

ECO-MASTERMELT PTE LTD  
GENERAL TERMS AND CONDITIONS

The Customer's attention is in particular drawn to the provisions of conditions 12 and 13.

**1. INTERPRETATION**

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

**Acceptance:** as defined in condition 5.

**Contract:** any contract between ECO and the Customer for the Services incorporating these conditions.

**Customer:** the person, firm or company who place an Order for the purchase, processing and/or sale of Materials with ECO.

**Delivery:** the delivery of the Materials to ECO's premises or those of ECO's nominated agent in accordance with condition 4 below.

**Materials:** all substances and materials the subject of the Customer's Order delivered in accordance with condition 4 in connection with the Services.

**Order:** means any order for the Services whether communicated orally or in written form.

**ECO:** ECO –Mastemelt Pte Ltd, registered at 21 Tuas View Circuit, Singapore 637358.

**Product:** any precious metal residue recovered from the Materials following processing.

**Services:** means Service A, Service B and/or Service C.

**Service A:** the purchase of the Materials from the Customer by ECO.

**Service B:** the receipt, sampling, evaluation, processing, refining of the Materials and the assessing and purchase of Product from the Customer by ECO.

**Service C:** the receipt, sampling, evaluation, processing, refining of the Materials and the assessing of Product by ECO and the return to the Customer of metals representing the value of Product obtained from the Materials.

1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.



1.5 Condition headings do not affect the interpretation of these conditions.

## **2. APPLICATION OF TERMS**

- 2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase Order, confirmation of Order, specification or other document).
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase Order, confirmation of Order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These conditions apply to all the Services and any variation to these conditions and any representations about the Services shall have no effect unless expressly agreed in writing and signed by an authorised signatory of ECO. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ECO which is not set out in the Contract. Nothing in this condition shall exclude or limit ECO's liability for fraudulent misrepresentation.
- 2.4 Each Order or acceptance of a quotation for Services by the Customer from ECO shall be deemed to be an offer by the Customer for the Services subject to these conditions.
- 2.5 No Order placed by the Customer shall be deemed to be accepted by ECO until Acceptance.
- 2.6 The Customer shall ensure that the terms of its Order and any applicable specification are complete and accurate.
- 2.7 Any quotation is given on the basis that no Contract shall come into existence until Acceptance.

## **3. WARRANTY**

- 3.1 The Customer warrants:
- 3.1.1 that it is the absolute legal beneficial owner of the Materials free from all liens, charges and encumbrances or other adverse rights or interests whatsoever;
- 3.1.2 that processing of the Materials by ECO will not affect, compromise or infringe any third-party rights existing or arising in connection with the Materials; and

3.1.3 that the Materials will not be:

- (i) radioactive;
- (ii) explosive;
- (iii) liable to spontaneous combustion;
- (iv) contain organo-metallic compounds; or
- (v) contain deleterious or penalty elements which include, without limitation, Arsenic, Cadmium, Tellurium, Selenium, Chlorine, Bismuth, Mercury, Bromine, Iodine, Beryllium and Antimony. ECO may be able to process materials containing these metals but only after prior agreement.

#### **4. DELIVERY, RISK AND INSURANCE**

- 4.1 Unless otherwise specifically agreed in writing pursuant to these terms, all Materials shall be delivered at the Customer's risk and expense to ECO's premises or those of ECO's nominated agent between 8.00am and 5.30pm Mondays to Fridays, public holidays excepted.
- 4.2 The Materials shall remain at the Customer's risk and responsibility until Acceptance (as defined below). The Customer shall insure the Material accordingly and shall, in the case of overseas customers, provide ECO with a certificate of insurance giving the name and address of the insurance company's agents in Singapore.
- 4.3 The Customer shall arrange for any claims covered by insurance to be payable in Singapore. Unless otherwise agreed, the value of such insurance shall be based C.I.F. plus a margin of 10%.

