confirmation.

4.4 N&P will charge costs with regard to applications, acquiring or retaining permits, which are required for the correct performance of the Agreement, to the Other Party

#### **5. Payment**

5.1 Unless expressly agreed otherwise In Writing, invoices from N&P must be paid by the Other Party no later than within 30 days after the invoice date. Payment will at all times take place without any reduction, set-off or suspension by the Other Party on whatsoever basis.

5.2 In the event of failure of payment in a timely manner, the Other Party will be in default through the mere expiry of the payment term - without the requirement of any demand or notice of default - and the Other Party will owe over the gross invoice amount the immediately due and payable statutory commercial interest as referred to in Section 119a Book 6 of the Civil Code, calculated from the invoice date (a part of a month will be calculated as an entire month), until the time of payment in full, without prejudice to any other rights accruing to N&P to compensation of the damage related to the default.

5.3 In the event of failure of payment in a timely manner all claims of N&P against the Other Party will be immediately due and payable and N&P will furthermore be entitled to suspend its obligations on the basis of any agreement concluded with the Other Party until payment in full has been received at a later date.

5.4 If N&P has had to incur (extra) judicial costs related to an invoice left unpaid by the Other Party, N&P will be entitled to charge a payment to the Other Party due to the costs incurred by N&P of at least 15% of the gross invoice amount (with a minimum of € 500), without prejudice to the right of N&P to compensation in full of the costs reasonably incurred. All judicial and enforcement costs reasonably incurred by N&P will also be at the expense of the Other Party.

5.5 All judicial and extrajudicial costs on the part of N&P that are related to the defence against a claim brought unjustifiably by the Other Party against N&P will be at the expense of the Other Party.

5.6 Payments made will always serve to settle firstly the payment of all costs and interest owed, and thereupon to settle due and payable invoices which have been outstanding the longest, even if the Other Party states that the payment relates to a later invoice.

#### **6. Liability**

6.1 N&P will not be liable for any direct or indirect damage on the part of the Other Party, expressly including but not limited to trading loss, lost profit, demurrage, consequential loss, personal injury, all other forms of financial loss as well as all possible claims by third parties, except for in the event of intention or wilful recklessness on the part of N&P or on the part of persons forming part of the management of N&P.

6.2 In addition, any possible liability on the part of N&P is under all circumstances limited to the damage that is covered pursuant to its insurance(s) and that is actually paid by the insurance company and to a maximum of the amount for which cover is provided in the case concerned, while the Other Party

must first of all bring a claim against its own insurance prior to any claim being brought against the insurance of N&P. Furthermore N&P will, without prejudice to the aforesaid, never be held liable for compensation of damage insofar as the amount of the claim exceeds the amount that N&P has invoiced for the Goods the damage relates to, excluding turnover tax and other duties imposed by authorities.

- 6.3 The Other Party must report the damage suffered by it In Writing to N&P, as soon as possible but no later than within 2 (in words: two) weeks after the arising thereof or the becoming aware therefrom. Damage which is not reported within this period will not be eligible for compensation. In any event every claim on the part of the Other Party against N&P will lapse by the mere passing of 12 months from the arising thereof, except in the event that the claim is expressly accepted by N&P.
- 6.4 The Other Party indemnifies N&P and its successors in title, its employees and the contractors and agents engaged by N&P for the performance of the Agreement, against all claims by third parties related to the Agreement and the Goods taken or delivered by N&P, including (but not limited to) claims on the basis of any legislation related to the environment, claims on the basis of breach of contract as referred to in Section 74 Book 6 of the Civil Code and unlawful act as referred to in Section 162 Book 6 of the Civil Code.

## **7. Non-disclosure and confidentiality**

- 7.1 Parties are not permitted to disclose to third parties any business matters of the Other Party that have come to their knowledge on the basis of the Agreement, all in the broadest sense of the words, without prior permission In Writing from the Other Party, with the exception of information that is public knowledge and insofar as an obligation of disclosure ensues from a statutory provision or from a court order. Parties will limit access to this information to the persons who require this for the (performance of) the Agreement. Parties are obliged to impose the same obligation on their employees or third parties engaged during the performance of the Agreement.

