

CONDITIONS FOR THE PURCHASE OF SCRAP METAL

DEFINITIONS

In these conditions (the "General Conditions") the following words and expressions shall have the following meanings:

"Agreement"	means any Agreement whether or not in writing between the Supplier and Ward for the purchase of Scrap Metal into which these General Conditions are incorporated
"Collection Site"	means the site or sites from which the Scrap Metal is to be collected further particulars of which are set out in the Agreement
"Commencement Date"	means the date that the Agreement is signed by the Supplier or, if the Agreement was concluded without signature, the date on which the Agreement was sent to the Supplier
"Disposal Site"	means any site or sites for the delivery of Scrap Metal details of which are set out in the Agreement
"Equipment"	means each and every item of equipment provided by Ward to the Supplier, including containers
"Price"	means the price of Scrap Metal as stated in the Agreement (exclusive of VAT)
"Relevant Legislation"	means any statute, European Community Directive or the requirements of any government department, local authority or other public or competent authority, and guidelines contained in government waste management papers and codes of practice issued by the government for the recycling industry and which are relevant to the parties obligations under the Agreement
"Scrap Metal"	means any scrap metals of the type or description specified in the Agreement or otherwise as may be agreed by Ward and the Supplier during the Term
"Supplier"	means the supplier of Scrap Metal described in the Agreement
"Transgression"	means any single breach of the Agreement, tort or other act, default, omission or statement of Ward its employees, agents or sub Agreements in respect of which Ward is held liable to the Supplier
"Vehicle"	means each and every vehicle owned or operated by Ward, its agents or sub Agreements which visits any Collection Site to remove Scrap Metal
"Ward"	means Donald Ward Limited (company number 01292288) or any of its subsidiary or associate companies (each as defined in the Companies Act 2006)

"Working Day"

means a day (excluding Saturday, Sunday and days where local holidays do not coincide with public/bank holidays) on which banks in London are open for general business

1 GENERAL

1.1 These conditions apply to all Agreements for the purchase of Scrap Metal by Ward and supersede any previous terms and conditions. No additions or modifications to or terms inconsistent with these General Conditions shall be binding upon Ward unless specifically agreed by a director in writing by Ward.

1.2 The rights and obligations of the Supplier under this the Agreement shall be personal and shall not be assignable without the express consent of Ward.

1.3 A person who is not a party to the Agreement shall not have any rights under or in connection with it.

1.4 If there is any conflict or ambiguity between these General Conditions and the terms and conditions of the Agreement, the terms and conditions set out in the Agreement shall prevail.

2 DURATION

2.1 The Agreement shall commence on the Commencement Date and shall continue unless and until the obligations of the parties are discharged in full or it is terminated in accordance with these General Conditions.

3 PRICE AND PAYMENT TERMS

3.1 The price of the Scrap Metal shall be the Price which shall be inclusive of the cost of delivery to the Disposal Site and the costs of taxes, duties, packaging, insurance and carriage of the Scrap Metal, unless otherwise agreed in writing by the Ward

3.2 Unless otherwise stated in the Agreement or these General Conditions, all payments for the Scrap Metal shall be due and payable at the end of the month following the month of its collection by Ward or delivery by the Supplier as the case may be.

3.3 Notwithstanding the provisions of condition 3.2, if the Supplier has agreed in writing with Ward to deliver the Scrap Metal directly to, or allow the Scrap Metal to be collected directly by a third party who has agreed to purchase the Scrap Metal from Ward ("Ward Customer") then:

3.3.1 the parties agree that the payments for the Scrap Metal will not be due and payable until the end of the week following the week in which Ward receives payment in full from the Ward Customer for the Scrap Metal;

3.3.2 the Supplier acknowledges that there is a risk under this condition 3.3 that the Supplier will not recover the Price from Ward and that:

(a) the Price reflects such risk; and

(b) it has obtained or will obtain in good time insurance against such risk.

3.4 If, in the circumstances set out at condition 3.3, Ward does not recover payment for the Scrap Metal from the Ward Customer but does recover possession of the Scrap Metal, it will make the Scrap Metal available for collection by the Supplier from such location as is nominated by Ward.

3.5 Any sums, which are not paid by the due date will be restricted to late payment interest at the rate of 2% above the base rate of the Bank of England from time to time.

3.6 Ward shall be entitled to offset any amount owed by Ward Recycling to the Supplier under the Agreement or any other agreement (and whether in relation to the purchase by Ward of scrap metal or otherwise) against any other amount owed by the Supplier to Ward under the Agreement or any other agreement.

