

# General Terms and Conditions of Scholz Recycling GmbH for Logistics Services ("Scholz Logistics GTC")

## § 1 Scope

The following general terms and conditions apply to the performance of national and international logistics, transport and transshipment services on behalf of Scholz Recycling GmbH ("principal" herein), unless otherwise mandated by law. If, in addition, other general terms and conditions (such as the German Freight Forwarders' Standard Terms and Conditions (Allgemeine Deutsche Spediteurbedingungen – ADSp)) are agreed to, they shall be subordinate to these General Terms and Conditions.

## § 2 Formation of individual agreements

Orders can be placed in written text form—with electronic transmission (particularly via e-mail) or transmission via fax being sufficient—or orally or by telephone.

## § 3 Contractor's duties

(3.1) The contractor confirms that it possesses all required authorizations, concessions and permits (e.g. Albo nazionale) for the performance of transport and transshipment services—particularly for recycling materials—and expressly complies with the statutes (e.g. Carriage of Goods by Road Act (Güterkraftverkehrsgesetz – GüKG, German Civil Code (Bürgerliches Gesetzbuch – BGB), German Commercial Code (Handelsgesetzbuch – HGB), CMR Convention), regulations (e.g. accident prevention, safety and environmental pollution regulations) and ordinances (e.g. Waste Shipment Ordinance (Abfallverbringungsverordnung)) pertaining to the performance of the service.

(3.2) Shipping documents are issued by the principal or the respective shipper. However, the contractor and its subcontractors have a duty to inspect the content, completeness and correctness of these papers to the extent this is discernible by the contractor and its own or third-party drivers.

(3.3) The contractor shall perform the transport and transshipment services with the utmost care, safety and expertise and is responsible for the quality, completeness and coordination of the services. Stipulated delivery periods and deadlines or timeframes are binding. If the contractor recognizes that a stipulated deadline or a scheduled timeframe cannot be met, it shall promptly notify the principal of this.

(3.4) The equipment used by the contractor (e.g. containers) must be in technically and visually flawless as well as serviceable condition. Its construction and fittings must be suitable for the damage-free transshipment and transport of goods and materials (such as recycling materials). Apart from this, the contractor is responsible for its maintenance and care as well as compliance with the applicable statutory provisions. If the contractor borrows equipment from the principal to render the performance, it must also handle it with the same care, or else the contractor will be responsible under the terms and conditions of liability provided in § 12.

(3.5) Loading and unloading shall take place in line with the principal's specifications and during its standard business hours. Here, the contractor and its subcontractors are responsible for properly securing the load and observing the gross vehicle weight. In the handling of receptacles (e.g. skips, containers, etc.) the indicated net weight thus may not exceed the capacity of the respective container. Transport containers may be filled maximally to the brim, even in the case of bulky material. Loose, rolling or sliding bulk material may only be loaded up to the rim of the pouring edge. In case of uncertainties, the principal must be immediately notified and an instruction obtained. When necessary, the containers shall be covered with shipping mesh and, if required, with waterproof tarps.

(3.6) If requested by the principal or contractor, each party shall designate one or more contact persons to receive information, declarations and inquiries for processing the contract and communicate their names and contact addresses to the other respective party. If a party does not designate any contact person, the person who transacted the contract for the party shall be considered the contact person.

(3.7) The contractor shall manage changes in volume; no set volume is expressly warranted. If the volume increases to an extraordinary amount, the contractor's available capacities must be taken into consideration when placing the order.

## § 4 Insurance

(4.1) The contractor is obligated to obtain and maintain liability insurance under § 7a GüKG with an insurer of its choice for logistics services on terms that are customary in the market.

(4.2) If requested by the principal, the contractor shall provide proof of such liability insurance through a confirmation by the insurer.

(4.3) The contractor shall also obtain insurance for the goods (e.g. transport or warehouse insurance) with an insurer of its choice if the principal instructs it to do so before handing over the goods. If the contractor is unable to obtain insurance coverage because of the type of goods to be insured or for another reason, the contractor shall promptly notify the principal of this.

## § 5 Duties to inform, advise and optimize

(5.1) The contractor shall support and advise the principal with its expertise and promptly inform the principal concerning events and changes which might be relevant for both parties.

(5.2) The contractor shall promptly inform the principal concerning special incidents that are related to the assignment.

