

General Terms and Conditions (Purchasing) for Scholz Recycling GmbH

§ 1 Binding nature of our terms and conditions

The following terms and conditions shall apply for all supplies to Scholz Recycling GmbH. Different terms and conditions shall only be binding on us if they have been confirmed by us in writing. The unconditional acceptance of goods or receipt of services or payments shall not imply any acknowledgement on our part of different terms and conditions. Our purchasing terms and conditions shall also apply even if we unconditionally accept a supply from the supplier despite being aware of supplier terms and conditions that conflict with or differ from our terms and conditions.

§ 2 Quotations and contract

Our offers are non-binding and without obligation. A contract shall only come into being once we have signed the written purchase or order confirmation. Amendments and additions to, or cancellation of a contract or these terms and conditions shall only take effect with our written confirmation. Declarations and notifications by the supplier after the contract has been concluded shall only be effective if they are in writing.

§ 3 Obligation to inspect and give notice of defects, claims for defects

(1) In our case, the time limit for inspection and notification of defects pursuant to Art. 377 of the German Commercial Code (HGB) shall be a minimum of one week from our receipt of the goods and in the case of hidden defects a minimum of one week from discovery of the defect.

(2) We may avail ourselves without restriction of all statutory claims for defects. In particular we shall be entitled to demand that our contractual partner remedy or replace a defective delivery, as we so choose. In this case, the contractual partner shall be liable for any costs incurred in remedying or replacing the defective delivery. We reserve the right to compensation in addition to and/or in lieu of performance. The statutory period of limitation for claims for defects shall apply.

(3) In all instances of defective performance on the part of our contractual partner we shall in any event be entitled, but not obliged, to remedy a defect, or have it remedied, at the contractual partner's expense after an appropriate period for subsequent performance has been set and passed to no effect. Likewise we shall be entitled, but not obliged, to make alternative procurement arrangements to replace an item delivered in a defective state at our contractual partner's expense.

(4) Any scrap must be free of all constituent matter detrimental to the smelting process. All types must be free of soiling or foreign bodies and must not exhibit rust or corrosion exceeding the normal amount in the scrap recycling trade. Different types of scrap are not to be mixed in any way. All scrap must be free of lithium-containing batteries/accumulators (e.g. lithium-ion accumulators) or comparable energy storage devices. The supplier shall be fully liable for damage caused by the supply of such material.

(5) The supplier shall be required to perform the necessary measures and inspections to secure the absence of explosive devices, potentially explosive objects, closed hollow bodies as well as any ionising radiation of the delivered scrap. The supplier shall be fully liable for damages caused by supplying such materials.

For loading through sub-suppliers, the supplier guarantees that all measures have been taken to secure that the scrap to be delivered is free of explosive devices, potentially explosive objects, closed hollow bodies and ionising radiation above the measured environmental underground radiation level.

For consignment of scrap from direct imports, the supplier guarantees that the Contract upon which these import quantities are based contains the explicit assurance that the scrap has been tested and is found to be free of explosive devices, potentially explosive objects, closed hollow bodies and is free of ionising radiation above the measured environmental underground radiation level.

When delivering scrap with ionising radiation above the measured environmental underground radiation level, explosive devices, potentially explosive objects or closed hollow bodies, the sender has to bear all arising costs.

We reserve the right to any compensation claims of our own. The supplier shall be required to indemnify Scholz Recycling GmbH against any claims for compensation asserted by third parties and any costs incurred in this connection.

(6) The supplier is obliged to treat the containers with care and to report any damage to the containers to Scholz Recycling GmbH immediately. The supplier is responsible for damage or loss (e.g. theft) of containers during his possession.

(7) With regard to the operation in waste management, the contractual party shall be obliged to comply with the valid national and international legal regulations. Moreover the contractual partner shall be obliged to comply with all national and international legal regulations.

(8) The supplier shall be obliged to observe the regulations governing the avoidance and use of packaging waste (packaging regulations) in their current version, ensuring in particular that the packaging material supplied is properly taken back and used at his own expense, where so desired by Scholz Recycling GmbH.

Art. 4 Shipment

(1) Unless otherwise agreed, the means of transport and type of shipment shall be specified by Scholz Recycling GmbH.

(2) The exact type name, address of the main supplier and also, where applicable, that of the sub supplier, contract number, weight of the delivery and exact reception point must be specified in all shipping papers (e.g. consignment note, waybill, delivery note and bill of lading). If no scrap types are specified on the waybills then our classification of the scrap types shall be binding.

(3) The following procedure applies when the distribution is executed with DB Schenker Rail Deutschland AG (DBSR) and the sender and payer of the freight charges is Scholz Recycling GmbH:

- a. The distribution of the waggon has to be coordinated until Wednesday 12 am of the previous week with the logistic department of Scholz Recycling GmbH (inbound control);
- b. On Friday of the previous week the supplier gets noted by the dates of shipments for the following week;
- c. In case of a network railway the supplier has to make a pre-order until latest 12 am of the previous day to DBSR or he instructs the pre-order to the logistic department of Scholz Recycling GmbH. The Supplier then has to forward to Scholz Recycling GmbH Scholz Recycling GmbH relevant and necessary information (Place of shipping and arriving, Time and Date of shipping, class of waggon). This instruction to Scholz Recycling GmbH has to be made at least until 10 am.
- d. The supplier/transporter orders the necessary amount of waggons at the customer service of DBSR in Duisburg.
- e. Incoming waggons have to be controlled with regard to damages. In case of a damage the DBSR is to be informed, according to the well-known process, or in certain circumstances they have to be returned. If the DBSR debits costs for damaged waggons afterward, they will be put down to the account of the supplier/transporter (according to the "polluter pays" principle).
- f. Promptly after being delivered and within the deadline, the waggons have to be loaded according to the Distribution instructions of DBSR.
- g. Immediately after loading and to the latest 1 hour in advance of the time for shipping preparation (BVZ-Bereitstellung Zeitpunkt Versand) the transfer order has to be completed and sent to DBSR. This can be done directly by the supplier/transporter by using the Web Portal "Recy-Online" that is provided by Scholz Recycling GmbH or by submitting all the relevant information (Waggon-Number, weight, pre-order number, sort, etc.) to the logistic department of Scholz Recycling GmbH (via Email or Fax). When providing the information to Scholz Recycling GmbH this has to be in time with regard to the BVZ.
- h. When exceeding the time for loading caused/default by the supplier/transporter the market fee will be invoiced.

Art. 5 Calculation of weights and quantities

Invoicing shall be based on the received weight and findings.

Art. 6 Prohibition of assignment

Rights and obligations arising from a delivery contract concluded with us, and especially the supplier's counterclaim arising from this contract, may not be assigned to third parties, whether wholly or in part, without our express written permission.

Art. 7 Date of delivery and withdrawal from the contract

(1) The agreed delivery dates shall be binding. Compliance with the delivery date or deadline shall be adjudged by arrival of the goods at the receiving centre or point of use specified by us and/or the timeliness of successful acceptance. The foregoing shall not affect the occurrence of a default in delivery.

(2) The supplier shall be obliged to notify us immediately in writing should circumstances occur, or should he anticipate circumstances as a result of which the agreed delivery time may not be complied with.

(3) If the agreed delivery date is not met as result of a circumstance for which our contractual partner is responsible then we shall be entitled upon expiry of an appropriate grace period and in the absence of a successful outcome to demand, at our discretion, compensation in lieu of and/or in addition to performance or else procure a replacement from a third party and/or withdraw from the contract. The contractual partner shall be obliged to make restitution to us for all direct and indirect losses caused by delay where he is responsible for the delay in performance.

(4) Force majeure such as thunderstorms, fire, strikes or similar shall release the contractual partner from his contractual obligations for the duration of the disruption and to the extent of the effect it has. Within reason, the contractual partner shall be obliged immediately to supply the necessary information and to act in good faith to amend his obligations to bring them into line with changed circumstances. We shall be freed wholly or in part from our obligation to accept the delivery/service that has been ordered and be entitled to withdraw from the contract if the delivery/service is no longer usable as a result of the delay caused by the occurrence of force majeure - having regard to economic considerations.

(5) In the event of delivery early then agreed, we reserve the right to return the goods at the contractual partner's expense. If in the event of early delivery and if the goods are not returned, they shall be put into storage at our premises until the delivery date at the contractual partner's expense and risk. In the event of early delivery, we reserve the right to make payment only on the agreed due date.

(6) We shall only accept part deliveries if expressly agreed. In the event of agreed partial consignments, the residual amount outstanding shall be identified.

Art. 8 Passing of risk

Delivery and shipping are to be made free from all expenses at the contractual partner's cost and risk to our specified delivery destination. Risk shall be passed when the complete goods are delivered at the agreed place to us.

Art. 9 Fulfilment and payment

(1) In the absence of any written agreement to the contrary, the price shall include delivery "free domicile" including packing. The place of performance for the delivery shall be the agreed delivery destination.

(2) Apart from payment and due date terms and conditions specifically agreed in writing, the due date as it relates to us for all of the contractual partner's receivables presupposes a verifiable invoice that complies with our requirements and fault-free fulfilment on the part of the contractual partner.

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(3) Unless otherwise agreed in writing, we shall pay the purchase price within 30 days after date of invoice.

(4) The place of performance for payment shall be Essingen. For delivery of unalloyed iron and steel scrap, payment shall be made by 30th of the month following delivery unless agreed otherwise in writing. Earlier payment terms require separate, written agreement.

Art. 10 Offsetting, rights of retention

(1) We shall be entitled to offsetting and retention rights as permitted in law.

(2) Offsetting shall only be permitted where there is a bilateral and written agreement that the parties agreed prior to the offsetting.

Art. 11 Passage of title

We shall acquire absolute title to the delivered goods when they are paid for. Additional reservations of title, in particular the so-called extended retention of title in all its forms, shall be excluded.

Art. 12: Warranty of title

The seller warrants that the goods are free from any rights of third parties and that delivery of the goods does not violate any rights of third parties. The seller shall indemnify us, upon first demand, from any claims of third parties in this regard.

Art. 13 Consumer dispute settlement law

Scholz Recycling GmbH does not take part in a dispute settlement procedure before a consumer arbitration board.

Art. 14 Jurisdiction and applicable law

(1) The non-standardised laws of the Federal Republic of Germany shall apply. The provisions of the Vienna UN Convention of 11.4.1980 on Contracts for the International Sale of Goods (UN CISG) and the provisions of International Private Law (IPR) shall not apply.

(2) The place of fulfilment and exclusive place of jurisdiction for all disputes arising, directly or indirectly, from the contractual relationship shall be Essingen. (Depending on the subject matter jurisdiction. District court Aalen, regional court Ellwangen.)

Art. 15 Final provisions

Should one provision in these terms and conditions of purchase or within the context of other agreements be or become invalid, the validity of all of the remaining provisions shall not be affected.

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