Hensel Recycling GmbH
Terms and Conditions of Trade

1. Sphere of application / Introduction / General

a) The terms and conditions of trade set out below (hereafter referred to as “Terms”) shall apply to all business dealings of Hensel Recycling GmbH (hereinafter referred to as “Hensel”) in respect of any differing provisions in the terms and conditions of trade of our business partners (suppliers) or which result from collateral agreements, if they have not been expressly made part of this contract in writing.

b) However, the buyer, and receiving providing services and delivering goods, has the right, in the case of any differing provisions, to have all possible non-conformities notified to the supplier in writing.

c) Hensel reserves the right to make an appropriate increase to the prices originally quoted if the materials have specific characteristics of which Hensel were not aware at the time of the offer and which will result in higher processing costs. These particular characteristics are those that are not obvious from the description or the samples delivered.

d) Furthermore, Hensel reserves the right to adjust the prices quoted if the materials delivered do not comply with the requirements stated in the contract.

2. Payment

a) Hensel’s invoice shall in principle fall due on receipt. Variations to this may be made in accordance with the terms of Section 4 (1), point a).

b) If a claim should appear to be at risk for particular reasons or if the supplier should default in payment within the period stipulated, then Hensel is entitled, without further consent by the supplier, to retain, set off and sell in kind or against the supplier’s own name and risk, any quantity of metal under existing contracts, whose market value corresponds to the claim to be satisfied or covers it in part. The supplier shall pay the costs incurred.

c) Furthermore, Hensel reserves the right to require advance payments or security deposits if circumstances are such that the supplier’s existence or becoming known, which put at risk settlement of Hensel’s claims, if the supplier does not fulfill such a demand, then Hensel shall be entitled to terminate the contract. The supplier shall bear the costs incurred until that time.

d) Hensel shall be free to demand compensation from the supplier for any inconvenience and damages which Hensel suffers as a result of terminating the contract. Furthermore, in the event of the issue of a credit note for the value of metal resulting from reworking, Hensel shall be entitled to set off the amount of the credit note against the supplier re-working and the value of metal contained in the credit note or to deduct the payment to be made. Hensel shall be entitled to retain goods/precious metals until final payment of the invoice.

3. Deliveries

a) Offers are subject to confirmation. A contract is not concluded until Hensel has given a confirmation of order in writing even in standard form subject to Section 1 of the Terms.

b) Amendments or supplements to a contract or the cancellation of a contract do not become an effective part of the contract until Hensel have given written confirmation of them in terms of Section 1.

4. Provisions under the laws on waste substances

a) Hensel’s approval is required for the delivery of substances which display one or more dangerous characteristics, e.g. components which are toxic, damaging to health, carcinogenic, sensitising, impair fertility, endanger the environment, for dangerous goods, containers for which exist no decontamination procedures, ULV (Ultra Low Volume) spraying machines, asbestos, lead, paint, PCBs, PBBs, PCB-PBBs, pesticides, organochlorides, organofluorides, bromofluorides, bromodifluoromethane, bromochloromethane, chloroform, perchloroethylene, tetrafluoroethylene, etc.

b) The supplier shall bear the cost and the risk of delivery of materials to our plant. This applies even if transport is made available by our plant. Any agreements to the contrary shall only apply if they have become part of the contract of the contract.

c) The products should be properly packed, and any instructions given by Hensel must be followed. Empty containers will only be returned if there is a specific request. However, the supplier must bear the costs incurred.

d) Delivery of materials must be notified in writing at least 24 hours prior to delivery. The customer shall pay any additional costs which arise due to incorrect or incomplete information or if an advice note on the goods delivered is missing or late.

5. Provisions under the laws on waste substances

a) The weights which apply shall be those determined by Hensel after receipt of each delivery at its plant and notified to the supplier with the order confirmation.

b) If the information concerning the nature of the material is binding on Hensel and the supplier, provided that the latter has not made a written objection to it within two weeks. The time limit shall begin as per point f).

c) Apart from that, Hensel is authorised to process the materials subsequent to weighing.

d) Failing to observe these terms and conditions with respect to the declaration of the materials after having been notified by Hensel, the supplier shall be responsible for all errors in transmission, misunderstandings or errors in delivery of materials. This applies in particular to the declarations in terms of Section 3 on the basis of a dangerous composition, or through harmful or impairing elements, loss or detriment could occur.

e) The supplier is liable for all detriments and losses which are due to the dangerous composition of the material or their harmful or impairing elements. Such liability shall in principle come to an end upon full completion of the treatment (recycling) and waste disposal of the material.

f) If, on the other hand, the material is one with continuing damaging effect, then the supplier’s liability shall extend until the damaging effects have fallen below the permissible values. This applies in particular to radioactivity.

g) Hensel is liable to the supplier for loss or damage to materials which are with Hensel for processing only whilst the supplier has been intentionally or negligently improper action. Claims by the supplier beyond this relation to material damage, pecuniary loss or other loss (e.g. from contract or tort law damage) shall in any case become co-owner. However, Hensel shall be entitled to restore the supplier’s sole ownership at any time at its discretion.

h) If the supplier fails to take up a claim within the period given in point a), then a later claim will not be considered.

6. Delivery times

a) Deliveries shall only apply if they have been expressly confirmed by Hensel in writing (cf Section 1, point a). If the material delivered should vary from the original agreement in composition and quantity, extended delivery times are permissible.

b) In the event of an Act of God in terms of Section 13, point a) and b), the provisions given therein shall apply.

c) Trades in and transfer of precious metals

a) Telephone orders by the customer will be binding after confirmation by Hensel.

b) The supplier shall bear the damages resulting from errors in transmission, misunderstandings or errors in telephonic communication with the supplier or with third parties, provided that there is no fault on Hensel’s part.

c) Hensel reserves the right to cancel credit notes given as a result of an error, a spelling mistake or for any other reasons, without the need for an instruction, simply by making a book entry.

d) The supplier is liable to the customer for the replacement of the materials. This applies in particular to the declarations in terms of Section 3 on the basis of a dangerous composition, or through harmful or impairing elements, loss or detriment could occur.

7. Payment for and return of metal

a) If the price quoted is based on the material, or other metals for which payment can be made, are purchased, the buying in prices will be determined on the basis of the metal prices which are valid on the settlement date.

b) The supplier must give Hensel written notice no later than 1 week before agreed settlement date if he desires a later purchase.

c) If a physical return of the precious metals has been agreed upon, then it will be at the cost and risk of the supplier.

d) Furthermore, Hensel reserves the right to select the packaging, method of forwarding and the route, using the most appropriate method according to Hensel’s best judgement. If the forwarding method of the method, to the request of the counterparty without making any objection, this shall be deemed to be evidence that there are no defects in the packaging.

e) Furthermore, Hensel is also entitled to take out transport insurance or valuables insurance in transit on behalf of the supplier.

f) Section 1, point a) shall not be affected by points d) and e).

8. Payment

a) Hensel’s invoice shall in principle fall due on receipt. Variations to this may be made in accordance with the terms of Section 4 (1), point a).

b) If a claim should appear to be at risk for particular reasons or if the supplier should default in payment within the period stipulated, then Hensel are entitled, without further consent by the supplier, to retain, set off and sell in kind or against the supplier’s own name and risk, any quantity of metal under existing contracts, whose market value corresponds to the claim to be satisfied or covers it in part. The supplier shall pay the costs incurred.

(Continues)