

General Terms and Conditions of Delivery of IMR Innovative Metal Recycling GmbH, Hentrichstrasse 68,D- 47809 Krefeld (as of March 1, 2013)

§ 1 Scope of validity/Area of application/Defence clause

1. Our conditions shall apply vis-à-vis any natural person and legal entity or partnership having legal capacity which acts – upon conclusion of the contract with Innovative Metal Recycling GmbH (“IMR”) – in the exercise of its commercial or independent professional activity (enterprise within the meaning of Section (§) 14 Civil Code (BGB)) as well as vis-à-vis legal entities under public law or a public law special fund. These General Terms and Conditions of Delivery shall not be applied vis-à-vis consumers within the meaning of Section (§) 13 Civil Code.
2. These Terms and Conditions shall apply exclusively for all our business relationships – also future ones. Deviating or additional terms and conditions by the respective contract partner or third parties assigned by it shall be non-binding for us even if we do not oppose them in the individual case, unless we accept them in writing. In that case, they shall only be valid for the respective individual contract. The unconditional acceptance of goods, services or payments does not mean any acknowledgement of deviating terms and conditions. Special agreements concluded with us in the individual case shall remain unaffected thereby.
3. Explicitly contradicted shall be the validity of possible AGBs (general business terms and conditions) of the respective contract partner or of third parties assigned by the already named. This shall also apply if we – being aware of deviating AGBs – unconditionally accept or take over performances/services.
4. Supplementary to these Terms and Conditions, INCOTERMS shall apply in their respectively valid version.

This provision shall apply for all deliveries of iron, non-ferrous and alloyed secondary raw materials to our storage areas in Krefeld and Siegen.

§ 2 Description of types or grades/Material description

1. The delivered materials must be free of all components or adhesions which are damaging to processing or might result in inadmissible emissions. We also exclude the delivery of gas cylinders and gas tanks in car bodies.
2. Excluded shall be in particular:
 - Explosive devices, ammunition, other objects suspected of explosives, and closed hollow bodies
 - Radioactively contaminated material
 - Tanks without any cleaning certificate from an authorized company
 - Flammable materials/liquids where deflagrations/low-speed detonations might occur during further treatment.
3. If the aforementioned materials were found during visual inspection, the corresponding deliveries shall be excluded from acceptance and/or being complained about. The listed types shall be sent back at the supplier's costs. Costs incurred for loading shall be billed. Seller shall be fully liable for any damages resulting due to co-delivery or other material. Seller shall bear the costs in connection with any kind of warranty claims. The sender shall be obligated to take back the material and/or take over the disposal costs.

§ 3 Delivery documents

1. Delivery documents shall be enclosed with every delivery and must include the following information: – Delivery note (for truck deliveries)
 - Waybill and railcar slip (for railcar delivery)
 - Name of supplier (sender's address)
 - Gross weight
 - Net weight with indication of the type of material
 - Statement that, based on a test, the delivered secondary raw material is free from explosive devices, items suspected of containing explosive material and closed hollow bodies
 - Statement that, based on a test, the delivered secondary raw material is free from radioactive contamination and that the trucks or railcars were checked upon leaving by means of a stationary state-of-the-art radioactivity warning device.

“I/we examined the delivered material and confirm according to the best of my/our knowledge and belief that the same does not contain any explosive material or uncut hollow bodies or shows any radioactivity going beyond the natural basic radiation.”

2. Seller shall ensure that the provisions of the EU-Waste Shipment Regulation (“Green List”) can be complied with.

§ 4 Execution of delivery

1. Seller agrees to declare the stipulated delivery volumes according to types or grades and distribute them in the specified time on a pro-rated basis or deliver them according to arrangement. This shall apply not only for the final total quantity but also for the delivery of the individual types or grades. With regard to acceptance, IMR shall have the same obligation.
2. The delivery period shall begin after determination of the purchase price and shall end with the delivery of the agreed upon quantity.
3. The price setting for suppliers without volume agreement generally applies from the time of disclosure of the purchase prices until the next change of purchase prices. IMR shall reserve the right to change the purchase prices according to the market situation irrespective of time clauses. Excepted from this shall be suppliers with volume agreements.
4. Acceptance times for deliveries by truck are:

Monday to Friday	07:00 – 15:00 (for VA & non-ferrous metals)
Monday to Friday	07:00 – 16:00 (processing)
5. Delivery by truck shall be done by dump truck/tipper vehicle or by sliding floor trailer trucks. The supplier shall bear the risk regarding any discharge from other vehicles for which it is imperative that they are open. IMR shall not be liable for any possibly occurring damage during unloading.

