

**Hensel Recycling North America, Inc.**  
**Terms and Conditions**

**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 with Hensel Recycling North America, Inc (hereafter referred to as "HRNA"). HRNA is not bound by any differing provisions in the terms and conditions of our business partners (suppliers) or which result from collateral agreements, if they have not been expressly made part of this contract in writing, signed by HRNA.
- b. Taking delivery of and/or delivering goods, and receiving and/or providing services, irrespective of their nature, or the acceptance of payments does not under any circumstances imply that our partner's general terms and conditions of trade have become part of the content of this contract.
- c. Our terms and conditions shall apply to future business dealings even if they have not been included in a particular case.
- d. By taking delivery of and/or delivering goods, and/or receiving and/or providing services, or the acceptance of payments, you warrant that you have read these terms and conditions and agree to be bound hereby.

**2. Offers and contracts**

- a. Offers by HRNA are subject to confirmation in writing. A contract is not concluded until HRNA 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 HRNA has given express written confirmation of the amendment, supplement, or cancellation.

**3. Deliveries**

- a. The supplier should include a delivery document ("packing list") prior to the shipment to HRNA. The packing list should contain the following information: Supplier name, address, and phone number, date and method of shipment, number and type of container, description of contents, and gross, tare and net weights of each container. If known or available, supplier should provide the precious metal content.
- b. With each order placed, the supplier must first give a clear declaration with regard to the materials. This declaration shall include, for example, the following matters or points: waste disposal index number under the regulations on waste substances including the description; regulations (regulations on disposal and recycling documentation), Dangerous goods law; Hazardous substances regulations, etc. as well as any declaration on general quality and composition — i.e. content of precious metals & makeup of the material. The supplier shall assume responsibility for the accuracy of the waste substances declaration. He is under a duty to provide full and accurate details. The declaration analyses required must be produced on request.
- c. If it is established during the control of incoming materials or during subsequent processing that there are prohibited substances, the customer must take them back at his own expense. Otherwise, HRNA will dispose of the waste according to regulations, at the customer's expense 10 working days after written request. HRNA can also dispose of the waste according to regulations if a special request is made. HRNA is entitled to have the contractual obligations carried out by third parties. HRNA has the right, to entrust third parties with the execution of contractual tasks, provided that the waste management takes place in approved facilities.
- d. HRNA is entitled to take a sample from the residues provided to it and to use this as a basis for a binding quality sample. HRNA is entitled to reject any residue or waste which does not correspond with the declaration.
- e. The supplier shall bear the cost and risk of the 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 content of the contract.
- f. The materials must be packed properly, and any instructions given by HRNA must be followed. Empty containers will only be returned if there is a specific request. However, the supplier must bear the costs incurred.
- g. 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 advisement on the goods delivered is missing or late.
- h. Acknowledgement by HRNA of delivery on carrier's receipt shall not constitute agreement as to the description, weight or composition of the material described, nor acceptance of questionable material.
- i. A customer must request an assay exchange prior to delivery of goods. If an exchange is requested, HRNA will provide the customer with a sample. The returnable metals in such a case shall be determined in accordance with HRNA's standard assay, re-assay, umpire assay, assay exchange, splitting limits and final assay procedures. Such determination shall be used for settlement purposes.

**4. Provisions under the laws on waste substances**

- a. HRNA'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, sensitizing, impair fertility, cause hereditary genetic damage, are dangerous to the environment, corrosive, irritating, inflammable, likely to explode, or oxidizing, and for the delivery of substances with damaging or harmful elements (e.g. arsenic, lead, bromine, cadmium, chlorine, fluoride, halogen connections, mercury, selenium, tellurium, etc.). Any radioactive material will not be accepted under any circumstances. If HRNA receives any radioactive material, even if the supplier was unaware, the supplier will be responsible for the immediate removal of the material and will bear all associated expenses for the removal in accordance with all state and federal guidelines and fully indemnify HRNA for any costs, legal fees, damages, liabilities or incurrences caused thereby.
- b. The supplier shall be obliged to draw attention to the existence of any of the substances given in a) above, in addition to the declaration under Section 3.
- c. Furthermore, the supplier must ensure that the dangerous materials delivered by him and/or on his instructions are transported and packed in accordance with the relevant regulations.
- d. The supplier is solely responsible for the correct declaration of the given residual materials. This also applies if HRNA acts on supplier's behalf in dealings with the authorities or other third parties.
- e. To the extent that the materials delivered fall under the provisions of the dangerous goods act, the customer must ensure that the legal provisions to which it is subject to are complied with and that the corresponding transportation papers are available. This shall also apply if HRNA has arranged for collection.

