

Indra Recycling GmbH - General Terms and Conditions of Purchase

Section 1 Scope

- (1) These General Terms and Conditions apply to all purchase contracts concluded by Indra Recycling GmbH ("INDRA") as buyer with enterprises within the meaning of section 14 of the BGB [German Civil Code] ("Supplier"). These General Terms and Conditions do not apply to consumers within the meaning of section 13 of the BGB [German Civil Code].
- (2) Divergent terms and conditions of the Supplier are expressly rejected. These General Terms and Conditions are also applicable if we accept the delivery of the Supplier without reservation, in spite of knowing that the Supplier has terms and conditions that are contrary to our General Terms and Conditions or diverge from them.
- (3) In addition to these General Terms and Conditions contracts apply to the "Usancen und Klassifizierungen des Metallhandels" [General terms and classifications of metal trading] (published by the Verein Deutscher Metallhändler e.V. [Association of German Metal Traders]) as well as the INCOTERMS in its relevant valid edition. If desired both clauses will be handed to the Supplier.
- (4) Subject to an amendment of the General Terms and Conditions of INDRA, these terms are also applicable to future contracts between INDRA and the Supplier, without the necessity to include them again in the contract.

Section 2 Conclusion of the contract

- (1) Purchase orders placed by INDRA are subject to confirmation, unless otherwise implied from the circumstances. If a proposal made by the Supplier can be interpreted as a proposal in accordance with section 145 of the BGB [German Civil Code], INDRA is entitled to accept this proposal within two weeks.
- (2) The Supplier may only rely on the legal effect of agreements entered into with employees who do not have a power or representation that is registered in the Commercial Register, when it is confirmed in writing through a authorized representative registered in the Commercial Register.

Section 3 Prices

- (3) If nothing else is stipulated the prices to be laid down between INDRA and the Supplier are determined according to weights and materials. Authoritative are the weights determined by INDRA in its factory by means of weighing the trucks loaded and unloaded, as well as the results of the quality control carried out in the factory on receipt of material. INDRA is entitled to an appropriate period of time according to the

"General terms and classifications of metal trading" for the execution of the quality control on receipt of the material.

Section 4 Terms of payment

- (1) The place of performance for our payments is Hockenheim. In case INDRA processes the goods supplied, payment is made 14 days after completion of the processing work. In other respects, payment is made by the 20th day of the month following the receipt of the goods at INDRA.
- (2) The payments shall be effected according to INDRA's choice by dispatch of a cheque only for account or by bank transfer on a bank or postal giro account. The date as postmarked or of bank transfer is authoritative for the proof that the payment has been effected in due time.

Section 5 Terms of delivery

- (1) Unless otherwise agreed, deliveries have to be effected carriage paid to INDRA's factory in Hockenheim.
- (2) The delivery time mentioned in our purchase order is binding. The day when the goods are received at their point of destination is authoritative for the fact that the delivery time has been respected.
- (3) The Supplier is obliged to notify INDRA in writing without undue delay if circumstances are arising or if he can recognise circumstances which lead to the fact that the stipulated delivery time cannot be adhered to.
- (4) In case of a delay in delivery INDRA is entitled to invoice a contractual penalty of one per cent of the total net purchase value for each week of the delay in delivery that has commenced, however, in total at most up to an amount of ten (10) % of the total net purchase value.
- (5) In addition, INDRA has a right to the statutory claims; a possible contractual penalty, however, must be set off against a possible damage that has been suffered. In particular is INDRA entitled to claim damages instead of performance and to declare the rescission of the contract after the ineffectual expiry of an appropriate period of time.

Section 6 Warranty

- (6) The Supplier warrants that the goods supplied are in accordance with the valid legal and government regulations that apply to their distribution and use and that they do not violate third party rights. In other respects the statutory provisions are applicable.