§ 5 Delivery period/Place of performance

1. The agreed upon delivery date shall be binding. Decisive shall be the point in time of the delivery with us or at the specific place of destination. Advance deliveries shall only be permitted with our consent.
2. As soon as delays become apparent at the supplier's, he shall advise us immediately thereof, with an indication of the reasons and the expected duration of exceeding the date.
3. If agreed upon dates are not complied with due to circumstances for which the supplier is responsible, we shall be entitled – after unsuccessful expiration of a grace period set by us – to withdraw from the contract irrespective of further statutory claims and procure spare parts from the side of a third party, at the cost of the supplier/seller and/or demand damages due to non-performance.
4. The supplier/seller shall make reimbursement of all extra costs incurred due to delayed delivery or service.
5. Acceptance of the delayed delivery or service shall not include any waiver of compensation claims.
6. Labor disputes, breakdowns and all other incidents of force majeure release us for the duration of the disorders from the obligation of acceptance. In such cases, we may annul the contract wholly or in parts or demand execution at a later point in time. The supplier/seller shall not have any claims against us due to the annulment or postponement if we had not brought about the disorder deliberately or in gross negligence.
7. Place of performance for deliveries or services by the supplier shall be the dispatch address indicated in the order. If no dispatch address is indicated, the place of performance shall be our registered office.

§ 6 Weight

1. The net weights ascertained by IMR shall be decisive for the delivery obligation and billing. Differences compared to the weight declared by seller/supplier shall be taken into account according to the following regulations:
 - Weight differences in case of rail car deliveries of up to +/- 300 kg are left out of account. At a weight difference of +/- 301 to 800 kg, the net weight applies which is ascertained by IMR by means of weighing paper about full and empty weighings; at a weight difference starting at +/- 801 kg, the weight applies which is ascertained by means of a statement of facts issued by Deutsche Bahn AG. Seller/supplier shall bear all costs incurred with the statement of facts.
 - For truck deliveries, the net weight ascertained by IMR on officially calibrated scales by means of full and empty weighings shall be decisive for billing. Axle-load weighings shall be permitted under certain conditions (regulations by the Office of Weights and Measures). The weighing slip shall indicate that the total weight was ascertained by means of axle-load weighing.

§ 7 Procedure for incoming goods

1. After receipt of the material on company grounds, a visual check shall be made by IMR employees before and during unloading. Any refusal reasons here determined shall result in a refusal to accept the goods. The supplier shall be directly informed by IMR. It is agreed and understood that, per truck or rail car, principally one secondary raw material type/grade findings shall be effected.
2. By means of the delivery note or findings record, supplier/seller shall be immediately informed about deviations regarding the stipulated quality, worthless adhesions, deductions for debris and about other quality deviations. If necessary, photos are made and sent to the supplier by means of email.
3. To ensure a smooth flow of operations, weight deductions due to debris and other adhesions shall be considered as not explicitly documentable deficiencies: < 300 kg for Fe deliveries;
4. < 100 kg for non-ferrous metal deliveries; < 100 kg for alloyed material. Excepted from this provision shall be special agreements with the supplier.
5. Seller's representative shall be entitled to be called in during unloading, taking samples and samplings and, in coordination with plant management, the representative may follow analysis/assessment and processing. The representative shall register with plant management. Results shall be transmitted after consultation with plant management.
6. The results of good acceptance and analysis are representative for the entire delivery. This applies for billing-relevant elements and other deductions.
7. It is principally understood as explicitly agreed upon that the incoming goods findings is decisive for the delivery obligation and billing.

§ 8 Defects/Hidden defects

The incoming goods findings/works findings is decisive for determining the defects as well as the classification of grades or types. After complete unloading, the goods are considered as contractually delivered in terms of all noticeable defects. Even at a later point in time, IMR may also claim damages as a result of hidden defects; however, only in the amount of the equivalent value for the deficiently delivered goods. IMR may also request replacement delivery.