(5.3) It is the parties' common objective to continually optimize the business processes, increase the quality of the services and reduce the cost level.

## § 6 Personnel employed

(6.1) The contractor shall supply properly trained personnel. They shall be regularly instructed on the legal safety requirements. The contractor and its employees, respectively, are obligated to comply with the necessary occupational safety measures in the field of action (e.g. wearing reflective vests or safety footwear, etc.)

(6.2) The contractor shall arrange for the personnel employed for rendering the services to undergo qualified safety instruction in accordance with the principal's guidelines ("Safety Information for Contractors").

## § 7 Company organization

(7.1) The transport of goods must, in principle, be possible at any time during standard business hours. If goods must be transported at night, on holidays or weekends as an exception, and this is possible without violating the law, the contractor shall apply for all required driving permits and provide contact persons.

(7.2) The contractor undertakes to produce, store, handle or process, load and protect from unauthorized access, at secure and suitable business premises, goods and materials which are warehoused, conveyed, delivered or transferred for the principal. All applicable statutory provisions must be adhered to for this to ensure safe handling in the case of environmentally hazardous substances as well. Subcontractors or agents acting on behalf of the contractor are to be informed that they must also take these measures to ensure the safety of the above-mentioned supply chain.

## § 8 Inspection

(8.1) The principal is permitted to conduct process and system audits in coordination with the contractor in order to inspect the equipment, buildings and areas used.

(8.2) Where quality and performance losses are detected, the principal may introduce an evaluation system with performance indicators in collaboration with the contractor.

## § 9 Subcontractors

(9.1) The contractor undertakes to inform the principal upon request about subcontractors that are employed or planned for rendering the service.

(9.2) The contractor's obligations specified in these general terms and conditions apply to the full extent to the subcontractors employed. The contractor is expressly liable for losses which have been caused by its subcontractors.

## § 10 Right of refusal

The principal is entitled to reject employees of the contractor or of a subcontractor when there is a reason for doing so, such as fraud, theft, embezzlement, drug use or other misconduct.

## § 11 Payments

(11.1) Billing shall take place only between the contractor and the principal. Subcontractors may not bill the principal directly.

(11.2) The agreed remuneration also applies when the contractor renders services which the principal organizes for third parties (third-party volume). However, in such case, the contractor expressly remains the business partner and in privity of contract with the principal.

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(11.3) The prices agreed to between the contractor and the principal are fixed prices for the agreed services and therefore exclude unauthorised additional charges by the contractor.

(11.4) The principal will heed changes in the contractor's banking arrangements only if our payments department is notified of them in writing. Otherwise payments are made to the former accounts with the effect of discharging the debt.

(11.5) If requested by the principal, the contractor is obligated to participate in the credit memo procedure.

## § 12 Liability

(12.1) The contractor shall be liable under the applicable national or international legal provisions (e.g. HGB, CMR) for damages which are incurred in its custody through loss of or damage to the goods between taking possession and delivery.

(12.2) The contractor shall be liable for damages under § 12.1, or for damages incurred through delay or through missing the delivery deadline for the agreed services, limited to applicable limits of liability in the German Freight Forwarders' Standard Terms and Conditions currently in force (such as ADSp 2017). Where there is established culpability—for instance, through intentional acts or gross negligence—the contractor shall also be liable within the scope of the ADSp currently in force.

(12.3) The contractor shall check whether the provided equipment (e.g. trailers, containers) has been inspected in accordance with the applicable rules (TÜV [German Association for Technical Inspection], UVV [accident prevention regulations]) and is therefore ready for use. Any missed deadline, damage and other relevant information about the equipment must be reported to the principal immediately. The full extent of damage in this regard or that which is attributable to negligent or intentional conduct of the contractor shall be charged to the contractor.

(12.4) The above limitations of liability do not apply to personal injuries—in other words, injury to life, limb and health—property damage to third-party goods or where the loss has been caused through the intentional acts or gross negligence of the parties or one of their legal representatives and agents.

## § 13 Electronic exchange of data

(13.1) The principal and the contractor are authorized to create, transmit and exchange declarations and messages through electronic means (electronic exchange of data) as long as the transmitting party is clearly discernible. In doing so, the transmitting party shall be responsible for the risk of loss and the correctness of the transmitted data.