## **8. Intellectual property**

- 8.1 All drawings, documents and data provided by N&P to the Other Party remain the property of N&P. N&P retains the copyright thereto. The Agreement does not contain any transfer or licensing of any intellectual property rights in the context of the Goods delivered to the Other Party, or the services provided to the Other Party and the documents forming part thereof.
- 8.2 The Other Party is not permitted to remove or change any specifications with regard to trademarks, trade names, patents or other rights under or of the Materials.
- 8.3 The Other Party indemnifies N&P against (the financial claims ensuing from) infringements of intellectual property rights of the Other Party and/or third parties during the performance of the Agreement by N&P, its employees and Subcontractors.

## **9. Force majeure**

- 9.1 Force majeure on the part of N&P exists if the performance of the Agreement is prevented or made difficult, wholly or in part and, whether or not temporarily, due to a circumstance, whether or not foreseeable, that is beyond the control of N&P, such as but not limited to:
- disruptions in the business operations of N&P or disruptions in the business operations of suppliers or other companies N&P relies on to be able to perform the Agreement toward the Other Party;
  - delayed provision by third parties to N&P of ordered goods or services;
  - delay in or refusal of the Goods by a treatment or processing establishment,
  - withdrawal or refusal to grant permits;
  - trade restrictions or other government measures imposed or advised by local, central or international government agencies;
  - (civil) war, threat of war, (natural) disasters, strike action, exclusion, embargo, riot, obstructions of transport and other transport disruptions, accidents, fire, business interruptions, excessive sickness absence.
- 9.2 If due to force majeure N&P is prevented from accepting, delivering or delivering in the usual manner, the Goods, N&P will have the right to extend the purchase or delivery period by the duration of the force majeure, or as the case may be terminate the Agreement insofar as this has not yet been performed. In the event that N&P after the ending of the force majeure situation still proceeds with performance, as well as in the event that N&P decides to terminate the Agreement, N&P will never be liable for any compensation of direct damage or loss or consequential loss.

- 9.3 N&P also has the right to rely on force majeure if the circumstance that prevents (further) performance occurs after the time when N&P should have fulfilled its obligations on the basis of the Agreement.
- 9.4 Insofar as N&P at the time of the occurrence of force majeure has already partially fulfilled its obligations under the Agreement, N&P will be entitled to charge the Other Party separately for the part already fulfilled, or as the case may be, if the fulfilment on the part of N&P concerns a payment, N&P will be entitled to claim back the payment already made as an undue payment.

## **10. Suspension and termination**

- 10.1 N&P has in the following cases the right to suspend, wholly or in part, the Agreement at its discretion by means of a statement In Writing addressed to the Other Party, or to unilaterally terminate the Agreement, wholly or in part, by a statement In Writing, without judicial intervention and with immediate effect and without N&P being liable for any compensation, in the following events:
- The quantity, or the nature and the composition of the Goods derogates from the statement/description as referred to in article 6, or from the result of the analysis after sample taking as foreseen or from that which was determined concerning this in the Agreement;
  - Failure to comply with the statutory regulations or regulations provided by N&P concerning descriptions, labelling, packaging and suchlike, all this at the discretion of N&P;
  - (Suspected) failure on the part of the Other Party in the fulfilment of (one of) its obligations on the basis of the Agreement and/or the General Terms and Conditions;
  - The Other Party applies for moratorium and/or is granted this, is declared insolvent, or for any other reason loses, wholly or in part, the management or the disposal over its assets;
  - The company or enterprise of the Other Party is dissolved or sold.
- 10.2 The Other Party will be obliged to collect the Goods described in the Agreement, which is terminated pursuant to the previous subclause, upon first request from N&P and at the expense and risk of the Other Party, unless Parties enter into a new agreement with regard to the Goods. In the event of termination the Other Party will be obliged to reimburse the costs already incurred by N&P for the performance of the Agreement as well as to compensate any damage suffered by N&P.
- 10.3 All claims that N&P might have or acquire against the Other Party in the events referred to above in article 17.1 will be due and payable in full and with immediate effect.
- 10.4 N&P will at all times be entitled to, wholly or in part, set-off its payment obligations toward the Other Party against any claim against the Other Party that N&P has, or will acquire, at any time, whether or not due and payable, conditional, or subject to a time limit.

## **11. Applicable law and court of competent jurisdiction**

- 11.1 The legal relationship between N&P and the Other Party will be governed exclusively by Dutch law, which is with the exclusion of the Vienna Sales Convention. All disputes between N&P and the Other Party will be settled by the court of competent jurisdiction in Roermond.