**5. Weighing, treatment, settlement and accounts**

- a. The weights which apply shall be those determined by HRNA after receipt of each delivery at its plant and notified to the supplier with the order confirmation.
- b. The information on weights thus obtained is binding on HRNA and the supplier, provided that the latter has not made a written objection to them within two business days. The time limit shall begin as per point f).
- c. Apart from that, HRNA is authorized to process the materials subsequent to weighing.
- d. Furthermore, the weights determined in connection with the confirmation of order (or the weights resulting after homogenization) and, in the event of reworking, the precious metal content established through sampling and assaying, form the basis for the settlement statement issued by HRNA, which shall become binding if the

supplier has not made a written objection to it within two business days. The time limit shall begin as per point f).

- e. HRNA will keep a precious metals pool account for any customer who gets precious metals returned from the treatment of materials containing them, if necessary. HRNA will determine the actual balance of the account with appropriate care and notify it to the customer by a written statement of account. This will be taken as legally binding unless objected to in writing within two business days of receipt of the statement. The time-limit shall begin as per point f).
- f. The time limit for objections under points b), d) and e) shall commence on the day on which the relevant notification is issued (order confirmation or settlement statement).
- g. Unless otherwise stated in the face of this agreement, the following standard commercial purities shall apply to precious metals to be returned to customers by HRNA ("Refined Metal"), including that which is contained in pool account. Refined metal shall be in a form determined by the refiner, normally sponge, powder, or grain. Sometimes HRNA will deliver by transferring metal to supplier's pool with other refiners.  
Platinum 99.95                      Palladium 99.95                      Rhodium 99.90
- h. Supplier shall be entitled, at its own expense, to be represented at the weighing and sampling operation by a representative approved by HRNA. A supplier requiring representation shall notify HRNA to that effect in writing prior to delivery of the material and shall at the same time inform HRNA of the name, address, and job description of the supplier's proposed representative. In the absence of such notification, or if the supplier's representative is not present at the appointed time, HRNA shall be entitled to assume the Supplier does not wish to exercise his right to representation, supplier shall be deemed to have waived same and HRNA may proceed to weigh and sample in the Supplier's absence. Supplier's representative shall be responsible to insure he has received weighing and sampling documentation normally available to a supplier at the conclusion of the processing. Unless written instructions to the contrary are received from the representative and received from the representative or prior to or at the time of delivery of material to the refiner, HRNA shall be entitled to release the material for processing. Where such instructions are received or where Supplier's representative is dissatisfied with the sampling procedure, Supplier shall be entitled to have the material resampled and assayed at its own expense provided such instructions are given to HRNA immediately upon conclusion of the sampling process.

**6. Processing costs**

- a. The prices stipulated in our quotations are subject to confirmation and do not include any applicable sales tax.
- b. Furthermore, HRNA reserves the right to make an appropriate increase to the prices originally quoted if the materials have special characteristics of which HRNA were not aware of when the order was accepted and which result in additional expenditure in processing. HRNA does not accept hazardous materials. If material deemed as hazardous is received, they will be returned to the supplier at their expense, using their designated carrier, and using their material designation.
- c. Processing costs are due at settlement date for toll business and upon receipt of invoice for service business.
- d. HRNA reserves the right to charge for late delivery of a hedge.
- e. HRNA reserves the right to charge for the receipt of dangerous or harmful material included but not limited to steel scrap that may break our machines and be reimbursed for any and all damages cause thereby.
- f. HRNA reserves the right to charge for material processed with greater than 3% moisture that leads to longer than normal cleaning time of the machines.

**7. Settlement Yield**

The yield or final assay which is used as the basis for determining the quantity of precious metals to be credited to the supplier (the "Settlement Yield") is finalized by agreement between the customer and HRNA. Whether the supplier is represented or not, HRNA considers a variety of factors in determining the settlement yield; the foremost of which is the assay by a laboratory of HRNA's choosing. Other factors include: Character and historic quality of the supplier's material, the supplier's estimate and projection of precious metal content, the estimated yield on final recovery, and HRNA's processing practices. When the supplier is not represented, HRNA will notify the supplier either verbally or in writing and such amount will be final and conclusive unless objected to by the supplier within ten days in writing.

**8. Returnable metal**

Supplier must inform HRNA, prior to delivery, if any metals, other than Platinum, Palladium, and Rhodium are to be assayed for and refined in the lot returned. In the absence of said notification, the returnable metal will be determined by HRNA. Additionally, HRNA will have no liability whatsoever to Supplier beyond that set forth in the refining agreement. Unless otherwise agreed, material containing the following elements below the specified levels cannot be returned.