(13.2) If agreed to between the principal and the respective contractor, the parties shall transmit and receive shipping data through an electronic data processing interface.

(13.3) When the principal works with an Internet-based or other supplier platform, the contractor is obligated to input the required data completely and update it constantly.

(13.4) Upon request by the principal, the contractor shall participate in electronic billing. The contractor shall bear its own costs.

## § 14 Data storage

The principal and the contractor are entitled to collect, store and process the data of the other party and any arising under the individual contractual relationship in the course of business, with due regard to the respectively applicable provisions of the Federal Data Protection Act (Bundesdatenschutzgesetz).

## § 15 Confidentiality and compliance

(15.1) The contractor is obligated to treat in confidence all information of the principal and its customers and suppliers that it becomes aware of in the course of the collaboration and to ensure that such data is made accessible to third parties only with the written consent of the principal.

(15.2) To this end, the contractor shall ensure that all employees and subcontractors also adhere to this confidentiality obligation.

(15.3) Employees used by the contractor shall only receive access to the information that is required for performing their tasks.

(15.4) The contractor shall observe all compliance rules which have been disclosed by the principal or become known to the contractor in another manner.

## § 16 Lien, right of retention or right to assign

(16.1) The principal and the contractor may offset claims of the principal arising from these terms and conditions only upon prior written agreement.

(16.2) The contractor may assert a right to refuse performance or a right of retention only when the claim on which the contractor is basing the right to perform or right of retention is expressly acknowledged by the principal or is legally established.

## § 17 Compliance with regulations for the carriage of goods by road and for drivers

(17.1) The contractor warrants to the principal that it and its agents, particularly the executing subcontractors and their personnel, shall observe all relevant legal standards for the contractually stipulated services and shall possess the legally required permits, authorizations, licenses and driver attestations and use them properly (e.g., authorization to haul goods by road, notification pursuant to § 53 of the Waste Management Act (Kreislaufwirtschaftsgesetz)). The contractor undertakes to employ foreign drivers from third countries only if they have the required work permit. The contractor shall also ensure that drivers possess an official certificate with an officially certified translation in German (§ 7b (1) second sentence of the new version of GüKG) and carry it with them on each trip. The contractor further undertakes to set up the configuration of its human and physical resources as well as its operational organization in such a way that it is always capable of executing the scheduled transport orders in compliance with the regulations—e.g., on legal driving and rest periods for drivers—and expressly agrees to indemnify the principal in this respect for all third-party claims based on culpable violations (particularly fines, damages claims, etc.).

(17.2) Upon request, the contractor is obligated to turn over to the principal or its agents for inspection all documents which are to be carried along pursuant to the statutory provisions and to answer, among others, the principals' questions on already completed or still planned transports. The contractor is further obliged to also instruct its agents and, above all, the executing subcontractors and their personnel in this sense. Moreover, the contractor must monitor its subcontractors for compliance with these regulations and prove this at the principal's request.

(17.3) The contractor further covenants that it will engage only subcontractors who have promised the contractor that they will comply with the aforementioned regulations. If requested by the principal, the contractor shall provide suitable proof that its human and physical resources as well as its operational organization are adequate for complying with the regulations—for example, on legal driving and rest periods for drivers. The principal is entitled to monitor the contractor accordingly.

(17.4) When the contractor's culpable violation of §§ 3, 6 and 7b GüKG causes the principal to incur loss, the principal may demand that the contractor pay a fine.

## § 18 Regulations on cabotage

(18.1) The contractor undertakes to lawfully acquire and use the permit, authorization or license for commercial haulage with cabotage only in keeping with the statutory requirements. This includes observance of the cabotage requirements in Article 8 of Regulation (EC) No. 1072/2009 or, when an ECMT license is used, the requirements of § 7a of the Ordinance on International Road Haulage and Cabotage (Verordnung über den grenzüberschreitenden Güterkraftverkehr und den Kabotageverkehr – GüKGrKabotageV).

(18.2) The contractor undertakes to employ subcontractors and drivers from third countries only with required work permits or driver attestations and, on German territory, to pay them according to the currently applicable minimum wage as regulated in the Minimum Wage Act (Mindestlohngesetz – MiLoG) and to comply with the driving and rest periods prescribed by law. Moreover, you as contractor shall ensure that the drivers have and carry with them all the documents that are required under § 7 b (1) second sentence GüKG.