## **Chapter 2: additional purchase provisions**

### **12. Offered Goods**

- 12.1 The Other Party guarantees toward N&P the accuracy and completeness of the description of the Goods offered by it and the documents forming part thereof.
- 12.2 With regard to the processing method and purpose of the Goods agreed in advance between Parties, to be collected in specific collection resources, the Other Party will not deposit Goods in these collection resources which pursuant to agreement are not permitted to be eligible for this manner of processing or purpose.
- 12.3 The Other Party will be obliged to exclusively use the collection resources prescribed by N&P and the Subcontractor. The Other Party guarantees that the items used, or made available, by or on behalf of the Other Party, for the performance of the Agreement and the sites to be entered by N&P employees and the buildings of the Other Party are sound, suitable and safe for this and fulfil all the regulations concerning this provided by N&P or the competent authorities.
- 12.4 The Other Party will be obliged, prior to the commencement of the work by N&P or the Subcontractor, and each time after the Subcontractor requests this, to provide a clear description In Writing of the nature, the origin, the characteristics and the composition and the hazard classes of the Goods, to the Subcontractor, or as the case may be if and insofar as the nature, the origin, the characteristics, the

composition and/or the hazard classes of the Goods are not known to the Other Party - report this expressly In Writing to the Subcontractor. The Other Party will be furthermore obliged each time when the nature, the characteristics or the composition of the Goods change, to report this as soon as possible In Writing to the Subcontractor.

12.5 The Other Party guarantees that the Goods offered by the Other Party do not contain any radioactive materials or radioactive waste.

### **13. Offer**

13.1 The Other Party must offer the Goods at the location included in the Agreement.

13.2 In addition to the statutory regulations and the instructions provided by the competent authority, the Other Party must at all times strictly comply with the safety, environmental and other regulations, standards, directions and instructions from N&P and/or the Subcontractor with regard to the manner in which the Goods must be offered. In case of doubt about the manner in which the instructions must be followed, the Other Party will be obliged to promptly ask for clarity.

13.3 The Goods must be offered in such a manner by the Other Party that loss, spillage, or blowing away will be prevented and that no nuisance, danger, damage or injury can be caused to or for N&P or third parties.

### **14. Transport, packaging and labelling**

14.1 The transport risk will be borne by the party that transports the Goods. The transport must take place in accordance with the statutory regulations and in the manner agreed between Parties.

14.2 The Other Party will be responsible for ensuring that the packaging of the Goods complies with the statutory requirements and that the data as required by law is stated on the packaging and in the transport documents.

14.3 The Other Party will be obliged to comply with the regulations and instructions that apply on the site of the Subcontractor. The Other Party enters the site of the Subcontractor at one's own risk.

14.4 The sustainable packaging made available by N&P or by the Subcontractor that is eligible for reuse must be returned by the Other Party to N&P or the Subcontractor within a reasonable period after it was made available. N&P will be entitled to charge packaging costs to the Other Party. If the Other Party does not return the packaging to N&P in the same condition in which it was delivered, N&P will be entitled to deduct the aforesaid packaging costs, without prejudice to the right of N&P to claim compensation in full of the costs reasonably incurred and the damage suffered by it. The Other Party must promptly report damage or loss to N&P. The administrative records of N&P will be the determining factor when establishing the extent of the obligation to return.

### **15. Acceptance and inspection**

15.1 The Goods offered by the Other Party must fulfil the following:

- that which has been agreed between Parties as evident from the Agreement;
- the quality/acceptance conditions set out by N&P;
- the requirements that are set out for the Goods by or pursuant to the current statutory provisions.

15.2 The Other Party will always be obliged - even if not requested - to provide those samples, data, documents and information to N&P and the Subcontractor, of which the Other Party knows, or reasonably can assume, that these can be of importance for N&P and the Subcontractor.

15.3 Prior to making an offer N&P can require that samples are taken of the Goods in order to analyse (have analysed) them. The costs attached to this analysis will be at the expense of the Other Party, unless otherwise agreed In Writing between Parties. In addition N&P will always be entitled to determine during the performance of the Agreement - by taking samples and analyse these on a random basis - to determine if the offered Goods fulfil that which has been agreed. If it is evident from the sample taking and/or analysis that the offered Goods do not fulfil the provisions of this article, the costs attached to the sample taking and analysis will be borne by the Other Party.

