

KEYSTONE RAIL RECOVERY, LLC

TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale (“Terms”) govern all sales of materials by Keystone Rail Recovery, LLC (“Seller”) to the purchaser (“Buyer”). All prior negotiations, representations, or agreements are merged herein.

1. Force Majeure; Title and Risk of Loss

Seller shall be excused for any delay or failure in performance due to causes beyond its reasonable control, including but not limited to acts of God, pandemics, supply chain disruptions, cyber-related interruptions, war, riot, embargo, acts of civil or military authorities, fire, flood, accident, quarantine restrictions, mill conditions, strikes, labor disputes, equipment breakdown, transportation delays, or shortages of cars, fuel, labor, or materials.

Title and risk of loss shall pass to Buyer upon delivery to carrier (FOB shipping point), unless otherwise expressly agreed in writing. Seller shall not be responsible for loss or damage in transit. Buyer shall be solely responsible for filing and pursuing any claims with the carrier.

2. Final Sale; Inspection

All sales are final. Due to the nature of used materials, Seller will not accept rejections based on subjective conditions.

Buyer shall inspect, or arrange for inspection of, all materials at the place of shipment prior to shipment. Failure to inspect constitutes a waiver of any right to reject or revoke acceptance of the materials.

No material may be returned without Seller’s prior written consent. Approved returns may be subject to a reasonable restocking charge.

3. Specifications; Trade Tolerances

Unless expressly agreed in writing, all materials shall be supplied in accordance with Seller’s standard practices.

These Terms supersede any conflicting terms in Buyer’s purchase orders or other documents. All materials, including those produced to specification, are subject to standard industry tolerances and mill practices, including variations in dimension, weight, straightness, composition, surface condition, and over/under shipments.

4. Taxes

All applicable taxes related to the sale, use, or transportation of materials shall be paid by Buyer and are in addition to the purchase price unless otherwise stated.

5. Payment Terms; Default

Payment terms are net thirty (30) days from date of shipment unless otherwise stated. Past due amounts shall incur a service charge of 1.5% per month (18% annually), or the maximum rate permitted by law.

Buyer shall not withhold, offset, or deduct any amounts due without Seller's prior written consent.

Seller may suspend performance, delay shipments, or cancel orders without liability if Buyer is in default.

Buyer agrees to pay all costs of collection, including reasonable attorney fees, court costs, and collection agency fees.

If shipment is delayed at Buyer's request, storage and service charges may apply. Seller reserves the right to invoice materials after sixty (60) days and requires shipment within ninety (90) days. Additional storage and insurance charges may apply thereafter.

6. Credit Approval

All shipments are subject to Seller's credit approval. Seller reserves the right to require advance payment or satisfactory security prior to shipment.

7. Claims; Limitation of Liability

Claims for defective material (excluding used materials) must be made in writing within five (5) days of delivery and include detailed supporting documentation. Failure to provide timely notice constitutes acceptance.

Buyer's exclusive remedy shall be replacement of the material or refund of the purchase price, at Seller's option.

IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF USE, OR PROJECT DELAYS.

OTHER THAN AS EXPRESSLY STATED, THERE ARE NO IMPLIED WARRANTIES, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. Used Materials

All used materials are sold **“AS IS, WHERE IS, WITH ALL FAULTS.”**

Seller disclaims all warranties, express or implied. Buyer acknowledges the opportunity to inspect materials and accepts all inherent variability, wear, and prior use characteristics.

Unless otherwise agreed in writing, weights and quantities determined at Seller’s facility shall be final and binding.

9. Entire Agreement; Acceptance

These Terms constitute the entire agreement between the parties and supersede all prior communications.

Any modifications must be in writing and signed by Seller.

Acceptance may be evidenced by written acknowledgment, electronic communication, or performance.

Seller expressly rejects any additional or conflicting terms proposed by Buyer.

10. Governing Law; Venue

This agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

Any legal action shall be brought exclusively in the state or federal courts located in **Clinton County, Pennsylvania.**

11. Partial Shipments

Seller may make partial shipments, each of which shall be treated as a separate sale.

12. Duties and Taxes (Import)

Any import duties, tariffs, or taxes shall be adjusted to reflect actual costs incurred and shall be borne by Buyer.

13. Transportation Delays (Ocean Freight)

Seller shall not be liable for delays caused by vessel scheduling or port changes. Buyer shall bear costs associated with re-routing or additional transport.

14. Design Responsibility

Seller assumes no responsibility for designs provided by others.

15. Cancellation and Termination

Orders may only be modified or canceled with Seller's written consent. Buyer shall be responsible for all costs incurred and, at Seller's option, lost profits on canceled orders.

16. Transportation

Seller reserves the right to select carriers and routing unless otherwise agreed.

17. Storage; Failure to Take Delivery

If Buyer fails to take delivery, Seller may store, resell, or dispose of materials at Buyer's expense. Any deficiency shall be charged to Buyer.

18. Indemnification

Buyer agrees to indemnify, defend, and hold harmless Seller from any claims, damages, or liabilities arising from Buyer's handling, use, resale, or modification of the materials.

19. Severability

If any provision of these Terms is held invalid or unenforceable, the remaining provisions shall remain in full force and effect.

20. Commercial Use

Buyer represents that all materials are purchased for commercial or industrial use and not for personal, family, or household purposes.