Section 7 Notice of defects

- (1) A notice of defects regarding differences in quantity must be given by INDRA after receipt of the goods at the point of destination without undue delay. In other respects, INDRA is entitled to give notice of defects regarding moisture and oil within three working days after receipt of the goods at the point of destination in accordance with the "General terms and classifications of metal trading", and to make other quality claims within eight working days after receipt of the goods at the point of destination. In case of goods which are subject to an analysis, the period for giving notice of defects is extended to fifteen working days after receipt of the goods at the point of destination. Hidden defects must be claimed after discovery without undue delay.
- (2) In case of non-ferrous scrap INDRA is entitled to claims based on defects for shortages up to 200 kg even without an express notice of defects.

Section 8 Purchaser's liability

- (1) INDRA's liability is in principle limited to damages which INDRA or its vicarious agents and/or its assistants have caused to happen intentionally or by gross negligence. INDRA is liable for a slight degree of negligence only in case of death, personal injury or injury of health as well as for the infringement of essential obligations for the performance of the purpose of the contract.

Section 9 Prohibition of assignment

- (1) The Supplier is not entitled to assign his claims against INDRA on a third party without INDRA's written approval; the approval may only be refused with an important reason.

Section 10 Applicable law

- (1) Any and all legal relations between INDRA and the Supplier out of or in connection with this contract are governed by the law of the Federal Republic of Germany with the exclusion of the UN Sales Convention.

Section 11 Jurisdiction

- (1) The place of jurisdiction for all legal disputes between INDRA and the Supplier out of or in connection with this contract is the competent court for Hockenheim or - according to INDRA's choice - a general or a special court of the Supplier, as far as he is a businessman and there is no case within the meaning of section 40 of the ZPO [German Code of Civil Procedure].

Indra Recycling GmbH - General Terms and Conditions of Sale

Section 1 Scope

- (1) These General Terms and Conditions apply to all sales contracts concluded by Indra Recycling GmbH ("INDRA") as seller with enterprises within the meaning of section 14 of the BGB [German Civil Code] ("Customer"). These General Terms and Conditions do not apply to consumers within the meaning of section 13 of the BGB [German Civil Code].
- (2) Divergent terms and conditions of the Customer are expressly rejected. These General Terms and Conditions are also applicable if we effect the delivery to the Customer without reservation, in spite of knowing that the Customer has terms and conditions that are contrary to our General Terms and Conditions or diverge from them.
- (3) In addition to these General Terms and Conditions contracts apply to the "Usancen und Klassifizierungen des Metallhandels" [General terms and classifications of metal trading] (published by the Verein Deutscher Metallhändler e.V. [Association of German Metal Traders]) as well as the INCOTERMS in its relevant valid edition. If desired both clauses will be handed to the customer.
- (4) Subject to an amendment of the General Terms and Conditions of INDRA, these terms are also applicable to future contracts between INDRA and the Customer, without the necessity to include them again in the contract.

Section 2 Declarations to the contract

- (1) Proposal made by INDRA are not binding, unless otherwise stated. If the Customer's order is to be interpreted as a proposal in accordance with section 145 of the BGB [German Civil Code], INDRA is entitled to accept this proposal within two weeks.
- (2) The Customer may only rely on the legal effect of agreements entered into with employees who do not have a power or representation that is registered in the Commercial Register, when it is confirmed in writing through a authorized representative registered in the Commercial Register.

Section 3 Prices

- (1) Our prices are net prices (excluding value added tax) and "ex works", unless otherwise stated.
- (2) All taxes and other duties which have to be paid for deliveries and performances in the country of destination are to be borne by the Customer.

Section 4 Terms of payment

- (1) The Customer is obliged to pay INDRA's claims for payment immediately and without any discount. The place of performance for payments is Hockenheim. In the event of non-payment the Customer is in delay after fourteen days from due date and receipt of invoice or an equivalent request for payment
- (2) The Customer has a right to set off claims or a right of retention only then if his counterclaims are final and absolute, have not been contested or have been accepted by INDRA.