3.7 Ward may amend the Price to take account of any increase in Ward costs including (but not limited to) variations in wages, disposal costs, administration costs, cost of materials, fuel costs, taxes, duties, the cost of compliance with Relevant Legislation and market fluctuations in price of metal.

3.8 Ward may, at its sole discretion, pay or agree to pay to the Supplier all or part of the Price to the Supplier before the Scrap Metal is collected by or delivered to Ward (an "Advance Payment").

3.9 In any circumstances where Ward has made an Advance Payment following the receipt by Ward of the relevant Scrap Metal, Ward shall calculate the final Price for such Scrap Metal and:

3.9.1 if the Advance Payment is less than the final Price, Ward shall pay to the Supplier the balance of the Price after deduction of the Advance Payment; or

3.9.2 if the final Price is less than the Advance Payment, the Supplier shall pay to Ward immediately upon demand a sum equal to the amount by which the final Price falls short of the Advance Payment.

3.10 Upon the payment by Ward of any Advance Payment, the Supplier irrevocably undertakes and agrees to supply or make available for collection to Ward Scrap Metal of the type specified in the Agreement with an aggregate value of not less than the Advance Payment and if the Supplier fails to do so within a reasonable period following the Advance Payment (as determined by Ward), the Supplier shall immediately upon receipt of a demand by Ward, pay to Ward an amount equal to the shortfall between the Advance Payment and the value of the Scrap Metal actually received by Ward.

3.11 Any Advanced Payment made by Ward shall be held on trust by the Supplier for Ward until such time as Ward takes delivery of the Scrap Metal in relation to which such Advanced Payment was made.

3.12 If Ward makes an Advance Payment in relation to any Scrap Metal which is in the ownership or under the control of the Supplier at the time the