#### **5. ACCEPTANCE**

- 5.1 Following Delivery all Materials shall be gross weighed and sampled in ECO's usual manner and at such time as ECO may determine.
- 5.2 Should the Materials be compliant with conditions 6, 7 and 8 below, and should ECO consider in its reasonable opinion that the Materials are safe and fit to receive the Services, ECO may issue a notice of acceptance to the Customer, identifying the batch numbers of Materials accepted and their gross weight.
- 5.3 Subject to condition 5.4, upon the Materials being prepared for processing by ECO the Materials are deemed accepted by ECO for the Services ("**Acceptance**"). ECO may prepare

the Materials for processing in such manner as it may consider appropriate whether on their own or with other materials.

- 5.4 For the avoidance of doubt, Acceptance will not take place, notwithstanding that the Materials have been prepared for processing, where the Customer's warranty in condition 3 is untrue in any respect.
- 5.5 Where the nature of the Materials practicably allows, and with ECO's approval (not to be unreasonably withheld), the Customer may, at its sole expense, be represented at any weighing or sampling operation prior to Acceptance by a representative approved by ECO. The Customer shall provide 48 hours written notice to ECO in advance of delivery of its request to be represented at a weighing or sampling operation.
- 5.6 Absent such notification, or if the Customer's representative shall not be presented as notified, the Customer shall have waived any right to representation and ECO may proceed to weigh and sample the Materials without the Customer or its representative being present.

## **6. HEALTH AND SAFETY**

- 6.1 The Customer shall ensure that the Materials comply with the provisions of applicable Singapore laws and regulations that require any person who manufactures, imports, or supplies any substance for use at work to ensure, so far as is reasonably practicable, that the substance is safe and without risks to health when properly used.
- 6.2 The Customer shall also give adequate information about the physical and chemical nature of the Materials, indicating any possible hazards that may arise during treatment. The customer will supply an MSDS applicable to the material being treated.
- 6.3 The Customer warrants that ECO, in performing the Services on the Materials, will not be in breach of any environmental rule, law, regulation or instrument whatsoever.

## **7. PACKING**

- 7.1 In delivering the Materials to ECO, the Customer shall ensure that all Materials are packed safely and securely so as to conform to current regulations governing the transport of goods. In particular, Materials likely to contain substances of a hazardous nature must be clearly marked as such with appropriate warning labels and an MSDS appropriate for the material sent. The appropriate GHS code should be entered on the delivery note.
- 7.2 Inadequately labelled Materials may, at ECO's sole discretion, be held at the Customer's risk and expense following Delivery pending further information on their content. Any delays to the time of Acceptance incurred as a result will be added to the quoted date for metal availability.

- 7.3 Unless otherwise agreed, packing shall be non-returnable. The cost of packing material and containers shall be borne by the Customer.
- 7.4 Where Product is to be sent to the Customer, ECO shall determine, in its absolute discretion, the manner, mode and form in which the Product may be sent.

## **8. DESCRIPTION AND DOCUMENTATION**

- 8.1 All Materials shall be accompanied by an advice or delivery note giving the gross, tare and nett weight of each container and a description of the contents. The Customer shall ensure that on or before Delivery ECO receives full instructions as to the precious metals to be determined in the evaluation of the Materials.
- 8.2 On Acceptance, the Customer shall have no further rights in respect of any Materials for which full instructions were not given prior to Delivery, or any proceeds arising from the sale of such Materials.
- 8.3 All Materials shipped to ECO from overseas shall be accompanied by an invoice showing weights, estimated fine precious metal contents and values for customs clearance purposes. If appropriate the relevant Notification document shall accompany the goods.
- 8.4 Where Materials are shipped by sea, the Customer shall courier to ECO the following documents:
- (a) 2 negotiable copies and 1 non-negotiable copy of the bill of lading;
  - (b) 1 original and 1 copy of the certificate of insurance;
  - (c) 2 copies of the invoice for customs clearance purposes; and
  - (d) A packing list stating the contents of each case, the nett and gross weights thereof and the seal numbers.
- 8.5 It is important that ECO receives the documents specified in condition 8.3 before the carrying vessel arrives at the destination port in Singapore.
- 8.6 Where Materials are freighted by air, the Customer shall send to ECO by facsimile or email the Air waybill number and flight details and the following documents:
- (a) The invoice for customs clearance purposes; and
  - (b) A packing list stating the contents of each case, the nett and gross weights thereof and the seal numbers.
- 8.7 The Customer shall maintain detailed accounting records of its transactions with ECO.