Section 5 Terms of delivery

- (1) Unless otherwise stated, the delivery has been agreed to be effected "ex works" INDRA.
- (2) The respect of agreed delivery times depends on the proper and timely performance of the Customer's duties of cooperation.
- (3) If INDRA has effected a specific covering operation for a subject matter of the contract and if the pre-supplier does not supply the subject matter of the contract as agreed in the contract, INDRA will inform the Customer on this circumstance without undue delay. The delivery time agreed with the Customer will be extended in this case if INDRA is not responsible for the delayed delivery of the pre-supplier. In addition, the agreed delivery time is extended by the period of time required for a temporary impediment to performance for which INDRA is not responsible and which cannot be overcome with expenses that can reasonably be expected of INDRA, as is the case in particular for an industrial dispute, a shortage of raw materials or auxiliary material or a plant stoppage due to a technical failure of the machines, something which occurred unexpectedly for INDRA.

Notwithstanding the Customer's other rights to solve the problem, he has the right to rescind the contract if the period of time of the impediment to performance lasts longer than one month. INDRA is entitled to the same right if INDRA is not responsible for the impediment to performance.

- (4) In the absence of agreements to the contrary, INDRA is entitled to effect partial deliveries and partial performances.

Section 6 Warranty

- (1) Additional deliveries or short shipment of the agreed weights or types of the goods are permitted up to 1 % in case of the indication of exact quantities and up to 5 % in case of a rough indication of quantities.
- (2) Deliveries must be inspected immediately after receipt by the Customer or by a recipient designated by the Customer. After acceptance of the goods without reservation by the Customer or by a person appointed by him, any subsequent claim based on the external nature of the delivery is excluded. Notices of other defects of the goods, as far as they are visible, may only be given within three working days from receipt, in other respects only within three working days after detection. In all other cases and considering the defect, the goods are deemed to be accepted. The same applies if the Customer does not give us the possibility of an expert inspection of the defect on our request without undue delay.
- (3) Notwithstanding the Customer's claims for damages under the preconditions set out in section 7, INDRA first warrants for defects for which notice was given in due time and which limit the value or the fitness for use to a considerable extent, according to INDRA's choice by delivery of fault-free replacement goods or by reduction of the agreed purchase price. In case of a replacement delivery, the Customer is entitled to rescission of the contract or price reduction only after the second failure. A subsequent performance (cure) will only be effected in performance of the warranty obligations for the original goods. Notwithstanding the Customer's warranty rights regarding the first delivery, there will be no warranty rights in case of a defective subsequent performance for the subsequent performance and the warranty period will not commence again.
- (4) With the exception of the Customer's claims for damages under the preconditions set out in section 7, the warranty period is twelve months in so far as the delivery of defective goods is not an intentional neglect of one's obligation.

Section 7 Liability

- (1) INDRA's liability is in principle limited to damages which INDRA or its vicarious agents have caused to happen intentionally or by gross negligence. INDRA is liable for a slight degree of negligence only in case of death, personal injury or injury of health as well as for the infringement of essential obligations in the performance of the purpose of the contract.
- (2) If INDRA is liable for a slight degree of negligence regarding the breach of its duties, the amount of INDRA's liability is limited to the typical type of damages that occur in the contracts in question, which could have been foreseen at the time the contract was entered into or at the latest when the breach of the duty was committed. This is not applicable in case of death, personal injury or injury of health. The Customer's claims for damages due to a delay on the part of the Seller are limited in terms of their amount to an amount of 0.5 % of the agreed net price per week of delay that has commenced, at most to a total of 5 % of the agreed net price, as far as the Seller is not responsible for intention or gross negligence.

- (3) Claims for damages which due to law do not require any fault, are not affected by the provisions set out in subsections (1) and (2).