	Advance Payment is made to the Supplier, title to the Scrap Metal shall pass to Ward at the time the Advance Payment is made and:	4.4.2	ensure that each delivery of the Scrap Metal is accompanied by a delivery note which shows the type and quantity of the Scrap Metal being delivered;		and does not result from (and to the extent that it is not contributed to by) the act, omission or negligence of the Supplier, its employees or agents.
3.12.1	the Supplier shall hold such Scrap Metal on a fiduciary basis as Ward's bailee;			7.3	Ward total liability (including for related costs, fees and expenses) in respect of any one Transgression or series of related Transgressions shall be limited to £5,000.
3.12.2	the Supplier shall identify the Scrap Metal as belonging to Ward and, where reasonably practicable, shall store the Scrap Metal separately from other materials;	4.4.3	deliver the Scrap Metal on the date(s) agreed in writing by Ward and the Supplier.	7.4	If any exclusion or limitation of liability or any other provision contained in this condition Error! Reference source not found. or otherwise contained in the Agreement is held to be unlawful, it shall to that extent be deemed omitted, but if Ward thereby becomes liable for any defect or loss, damage or nuisance which would have otherwise been excluded such liability shall be subject to the other exclusions, limitations or provisions set out in the Agreement.
3.12.3	on termination of the Agreement, howsoever caused, Ward's rights under this clause 3.12 shall remain in effect.	4.4.4	If the supplier fails to supply the agreed quantity of material within the agreed delivery period then Ward rights include but are not limited to:		
3.12.4	The supplier shall invoice Ward for the scrap metal within 30 days of delivery/collection. Where self-billing rules apply the supplier will sign a self-billing agreement provided by Ward. Ward will raise self-billing invoices within 30 days of the delivery or collection of the scrap metal unless an alternative agreement has been made in writing.		a. Extending the period for delivery or collection		
			b. Conclude that the Agreement to be complete	8	SCRAP METAL AND EQUIPMENT
4	DELIVERY ACCESS LOADING AND RETURN	5	PERFORMANCE DATES	8.1	The Supplier warrants that the details relating to the Scrap Metal (including, for the avoidance of doubt, those relating to weight) contained in the Agreement are and will be true and complete. Ward shall be entitled to take samples of Scrap Metal to satisfy itself that the description is accurate prior to collection and disposal. Such right shall under no circumstances relieve the Supplier of its obligations to describe the Scrap Metal accurately.
4.1	the Supplier grants Ward, its agents and its employees an irrevocable license at any time to enter the premises where the Scrap Metal is stored in order to inspect or to take possession of the Scrap Metal.	5.1	Ward will use reasonable endeavours to meet the dates for collection set out in the Agreement but shall not be liable for late performance or delay in collection and delays shall not entitle the Supplier to rescind the Agreement.	8.2	Without prejudice to the generality of the provisions of this condition 8, Ward will be entitled to refuse to deal with any material:
4.2	The Scrap Metal shall either be collected from the Collection Site or delivered to the Disposal Site, as agreed between the parties.	6	RISK	8.2.1	which it has reason to believe is radioactive, toxic, poisonous, explosive, inflammable or otherwise dangerous; or
4.3	If it is agreed between the parties that Ward will collect the Scrap Metal from the Collection Site then:	6.1	Risk of any loss (including but not limited to theft) or damage to the Scrap Metal shall remain with the Supplier until such time as it is collected by Ward or upon completion of delivery to the Disposal Site, as the case may be.	8.2.2	that in the view of Ward contains non-conforming or out of specification items; or
4.3.1	the Supplier shall provide safe and appropriate access to the Collection Site and suitable facilities for turning any Vehicle around;	7	LIABILITY	8.2.3	the handling of which may cause Ward to incur civil or criminal liability; or
4.3.2	the driver of the Vehicle may in his absolute discretion refuse to collect any Scrap Metal if he believes that access to the Collection Site or turning facilities are unsafe or likely to cause damage to the Vehicle or if he believes that any Equipment has been overloaded;		These conditions set out the Supplier's rights in respect of any loss or damage caused by any action of or any statements made by Ward, its employees or agents. Suppliers are advised to read these provisions carefully and to check that they are adequately insured against any loss or damage that they may sustain in respect of which the potential liability of Ward is or may be restricted or excluded hereunder.	8.2.4	which is has reason to believe is or may be Special Waste; or
4.3.3	subject to condition 7.2, the Supplier shall be responsible for the safety of any person (including the employees and agents of Ward) whilst on or about the Collection Site; and	7.1	Ward accepts liability for death or personal injury to the extent that it results from negligence of Ward, its employees or agents and further accepts liability for any breach on the part of Ward of any condition or warranty as to title and quiet possession which may be implied by Section 7 of the Supply of Goods and Services Act 1982. Nothing in the Agreement shall have the effect of limiting or excluding any liability for fraud.	8.2.5	the disposal of which might involve Ward in additional expense or an unreasonable amount of extra work.
4.3.4	if, as a result of an act or omission of the Supplier, Ward is prevented from collecting Scrap Metal within 20 minutes of arrival at the Collection Site, Ward may charge the Supplier for waiting time at its standard rate.			8.3	If any Scrap Metal is contaminated by or mixed with waste (other than an amount of waste which is, in the opinion of Ward, minor contamination), then Ward will remove the Scrap Metal and the waste from the Collection Site but shall not be obliged to purchase the Scrap Metal. If the Scrap Metal contains only minor amounts of waste, Ward shall be entitled to make such deduction from the Price or weight as Ward considers appropriate.
4.4	If it is agreed between the parties that the Supplier will deliver the Scrap Metal to the Disposal Site then the Supplier shall:	7.2	Subject to condition 7.3, Ward also accepts liability for any other direct loss or damage (but not any indirect or consequential loss, including (but not limited to) loss of profits, production, business or reputation or any loss caused to a third party) in relation to items belonging to the Supplier, its employees (including personal effects) to the extent that it results from:	8.4	If, following collection of any Scrap Metal, either the Scrap Metal is of a lower quality than indicated by the Supplier or, the weight of such Scrap Metal is lower than first stated, the Price or weight may be adjusted accordingly. Ward decision as to the weight or quality of such Scrap Metal and any appropriate amendment of the Price or weight shall be final.
4.4.1	ensure that the Scrap Metal is properly packed and secured in such manner as to enable it to reach its destination in good condition;	7.2.1	a breach by Ward of any of the express provisions of the Agreement; or	8.5	The Supplier warrants in relation to each item of Scrap Metal the subject of this Agreement.
		7.2.2	the negligence of Ward, its employees or agents,		

