

General Terms and Conditions of Trade of Hamburger Recycling Group GmbH

1 Scope

- 1.1 These General Terms and Conditions of Trade (hereinafter 'GTCT') of Hamburger Recycling Group GmbH (hereinafter 'HRG') constitute the basis for all current and future transactions and business relationships with third parties (hereinafter 'Customers'), in particular also for repeat orders even if no explicit reference is made thereto. They shall apply to consumers within the meaning of section 1 of the Consumer Protection Act provided they do not run counter to any mandatory provisions under this law.
- 1.2 Hereinafter, HRG and the Customer will be referred to jointly as the 'Contracting Parties'.
- 1.3 Differing provisions such as the Customer's General Terms and Conditions of Trade are not binding upon HRG even if they are not herewith explicitly contradicted. Even a reference to such provisions by the Customer on invoices or other written documents (even during the term of the contract or business relationship) shall not lead to their acknowledgement. In case of contradictions between these GTCT and any existing technical descriptions, standards of a technical nature or Austrian standards [ÖNORMEN] even if such descriptions or standards are agreed upon, these GTCT shall take precedence in every case.

2 Offers

- 2.1 HRG only makes offers in writing (by post, fax or email). Unless another deadline is envisaged in any individual case, such offers shall apply 14 days from the date the offer is made.
- 2.2 Offers, including the prices quoted therein, are made to the best of one's knowledge and belief. Any specific circumstances pertaining to an order that HRG is not aware of cannot be taken into consideration.

3 Prices and payment conditions

- 3.1 Offers and pricelists are always subject to confirmation.
- 3.2 All prices are understood to be in euros plus value-added tax at the legally applicable rate.
- 3.3 In principle, payments shall be made free of any deductions in cash or onto the bank account designated by HRG and the invoice date shall be indicated. The payment is deemed to have been completed on the day HRG is able to freely dispose over the amount invoiced without any losses.
- 3.4 The payment must reach HRG within 30 days of the invoice date, otherwise the Customer will be deemed to be in default.
- 3.5 HRG is also entitled, even during the existing contractual relationship, to request down payments or a non-accessory bank guarantee provided by a bank licensed to operate in Austria, which the Customer is obliged to furnish within 14 days. If a down payment and/or a bank guarantee is/are requested, any (subsequent services) will only be rendered once the former has/have been received.
- 3.6 In case of delays in payment, statutory default interest shall apply, in any case default interest set at 9% p.a. In case of delays in payment, the Customer undertakes to reimburse HRG for any dunning and collection costs, provided such costs had to be incurred for the adequate assertion of legal rights. If HRG manages the dunning process by itself, the Customer undertakes to pay the sum of EUR 15.00 for each dunning letter sent and to pay the sum of EUR 5.00 every six months for the task of keeping records of the obligation under the dunning process.
- 3.7 Even if the Customer delays in complying with a single obligation, HRG is entitled to cease rendering any services to the Customer. In case of delays, HRG is entitled to withdraw from the contract and to settle and charge the Customer for all the services already rendered.

3.8 If the Customer only delays in making one payment, payments will first be used to cover any expenses incurred, thereafter to cover any default interest incurred and then to settle the oldest debt; no account will be taken of any payment references.

4 Setoff and assignment of claims

4.1 A claim asserted by the Customer may not be set off against any claim asserted by HRG unless the claim has been legally established or acknowledged by us in writing (by post, fax or email).

4.2 Claims asserted by the Customer against HRG may not be assigned without the express written consent (by post, fax or email) of HRG.

5 Quality criteria

5.1 Used paper and waste may only contain materials that have been contractually agreed upon.

5.2 Waste may not contain any other substances (hereinafter referred to briefly as 'prohibited substances') apart from the materials that constitute the subject matter of this contract.

5.3 Used paper may not contain any prohibited substances or other substances (hereinafter referred to briefly as 'undesirable substances') such as, in particular, non-paper constituents and paper and cardboard unsuitable for recycling as set out in ÖNORM EN 643 (latest version).

5.4 If the proportion of prohibited or undesirable substances exceeds the amount permitted in the Terms and Conditions of Acceptance and Delivery and without prejudice to any claims for compensation, HRG is entitled to either

- perform a proportionate deduction from the total weight of the material and to invoice the proportionate transport costs if the material is collected by HRG or by a third party engaged by HRG or
- refuse to accept the delivery and to invoice the proportionate transport costs if the material is collected by HRG or by a third party engaged by HRG and to either request a substitute delivery within a reasonable period or to execute by substitution itself. In case of a delivery of prohibited or undesirable substances the Customer shall also bear any sorting, warehousing, treatment, recycling and/or disposal costs.

5.5 The special acceptance and delivery conditions of the corresponding site/factory shall take precedence over the provisions of these General Terms and Conditions of Trade in their application.