15.4 The Goods will in such an event either be returned to the Other Party, or as the case may be - if this is possible and the Other Party wants this - will be offered to another treatment or processing establishment and/or disposal establishment for processing and/or disposal, whereby the extra costs that N&P must incur for the repossession or retender - including the transport and handling fees - will be charged to the Other Party.

15.5 N&P will not be liable for damage arisen due to the fact that the treatment or processing establishment and/or the disposal establishment refuses the Goods offered by the Other Party.

### Chapter 3: additional provisions for sale

#### 16. Delivery

- 16.1 Delivery by N&P takes place at the address stated by the Other Party. The Other Party will be obliged to take receipt of the Goods. The Other Party must be available at all times for delivery, unless expressly agreed otherwise In Writing. Risk transfer takes place at the time when N&P offers the Goods for delivery at the address stated by the Other Party, even if the Other Party does not take delivery thereof for any reason whatsoever. All the costs incurred in vain by N&P related to the offer and any further costs of transport, security and storage will at the expense of the Other Party.
- 16.2 The agreed or stated time of delivery by N&P is purely indicative and is never to be regarded as a final deadline, unless expressly agreed otherwise In Writing. The mere exceeding of the delivery period will not result in any default or liability for compensation on the part of N&P. The Agreement cannot be annulled or terminated due to exceeding the delivery period, except for when N&P does not deliver within a reasonable period, to be set out In Writing by the Other Party, after the expiry of the delivery period, except for in the event that there is force majeure as referred to in article 16 of the Terms and Conditions.
- 16.3 N&P will be entitled to execute partial deliveries and at all times retains the right, which is subject to suspension of the delivery and/or the making available of the Goods, to require advance payment in part or in full from the Other Party of the price owed to N&P or, at the discretion of N&P, to require that the Other Party provides security to the satisfaction of N&P for the price owed to N&P, for example in the form of a bank guarantee. If N&P has good grounds to fear that the Other Party will not be able to fulfil its financial obligations and the Other Party refuses to provide (additional) security, N&P will be entitled to suspend the execution of the order, all this without prejudice to its statutory rights of suspension.

#### 17. Inspection, complaints and re-inspection

- 17.1 The Other Party will be obliged to inspect the Goods delivered by N&P during delivery. Complaints with regard to defects concerning the Goods must be submitted In Writing by the Other Party to N&P no later than within 24 hours after receipt of the Goods or, as the case may be - if the defect could not reasonably be discovered during the inspection - within 5 (in words: five) working days after the defect is discovered, or as the case may be that with proper care and attention the defect could have been discovered, all this at the risk of forfeiting any right related to any shortcoming. Complaints with regard to the Goods that are already processed will not be dealt with and cannot result in any right related to a shortcoming.
- 17.2 Rejection of the delivered Goods can only take place after re-inspection. Samples will be taken for the purpose of the re-inspection, during the taking of which Parties must be represented. The samples must be sealed. The re-inspection will take place by a laboratory to be designated by N&P, unless this might be otherwise agreed between N&P and the Other Party in advance. The outcome of the re-inspection will be binding for the Other Party as well as N&P. All costs arisen due to the taking of the samples, as well as the inspection, will be borne by the Parties found against.
- 17.3 If the Other Party can enforce claims in accordance with the aforesaid provisions due to defects of the Goods, N&P will, at its discretion, either repair or replace the delivered Goods (or as the case may be the services provided), or credit the purchase price paid by the Other Party and thereby take the delivered Goods back. These Terms and Conditions apply to redelivery.
- 17.4 If the Other Party, in accordance with the aforesaid provisions, can enforce a claim, this will not give the Other Party the right to suspend the payment for the Goods concerning which this arrangement does not exist.

#### 18. Retention of title

- 18.1 The ownership of the delivered Goods transfers to the Other Party at the time of acceptance and/or taking possession thereof. The Other Party is not entitled, without the knowledge of and concurrence from N&P, prior to the payment of the amount owed by the Other Party, to on any basis whatsoever dispose of or encumber the Goods for the benefit of third parties, except for insofar as during the usual operation of the business of the Other Party.