1. Refusal shall be effected once the first defect or a wrong grade or type declaration is determined.
2. Any delivery shall be free from any substances or components which are harmful to the IMR production process.
3. All delivered material must be free from ionizing radiation which exceeds any natural inherent radiation. Ionizing radiation of the material exceeding the material's natural inherent radiation will then be present if a suitable measuring instrument detects a value exceeding the ambient background radiation. After another check measurement, this shall be documented in measuring records. Should such ionizing radiation of the material be found, IMR shall be entitled to refuse acceptance of the load to be found in the transport unit complained about, and IMR shall also be entitled to inform the responsible authority and the seller. If the authority does not order any other measure, seller shall pick up the material within two workdays after notification of the acceptance refusal. If seller does not get active within this period of time, IMR shall be entitled to arrange for the return transport or the disposal. Seller/supplier shall bear all costs connected with the refusal and the return transportation or disposal. Seller/supplier shall also bear any costs incurred if the authority orders special measures, such as:
 - Isolation and inspection of all secondary raw material parts of a load detected as a contaminated;
 - Temporary interim storage on the operating grounds;
 - Transporting off under special safety precautions or disposal.
4. Upon the new admission of secondary raw material deliveries, otherwise at the beginning of each calendar year, seller/supplier shall submit to IMR a written certificate stating the following:
 - "With regard to **loading from own storage**, we assure you that we will only deliver secondary raw material which had before been examined with our own measuring equipment for being free from ionizing radiation.

We are thus able to issue beforehand the statement – to the best of our knowledge and belief – for every delivery to be made in the course of the year that the secondary raw material is, based on the aforementioned test, free from ionizing radiation which is above the measured ambient background radiation.

- With regard to **secondary raw material deliveries from direct imports** by rail car or truck, we declare that the contract from which the import volumes originate explicitly includes the assurance that the secondary raw material to be delivered is, based on an examination with own measuring instruments, free from ionizing radiation which is above the measured ambient background radiation."

§ 9 Refusal costs

The costs incurred by IMR in case of complaints due to quality-related reasons or for other reasons shall be charged to seller as refusal costs in the amount stipulated in the agreement entered into when the contract was concluded; furthermore, seller shall bear the demurrage costs incurred due to the complaint.

§ 10 Reservation of ownership

1. Upon payment, ownership in the delivery shall pass to us.
2. We acknowledge only the simple and the extended reservation of ownership.
3. We reject the agreement of an expanded reservation of ownership.

§ 11 Terms of payment

1. Unless otherwise agreed upon, the invoice shall be paid within 30 days after receipt of a proper invoice with a 3 % cash discount provided nothing to the contrary has been agreed upon. Discount deduction shall also be allowed in case of offsetting or retention due to deficiencies of the delivery.
2. The supplier/seller may not assign any claims against us; Section (§) 354a Commercial Code (HGB) shall remain unaffected.
3. We shall be entitled to offset with all claims to which we are entitled against the supplier/seller.

§ 12 Information and due diligence obligation

1. If we informed the supplier/seller about the intended purpose of the delivery or service or if this intended purpose is apparent for the supplier/seller even without any explicit information, the supplier shall be obligated to inform us immediately if the delivery or service is unsuitable to fulfill this intended purpose.
2. For the clarification of further procedures, we shall be immediately notified in writing about circumstances which jeopardize compliance with agreed upon delivery dates.
3. The supplier/seller shall notify us immediately in writing about changes in the type of composition of the processed material or in the structural design versus similar deliveries or services as had been rendered until then. The changes shall require our written consent.
4. The supplier/seller shall take care that the deliveries and services meet the environmental protection regulations, accident prevention and other occupational safety regulations, safety-related rules, as well as all legal requirements valid in the Federal Republic of Germany. With every delivery, the supplier/seller shall advise us of specific, not generally known treatment and disposal requirements.
5. The IMR safety regulations shall be complied with when accessing and driving within our company grounds. In particular, after having left their truck, truck drivers shall wear helmets, safety jackets or vests and safety shoes.

§ 13 Applicable law/Place of performance/Final provisions

1. For the business terms and conditions and the entire legal relationships with IMR, the laws of the Federal Republic of Germany shall apply to the exclusion of the U.N. Convention on the International Sale of Goods (CISG).
2. In commercial business transactions, our registered office is agreed upon as the place of jurisdiction, also in cases in which the contract partner has no general domestic place of jurisdiction, had moved abroad his residence or habitual abode after contract conclusion, or at the time of filing the legal action, neither domicile/registered office nor habitual abode of the contract partner are known. We are entitled to also bring action at the contract partner's registered office.
3. Should any of these provisions be or become invalid, the validity of the remaining provisions shall not be affected thereby.