5.6 Examination of the purity of the waste may take place by means of spot checks. The Customer herewith accepts the use of documentation by means of photos as proof of the existence of contamination. HRG is not obliged to examine the purity of the waste (even by means of spot checks) but rather is entitled to confide in the proper quality of the waste as agreed upon.

6 Collection and delivery conditions

6.1 HRG will carry out each collection of used paper/waste on the basis of the agreement in each contract, in principle, however, on working days during the day at the Customer's loading point by means of transportation that HRG is free to select as it sees fit (e.g. truck, railway etc.). The Contracting Parties may also agree upon regular collection intervals.

6.2 In case of waiting or dwell times lasting longer than 60 minutes during collections or in case of empty runs, the Customer shall reimburse HRG for any expenses and losses incurred as a result.

- 6.3 The Customer accepts and provides its consent for the collection period to be adjusted in accordance with the amount due to be collected and the location of the site and that all information pertaining to collection dates is non-binding unless compliance with such information has been expressly agreed upon in writing (by post, fax or email). In case of unavoidable or unforeseeable events, disruptions in operations, strikes, civil commotion and lockouts at HRG's company or at the company of a third party engaged within the scope of the contract, in case of war or in case of official orders as well as in all instances of force majeure, performance periods and/or collection deadlines in respect of which an undertaking has been provided, even in writing, will be suspended or extended for as long as the disruption lasts and during the time required to eliminate the consequences; any of these events constitutes good cause and also entitles HRG to withdraw from the contract without any liability to pay compensation (for losses or damage) to the Customer.
- 6.4 HRG is free to decide as it sees fit whether to collect the used paper/waste by itself or to have it collected by a third party engaged by HRG.
- 6.5 The Customer is obliged to ensure proper access to the place of collection at the corresponding site.
- 6.6 Delivery of waste by the Customer itself or by a third party engaged by it requires prior written consent (by post, fax or email). If such consent is granted, the Customer shall deliver the waste at its own risk and expense to a site to be communicated in advance by HRG during the latter's opening hours. Any waiting or dwell times at this site will not entitle the Customer to reimbursement of the expenses or losses it incurs as a result. Transport and any packaging of the material must comply with any statutory and official regulations in force. In case of deliveries by the Customer itself, the special acceptance and general terms and conditions of delivery that apply at the site/plant where the materials are delivered shall take precedence over the provisions of the GTCT in their application.

7 Transfer of title

- 7.1 Upon acceptance of the used paper/waste, whether by HRG or by third parties engaged by it, the property rights thereto are transferred to HRG.
- 7.2 If the used paper or waste contains prohibited or undesirable substances that do not comply with EN643 or other standards, then the property rights to objects or substances that might lead to problems during processing by the paper industry are not transferred to HRG. If such objects or substances are passed on or processed, the Customer is not entitled to assert any claims against HRG.
- 7.3 When HRG takes delivery of the used paper/waste, it is free to choose whether to recycle or dispose of it.

8 Collecting container

- 8.1 HRG will make available a container to the Customer upon request for collecting waste or other agreed materials in return for a monthly fee.
- 8.2 The containers remain the property of HRG and must be returned when the contractual relationship ends. The containers may only be manipulated and transported by HRG or by third parties engaged by HRG.
- 8.3 The Customer is responsible for storing and using the containers at its sites. The Customer is liable for any damage arising through improper storage or use. In particular, the Customer is obliged to store the containers safely in order, above all, to exclude the possibility of damage caused by third parties or a third party encroachment upon the used paper/waste.

9 Compensation, limitation of liability

- 9.1 The Customer is liable under general legal provisions governing compensation. In addition, the Customer is fully responsible for the purity of the used paper/waste and for the safe storage and use of the containers and is also liable in case of slight negligence for any (consequential) damage incurred by HRG or by a third party due to the improper classification or allocation of the substances delivered or the delivery of prohibited or undesirable substances or materials that have not been properly packaged or the improper storage or use of the containers (and this, in particular, also includes indirect damage, consequential damage caused by a defect, damage or losses due to disruptions in operations and loss of earnings).
- 9.2 HRG is solely liable for injury to persons or damage to property caused through gross negligence or intent, in which case the Customer must prove the existence of fault. Any further claims against HRG and against third parties engaged by HRG, in particular claims for compensation based on delays, the impossibility of performance, compensation for indirect damage, consequential damage caused by a defect, damage or losses due to disruptions in operations, loss of earnings and the failure to realize savings, other types of claims against assets as well as claims based on claims asserted by third parties against the Customer or based on tort are excluded, provided this is permitted under the general rules of civil law.
- 9.3 Claims for compensation must be asserted by the Customer before a court of law within six months of knowledge of the damage and the tortfeasor, otherwise they will lapse.
- 9.4 The liability of HRG for individual instances of damage is limited to the sum of EUR 7,000.00.