Platinum	0.020%	Palladium	0.020%	Rhodium	0.020%
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**9. Payment for and return of metal**

- a. If the precious metals extracted from 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. Anytime in which an over hedged situation occurs, the customer must immediately buy back the troz. If the customer does not buy back the troz prior to the settlement date, HRNA will price these troz automatically in its discretion.
- b. The supplier must give HRNA written notice no later than 1 week before agreed settlement date if he desires a later purchase of the metal(s) to close out the contract.

**10. Payment**

- a. HRNA's invoice shall be payable upon receipt. Variations to this may be made in accordance with Section 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 HRNA is entitled, without further consent by the supplier, to retain, set off and sell in HRNA's own name the 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.
- b. Furthermore, HRNA reserves the right to require advance payments or security deposits if circumstances about the supplier exist or become known, which put at risk settlement of HRNA's claims. If the supplier does not fulfill such a demand, then HRNA shall be entitled to terminate the contract. The supplier shall bear the costs incurred until that time.
- c. Furthermore, HRNA shall be free to demand compensation from the supplier for any inconvenience and damages which HRNA 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, HRNA shall be entitled to set off the amount of the invoice for re-working with the value of metal contained in the credit note or to deduct it from the payment to be made. HRNA shall be entitled to retain goods/precious metals until final payment of the invoice.

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**11. Transfer of ownership**

- a. Unless otherwise stated or agreed, the supplier shall retain ownership of the materials delivered or the metals recovered by HRNA during the entire period of treatment. If the material is combined or comingled with other materials, the supplier shall in any case become co-owner. However, HRNA shall be entitled to restore the supplier's sole ownership at any time at its discretion.
- b. Every payment by HRNA, whether for advance payment or final settlement and whether in cash or in kind, shall result in transfer of ownership in the relevant goods purchased. If such an (advance) payment should be made for goods in the possession of the supplier, then the supplier must ensure that there is adequate comprehensive insurance for the goods taken out at his own expense. The goods must be separate from the supplier's own material.

**12. Complaints**

- a. Complaints of any kind must be made to HRNA immediately and in writing, and no later than within 7 calendar days after receipt of the assay.
- b. Claims by the supplier beyond that in relation to material damage, pecuniary loss or other loss (e.g. from pre-contractual or contractual liability or unauthorized action, etc.) can be settled or awarded only to the amount of HRNA's risk coverage, provided that the supplier provides an exact assessment of the damage and has proven the amount of the loss.
- c. If the supplier fails to take up a claim within the period given in point a), then it waives the right to ever bring a claim based upon those facts or allegations.

**13. Settlement times**

- a. Settlement times shall only apply if they have been expressly confirmed by HRNA in writing. If the material delivered should vary from the original agreement in composition and quantity, extended settlement times are permissible.
- b. In the event of an Act of God in terms of Section 16, the provisions given therein shall apply.
- c. Settlement dates may be extended by HRNA due to plant shutdown, holidays, inventories and for similar reasons throughout the year.

**14. Trade in and transfer of precious metals**

- a. Telephone orders by the customer will be binding after confirmation by HRNA.
- b. The supplier shall bear the damages and all costs and liabilities, of any kind, and provide full indemnification to HRNA, resulting from errors in transmission, misunderstandings or errors in telephonic communication with the supplier or with third parties.
- c. HRNA reserve 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 customer has the option to pool metals with HRNA until they decide to sell metals at a future date without incurring any additional charges. If the customer wants to move the precious metals into a pool account at another company, they will be charged based upon prevailing market rates. These fees are for paper only transfers and not physical movement. This only occurs at settlement date and after charges are covered.
- e. HRNA reserves the right to increase the settlement time for any transfer of metals.

**15. Liability**

- a. The supplier is liable should there be a violation of the provisions of our Terms which form the basis of the 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 irritating elements, loss or detriment could occur.
- b. The supplier is liable for all detriments and losses which are due to the dangerous composition of the material or their harmful or irritating elements. Such liability shall in principle come to an end upon full completion of the treatment (recycling) and waste disposal of the material.
- c. If, on the other hand, the material is one with continuing damaging effect, then the supplier's liability shall continue until the damaging effects have fallen below the permissible values. This applies in particular to radioactivity.
- d. The amount of the claims is limited to the current value of the materials. In general, no claims for compensation of any kind may be made against HRNA by the supplier or any of his customers in the event of an Act of God under the terms of Section 16.
- e. Supplier agrees to indemnify HRNA for all damages, costs, legal fees, penalties or any other liability to the fullest extent permitted under the law resulting from any business dealing between HRNA and supplier caused by supplier's actions, inactions or representations, regardless if a incurrence is by a third-party claim, governmental or regulatory claim or no claim at all.