- 8.8 The Customer shall, in accordance with the Regulation, take back waste Materials shipped to ECO for recovery if the shipment is not completed in accordance with the Contract or if it violates the Regulation.
- 8.9 ECO will, in the case of re-transfer of waste Material for recovery to a third country, provide the notification of the initial country of despatch.

**9. RISK/TITLE**

- 9.1 The Materials remain at the exclusive risk and responsibility of the Customer until Acceptance.
- 9.2 Risk and title in the Materials shall pass to ECO on Acceptance.

**10. PRICE**

- 10.1 In the case of Service A, the price for purchase of Materials by ECO from the Customer shall be agreed in writing prior to Acceptance.
- 10.2 In the case of Service B or Service C, the Product will be determined, following Acceptance and processing, by ECO methodology (the "**Settlement Yield**").
- 10.3 ECO methodology employs a variety of factors in determining the Settlement Yield including, among others, the character and historic quality of the Customer's Materials, ECO designated laboratories' analysis and the uncertainties thereof, Customer's estimate or projection of precious metal content in the Materials, the estimated yield on final recovery, ECO risks and costs, and ECO refining practices and processes.
- 10.4 When the Customer is not represented, ECO will notify the Customer of the Settlement Yield either verbally or in writing and such amount will be final and conclusive unless objected to in writing by the Customer within seven days ("**Notice of Objection**").
- 10.5 If the Customer serves Notice of Objection on ECO in accordance with condition 10.4 above, any adjustment to the Settlement Yield will be negotiated between ECO and the Customer both acting in good faith. If agreement cannot be reached by negotiation within 2 weeks of ECO receiving Notice of Objection and if the Product is in a suitable form, the Customer and ECO will endeavour to agree on the appointment of an independent umpire to inspect the Product ("**Independent Inspection**").
- 10.6 In the case of discrepancy between the Settlement Yield and the findings of the Independent Inspection, the Settlement Yield shall be adjusted, upwards or downwards as the case may be, by the median of the Settlement Yield and the Independent Inspection.

- 10.7 In the case of Service B, the price to be paid by ECO to the Customer for the Product will be based on prevailing London bullion or free-market prices, whichever is applicable, for the Settlement Yield.
- 10.8 In the case of Service C, and subject to condition 11.5 below, ECO will return to the Customer, at the Customer's risk and expense, precious metals equivalent to the Product in the quantity and proportion determined by the Settlement Yield.

## **11. PAYMENT AND INVOICING**

- 11.1 Following notification of the Settlement Yield, or following the adjustment of the Settlement Yield in accordance with conditions 10.5 and 10.6 above, ECO will issue an invoice to the Customer stating a time for payment, ECO's fees, and any charges, costs and disbursements incurred by ECO in connection with the Services ("**Invoice**").
- 11.2 In the case of Service B, a statement will be provided with the Invoice which will state the value of the Settlement Yield such value to be based on prevailing London bullion or free-market prices, whichever is applicable, payable by ECO to the Customer for the Product.
- 11.3 In the case of Service C, a statement will be provided with the Invoice which will provide a breakdown of the Settlement Yield by weight and type of metal to be returned to the Customer.
- 11.4 Unless otherwise agreed in writing, in the case of Service B, ECO shall be entitled to set-off its fees and costs as stated in the Invoice against the value of the Settlement Yield set out in the statement referred to in 11.2 above.
- 11.5 Where ECO is providing Service C and metals to the amount of the Settlement Yield are to be provided to the Customer, ECO shall have a lien over the Product until any sums owing to ECO by the Customer have been met in full. Should an Invoice not be met in full within two months of the date specified in the Invoice for payment, ECO shall be entitled to sell the Product and apply the proceeds to any unpaid portion of an Invoice and ECO's reasonable costs of storing the Product and arranging for its sale.
- 11.6 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 11.7 If the Customer fails to pay ECO any sum due pursuant to the Contract, the Customer shall be liable to pay interest to ECO on such sum from the due date for payment at 0.05% per day for late payment.