(18.3) During inspections by the principal, the contractor undertakes, upon request, to deliver to the principal for examination all governmental documents that are to be carried along. In addition, the contractor undertakes to furnish information to the principal at any time and also to present all documents for inspection (e.g. CMR, delivery notes, etc.), so that the principal is able to track compliance with the cabotage requirements (under Article 8 and 9 of Regulation (EC) No. 1072/2009 and § 7 (GüKG)). To this end, the contractor undertakes to give appropriate general instructions to its personnel and to promptly notify the principal if it is unable to carry out transport orders because it will violate one of the requirements set forth here. The commitment

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shall also exist when the contractor employs additional subcontractors to execute the transport order issued by the principal. For this purpose, the contractor must also impose the requirements contained in this declaration upon the subcontractors it engages.

(18.4) The contractor shall indemnify the principal for all claims for compensation that result from the contractor's violation of laws or obligations which are associated with cabotage. The legal ground on which the claims are based or who has asserted them is immaterial. Whether the contractor directly or indirectly violates its legal obligations is equally immaterial.

(18.5) If violations of these cabotage requirements give rise to damages—e.g. through delay or exceeding the delivery deadline—the contractor's liability shall be limited to typically foreseeable loss. The contractor shall be liable to the full extent for intentional and grossly negligent acts.

## **§ 19 Regulations on the German Minimum Wage Act (Mindestlohngesetz – MiLoG)**

(19.1) Upon the coming into force of the German Minimum Wage Act (Mindestlohngesetz – MiLoG) of August 16, 2014, according to § 20 MiLoG, all domestic and foreign employers are obligated to pay their employees working within Germany the statutory minimum hourly wage.

(19.2) The contractor undertakes to always comply with all present and future minimum wage standards which apply to it and to pay the currently applicable minimum wage to all employees engaged to implement the transport order placed by the principal. In this connection, the contractor undertakes to indemnify the principal for all claims for compensation that result from the contractor's violation of laws or other obligations in association with the provision of minimum wage. The legal ground on which the claims are based or who has asserted them is immaterial. Whether the contractor directly or indirectly violates its legal obligations is equally immaterial.

(19.3) The duty to provide indemnification shall also exist when the contractor employs additional subcontractors and agents to execute the transport order issued by the principal. For this purpose, the contractor must also impose the requirements contained in this section upon the subcontractors it engages.

## **§ 20 Regulations on occupational safety**

(20.1) The contractor is obligated to obey the clients internal company regulations concerning safety at work, fire prevention and environmental protection and to supervise and ensure the observance of his own staff.

(20.2) The contractor assures to comply with the safety instructions for third-party companies, forwarding or disposal companies, which are accessible on the homepage of Scholz Recycling GmbH ([www.scholz-recycling.com/lieferanten/sicherheitshinweise](http://www.scholz-recycling.com/lieferanten/sicherheitshinweise)) and to inform, instruct and assure the compliance of their staff and any other staff of subcontractors on a regular basis (at least annually) to obey such instructions and regulations when working on the premises of Scholz Recycling GmbH. The contractor must provide complete documentation on all instructions regarding all staff who have received and understood the safety instructions, and have verified such by way of signature.

## **§ 21 Final provisions**

(21.1) These terms and conditions establish no employment relationship, partnership or agency relationship of any kind between the principal and the contractor and therefore cannot be construed to that effect. Neither of the parties is entitled to represent the other party or to make commitments or incur obligations for the other party which go beyond the provisions adopted here.

(21.2) If for contractual or legal reasons, parts of these terms and conditions are ineffective or inapplicable in individual cases, all remaining terms shall remain unaffected by this.

(21.3) The parties agree to replace ineffective, unenforceable or void terms with an effective or enforceable provision that comes closest to the intended economic scope of the terms and conditions regulated herein. This shall apply accordingly to unintended omissions in these terms and conditions.

(21.4) To be legally effective, amendments or individual agreements on these terms and conditions always require our written confirmation. This shall also apply to this clause requiring the written form.

(21.5) Only the law of Germany shall apply to these terms and conditions, and the exclusive judicial venue for both parties shall be at the locale of the registered office of the principal.

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Member of CHIHO Environmental Group 