8.5.1	that the Supplier has good and proper title to the Scrap Metal;	wishes to change the type of Vehicle which collects the Supplier's Scrap Metal.	12.1.3	given by post and shall be deemed to have been received two Working Days after the date of posting.
8.5.2	that any documentation supplied with the Scrap Metal is true, genuine and accurate in all material respects;	9	13	GOVERNING LAW
8.5.3	that the Scrap Metal is not contaminated by any substance which is radioactive toxic, poisonous, explosive, inflammable or otherwise dangerous and	9.1	13.1	The Agreement shall be governed by and construed in accordance with the Laws of England and the parties irrevocably submit to the exclusive jurisdiction of the English Courts.
8.5.4	that the Scrap Metal is not Special Waste	9.2	13.2	Any reference to any Act of Parliament Regulation or Order shall include any re-enactment, amendment, replacement or modification thereof.
8.6	Subject to clause 3.12 title to the Scrap Metal shall pass to Ward on collection or delivery as the case may be.	10	14	FOREBEARANCE
8.7	The Equipment shall be deemed to be in good working order and condition and fit for the Supplier's purpose (save for defects not discoverable by a reasonable examination) except to the extent that the Supplier has notified Ward to the contrary within three working days of acceptance of the Equipment at the Collection Site.	10.1	14.1	No time indulgence or relaxation on the part of Ward shown or granted in respect of any of the provisions of the Agreement shall in any way affect, diminish, restrict or prejudice the rights or powers of Ward under the Agreement or operate as or be a waiver of any breach by the Supplier of the terms of the Agreement.
8.8	The Supplier will conform with any statutory enactments and regulations and byelaws and regulations of local or other statutory authorities, which apply to the Equipment.	10.2	15	SEVERANCE
8.9	The Supplier shall not:	10.3	15.1	If any provision of the Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
8.9.1	overload or overfill the Equipment; or	10.4		
8.9.2	set fire to the contents of the Equipment; or	11		
8.9.3	interfere with the mechanism of the Equipment; or	11.1		
8.9.4	add or attach to the Equipment any painting, sign, writing, lettering or advertising.	12		
8.10	All Equipment provided shall remain the property of Ward and the Supplier will have no rights in the Equipment other than as a mere bailee. The Equipment must only be used by the Supplier and must be kept at the Collection Site. The Supplier shall have no right of lien over the Equipment.	12.1		
8.11	The Supplier shall take reasonable care to keep the Equipment clean and in good condition. When cleaning any Equipment, the Supplier shall ensure that the method used (including cleaning products) does not cause damage or otherwise pollute the Equipment or the Scrap Metal.	12.1.1		
8.12	The Supplier has agreed that the Equipment is suitable to contain and transport the Scrap Metal in the quantities specified. Ward relies on the Supplier's advice as to the quantity and weight of Scrap Metal involved in the provision of the Service.	12.1.2		
8.13	Ward may, at any time, change the type of Equipment provided to the Supplier by replacing it with a reasonable alternative, for example, if Ward			
		LIABILITIES OF THE SUPPLIER		
		The Supplier shall indemnify and hold Ward harmless against any injury, demands action, costs, charges, expenses, loss, damage, or liability to any persons or property (including, for the avoidance of doubt, any Equipment) arising from any act, omission or negligence of the Supplier its agents or employees.		
		The Supplier shall maintain insurance cover in respect of its liability under the Agreement and shall at the request of Ward provide a copy of the insurance policy as proof of maintaining such cover.		
		TERMINATION		
		If the Supplier commits any breach of the Agreement Ward may, in addition to its other rights in respect thereof, give notice to the Supplier to terminate the Agreement immediately or, at the sole option of Ward, after 5 days from the date of such notice if the Supplier shall not have remedied the breach to Ward's satisfaction during that time.		
		If the Supplier shall have a receiver, an administrator or an administrative receiver appointed for the whole or any part of its assets or if an order shall be made or a resolution passed for its winding-up (unless this is for the purpose of its reconstruction or amalgamation) or if it ceases to trade or has its credit insurance removed then Ward shall have the option to terminate the Agreement forthwith.		
		If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to give effect to the commercial intention of the parties.		
		Termination of the Agreement shall be without prejudice to any rights or liabilities of either party which may have accrued to that date.		
		AMENDMENT		
		Ward reserves the right to amend the Agreement and these General Conditions as it considers necessary to comply with statutory requirements from time to time or any change in legislation governing the collection, transport and disposal of Scrap Metal and will notify any such amendment to the Supplier as soon as practicable.		
		NOTICES		
		Any proposal, acceptance, agreement, authority, permission or notice referred to in the Agreement or these General Conditions shall be:		
		in writing; and		
		given to the party for whom it is intended at the address for that party as set out in the Agreement or such address as is notified to the other party for that purpose; and		