## 12. INDEMNITY

- 12.1 The Customer shall indemnify ECO and/or any third party to whom ECO may sub-contract the whole or any part of the Services against any and all actions, proceedings, losses, claims, costs, damages and expenses whatsoever:
- (a) in respect of loss of life, personal injury or damage to property arising directly as a result of:
    - (i) any defects or health hazards in the Materials; or
    - (ii) any instruction or false or misleading information given or supplied by the Customer in connection with the execution of the Services;
  - (b) resulting from the requirements of the Regulation in relation to waste material shipped to ECO for recovery; or
  - (c) resulting from the Customer's warranty under condition 3 being untrue in any respect.
- 12.2 The customer hereby appoints ECO as its agent for the purpose of granting an indemnity in identical terms to that contained in condition 12.1 by the Customer to any third party to whom ECO sub-contracts the whole or any part of the Services.

## 13. LIMITATION OF LIABILITY

- 13.1 The following provisions set out the entire financial liability of ECO (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- (a) any breach of these conditions; and
  - (b) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 13.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 13.3 Nothing in these conditions excludes or limits the liability of ECO:
- (a) for death or personal injury caused by ECO's negligence; or
  - (b) for any matter which it would be illegal for ECO to exclude or attempt to exclude its liability; or
  - (c) for fraud or fraudulent misrepresentation.
- 13.4 Subject to condition 13.2 and condition 13.3:
- (a) ECO's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the



performance or contemplated performance of the Contract shall be limited to the value of the Product will be based on prevailing London bullion or free-market prices, which ever is applicable, for the Settlement Yield on the day any such liability is established; and

- (b) ECO shall not be liable to the Customer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

#### **14. FORCE MAJEURE**

- 14.1 ECO reserves the right to defer the date for performance of the Contract or to cancel the Contract (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of ECO including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials or refining services, provided that, if the event in question continues for a continuous period in excess of 30 days, the Customer shall be entitled to give notice in writing to ECO to terminate the Contract.

#### **15. GENERAL**

- 15.1 The Customer shall not be entitled to assign the benefit of this contract.
- 15.2 ECO may, in its sole discretion, sub-contract the whole or any part of the Services including, without limitation, preparing the Materials for processing.
- 15.3 ECO may at any time in its sole discretion assign all or part of its rights or interests in these conditions without prior notice to the Customer.
- 15.4 Each right or remedy of ECO under the Contract is without prejudice to any other right or remedy of ECO whether under the Contract or not.
- 15.5 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 15.6 Failure or delay by ECO in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

ECO-Mastermelt Pte Ltd – Reg in Singapore No 201542358C

Registered office: 21 Tuas View Circuit, Singapore 637358

ECO-Mastermelt Pte Ltd is part of the Mastermelt Group of Companies

Incorporating Mastermelt Ltd, Presman (Bullion) Ltd, Presman (Birmingham) Ltd,

Mastermelt Refining Services Ltd, Mastermelt America LLC

In association with: Phoenix Country Metals



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- 15.7 Any waiver by ECO of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.8 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Singapore law and the parties submit to the exclusive jurisdiction of the Singapore courts.