Section 8 Reservation of title

- (1) Any and all deliveries shall be effected with reservation of title. The goods supplied shall remain INDRA's property until all claims have been fully paid by the Customer. In addition, INDRA is entitled to reservation of title for the goods delivered up to the full performance of all claims that have arisen out of the business relationship with the Customer at the point of time when the contract was concluded ("current claims") as well as for all further claims of the Seller against the Customer arising out of the business relationship prior to the full performance of the current claims ("total claim").
- (2) The Customer is obliged to store the reserved goods that are placed under reservation of title, in a separate place and to appropriately insure them against all regular risks. The Customer assigns already now all claims against the insurance companies to the Seller.
- (3) The Customer has a revocable right to process or resell the goods supplied in the frame of the proper course of business.

If the reserved goods are processed into a new movable property, the processing shall always be carried out on behalf of INDRA without creating a liability for INDRA from this processing; the new item shall become the property of INDRA. If the reserved goods are processed with other items of which INDRA is not the owner, then INDRA acquires co-ownership in the new item in a proportion of the value of the reserved goods to the items processed. In other respects, the new movable property coming into existence by processing, is governed by the same provisions which apply to the goods delivered under reservation of title.

If the reserved goods are mixed with other items of which INDRA is not the owner in a manner that they cannot be separated afterwards, then INDRA acquires co-ownership in the new item in a proportion of the value of the reserved goods to the other items mixed at the time of the mixing. If the process of mixing is carried out that way that the item of the Customer is deemed to be the main item, then it is deemed to be agreed that the Customer transfers a co-ownership to INDRA of the respective portion. The Customer is obliged to deposit the items free of charge when INDRA is the owner or has a co-ownership.

In the case that the reserved goods shall be resold, the Customer assigns the claims including value added tax to which he is entitled resulting from the reselling of the goods irrespective of the fact whether the goods delivered have been resold without or after processing; INDRA herewith accepts the assignment. If the resold reserved goods are in the co-ownership of the Seller, then the assignment of claims is limited to the amount which is equivalent to the Seller's proportion in the co-ownership. If an assignment in accordance with the regulations mentioned above, in particular resulting from assignments with priority to third parties, is not possible for the Customer, then reselling shall not be effected in the frame of the proper course of business within the meaning of this provision.

Until revocation from our side, the Customer is entitled to collect the claims assigned to us. Our right to collect the claim by ourselves remains unaffected. We, however, bind ourselves not to collect the claim as long as the Customer meets his payment obligations from his revenue income, if he is not in delay regarding payment and if in particular no application for the opening of insolvency proceedings has been filed or cessation of payments has occurred. If this is the case, however, we may demand that the Customer notifies us on the claims assigned and the respective debtors, that he gives all information required for collection, delivers all documents connected therewith and notifies the debtors (third parties) on the assignment. We are also authorised to notify the debtor on the assignment by ourselves.

- (4) The Customer is obliged to notify us on measures of judicial execution or other measures taken by third parties on the reserved goods or on the claims assigned without undue delay and with delivery of the documents required for proceedings. In so far as the third party is not in the position to refund the judicial and extra-judicial costs to us, the Customer is liable for the losses incurred on our side.
- (5) With cessation of payments, application and opening of judicial insolvency proceedings or extra-judicial composition proceedings, the right to resell, use or installation of the reserved goods and the authorisation for collection of the claims assigned shall be extinguished; in case of a protest of a cheque or bill of exchange the authorisation for collection is also extinguished.
- (6) INDRA is obliged to release securities to which it is entitled according to its own choice, as far as their estimated value is above 150 per cent of the sum of the open claims.

Section 9 Applicable law

- (1) Any and all legal relations between INDRA and the Customer out of or in connection with this contract are governed by the law of the Federal Republic of Germany with the exclusion of the UN Sales Convention.

Section 10 Jurisdiction

- (1) The place of jurisdiction for all legal disputes between INDRA and the Customer out of or in connection with this contract is the competent court for Hockenheim or - according to INDRA's choice - a general or a special court of the Customer, as far as he is a businessman and there is no case within the meaning of section 40 of the ZPO [German Code of Civil Procedure].