10 Termination of the agreement for good cause

- 10.1 The contractual relationship may be terminated for good cause without observing a period of notice by either Contracting Party by means of a registered letter, in particular if
- one of the Contracting Parties violates material obligations under this contract and does not desist from the violation despite a written warning (by post, fax or email) issued by the other party granting a period of grace of at least 14 days;
 - the Customer's ownership structure changes in such a way that a collision with the interests of HRG is possible;
 - HRG loses its right to collect, treat, dispose of and/or recycle the material that constitutes the subject matter of this contract.
- 10.2 Any omission by a Contracting Party to request such a (termination) despite being aware of one of the reasons described in point 10.1 shall not constitute a waiver of this right of termination.

11 Obligation to maintain confidentiality

The Contracting Parties are obliged to maintain confidentiality about any matter that becomes known to them relating to the business relationships between the Contracting Parties and to the contracts between the Contracting Parties and their content both during the contractual relationship and after it has ended. The exceptions concern information that must be passed on to third parties in order to perform the contract or which is accessible to the public and in the public domain without the intervention and through no fault of either of the Contracting Parties. There is no duty of confidentiality vis-à-vis courts of law and authorities within the framework of legal responsibilities.

12 Data protection provisions

When a contract is concluded the Customer's personal data such as the form of address, given name and surname or company name, whichever applies, address, contact information (in particular, telephone number and email address), VAT ID number are ascertained and processed. The Customer herewith provides his/its explicit consent. In addition, the Customer provides his/its consent for such data to be collected, used, processed and stored by HRG in order to handle deliveries and to simplify any transactions conducted in the future as well as for use in advertising for similar products or services offered by HRG. This consent may be revoked in writing at any time (by writing to Hamburger Recycling Group GmbH, Aspanger Straße 252, A-2823 Pitten, info@hamburger-recycling.com).

13 Miscellaneous

- 13.1 The right to challenge the contract based on error, frustration of the contract or laesio enormis is expressly excluded.
- 13.2 The Customer is not entitled to assign rights and duties under the contract to third parties without prior written consent. If the business is sold or continues to be operated by a successor entrepreneur, the Customer is obliged to notify HRG about this in writing, in any case at least three weeks in advance (by post, fax or email). If requested by HRG, the entire agreement concluded between the Contracting Parties together with all the rights and duties under existing contracts will be transferred to the new owner(s) of the business and the latter shall hold HRG free and harmless.
- 13.3 Oral agreements, ancillary agreements, amendments to contracts or amendments to contracts and these GTCT and the exclusion of these GTCT will only become binding following a written confirmation sent by HRG (by post, fax or email). This also applies to a departure from this written form requirement.
- 13.4 HRG is entitled to amend or supplement these GTCT at any time. The applicable version at any given time is the version accessible on the website of HRG at www.hamburger-recycling.com. Amendments will take effect on each occasion 14 days following their publication on www.hamburger-recycling.com and (i) a corresponding notification (by post, fax or email) sent to the Customer or (ii) a reference in this respect on a printed form (e.g. invoice, business letter, order confirmation or delivery note) provided the Customer does not explicitly object in writing within a period of 14 days of receipt of the corresponding amendments.
- 13.5 These GTCT will take effect from 01.01.2017.
- 13.6 HRG is not obliged to examine the power of representation of the persons acting on behalf of the Customer. The Customer agrees to allow the declarations made by the persons acting on its behalf to be applicable to the Customer.

14 Applicable law and place of performance

The contractual relationship with the Customer is exclusively governed by Austrian law to the exclusion of the UN Sales Convention and any provisions on the choice of law. Unless otherwise expressly stipulated in writing, the place of performance of the contract is A-2823 Pitten, Aspanger Straße 252.

15 Place of jurisdiction

The exclusive jurisdiction agreed upon for all legal disputes deriving from or related to the contractual relationship with the Customer governed by the GTCTs, and this includes disputes regarding their validity, is that of the court with jurisdiction over the registered office of HRG that is competent rationae materiae. However, HRG is also entitled to assert claims against Customers before any other court within Austria or abroad in whose administrative district a registered office, place of residence, branch office or assets belonging to the Customer is/are located.

16 Severability clause

If any individual provision or constituent part of these GTCT or the terms and conditions of acceptance and delivery of another site/factory belonging to HRG or another contract concluded with a Customer or another third party is or becomes invalid, this will not affect the validity of the remaining provisions. The invalid provision or the invalid part thereof shall be replaced by a valid provision that comes closest to the purpose and the commercial content of the invalid provision or constituent part. This also applies to any aspects that are not regulated by these GTCT.