**16. Acts of God**

In the event of an Act of God (such as but not limited to earthquake, war, shortage of labor, energy or raw materials, orders by public authorities, operating difficulties, riot, looting and similar events), the effect of which is that the availability of metals required cannot be guaranteed, HRNA shall be released from performing the contractual obligations affected thereby for the duration of the impediment.

**17. Data processing**

HRNA is entitled to store and to process all information affecting its business relationship with the partner in terms of the United States Privacy Act.

**18. Levies**

The supplier shall be responsible for paying any taxes, duties and other levies which are raised on the goods and associated documents on deliveries from abroad within or outside of the United States of America.

**19. Place of business and jurisdiction**

- a. The place of business and jurisdiction for all obligations under the contract shall be our business location at 1003 Industrial Drive, West Berlin, NJ 08091.
- b. An obligation to make a payment to HRNA shall be deemed to have been fulfilled when the payment in question has been credited to our company account at the place of payment given in the invoice and the amount is available for HRNA's use. In the case of Section 8, point d), the obligation to make payment to HRNA which arises under the contract shall be deemed to have been satisfied as soon as HRNA have set off the relevant amounts (cf. Section 8, point d).

**20. General provisions**

- a. The laws of the State of New Jersey shall apply to contracts with HRNA, excluding the Uniform Law for the International Sale of Goods.

- b. If any one of these Terms should be legally ineffective, this shall not affect the other Terms.
- c. In the event of partial nullity, the parties shall be required to settle the affected passage immediately. If this is not successful, then the laws of the State of New Jersey shall apply.
- d. Should a supplier be found to have breached this agreement or any other dealing with HRNA subject to the terms of this agreement, supplier shall be liable for all of HRNA's legal fees and costs in proving said breach.

**21. Compliance and responsible sourcing**

- a. None of HRNA, customer, HRNA personnel nor customer personnel will, directly or indirectly, in connection with a party's performance of this agreement, offer, pay, promise to pay, or authorize the giving of any monies or financial or other advantage to any person: (a) for the purpose of inducing or rewarding that person or any other person to perform their role or function improperly; (b) where receipt of that advantage would result in that person or any other person performing their role or function improperly; (c) for the purpose of influencing a Public Official in relation to any decision, act or other performance of their official role or function, including decision to fail to perform that role for function, so as to obtain or retain business or a business advantage of any kind; or (d) that is otherwise for the purpose of improperly obtaining or retaining business or a business advantage of any kind. Further, neither HRNA personnel nor customer personnel will, directly or indirectly, in connection with a party's performance of this agreement, request, agree to receive, or accept any monies or financial or other advantage in return or as a reward for performing their role or function improperly. HRNA and customer agree to keep full and accurate books and records of all payments made in connection with this agreement, and to make all such books and records available to the other party's duly authorized representatives as deemed necessary by that party in order to verify the other party's compliance with this clause 21. A party may terminate this agreement immediately upon written notice to the other party where the first party determines in good faith that the other party has breached this clause 21.
- b. The parties acknowledge and agree that the recoverable metals and/or confidential information may be subject to applicable export control and trade sanction laws, regulations, rules and licences ("export control and trade sanctions rules"). In performance of this agreement, customer and HRNA shall comply with the export control and trade sanctions rules and shall not do anything which would cause either party to be in breach of these. Either party may, in addition to the other remedies that may be available to that party, refuse to enter into or to perform any order, and/or immediately terminate the agreement without notice of default or legal action being required and without being liable to pay compensation of any kind whatsoever for damage caused if it determines that entry into an order and/or performing any obligations or exercising any rights under the agreement may cause customer or HRNA to violate any applicable export control and trade sanctions rules. Neither party assumes any responsibility or liability for the other party's failure or inability to obtain any required relevant export approval.
- c. Customer warrants that it shall comply with all applicable taxation, anti-money laundering and financial crime laws, regulations and rules ("financial crime laws") and that neither the material nor any consideration paid for the services constitutes criminal property or any equivalent definition of the proceeds of crime under any applicable financial crime laws, nor is the material or the consideration paid for the services derived from sources which have financed or participated in conflict, terrorism, human rights abuses or money laundering, and the material does not contain any conflict minerals. In the performance of this agreement, neither party shall commit an offense of cheating the public revenue or an offense consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax by itself or any other person or do anything which would cause either party to be in breach of the financial crime laws and, subject to applicable law, the customer shall provide such information and/or documentation (including but not limited to identification documentation) as may reasonably be requested in order to evidence compliance with the financial crime laws.

Hensel Recycling North America, Inc.  
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