

Hensel Recycling Austria GmbH

General Terms and Conditions of Business

§ 1 Scope / Introduction / General

- a) The following terms and conditions of business (hereinafter only referred to as "T&C") shall apply to all business transactions conducted with Hensel Recycling Austria GmbH (hereinafter "HRA"). Any provisions in HRA's terms and conditions of business or those of its business partners (hereinafter "Partners") that differ from the T&C, or any provisions that ensue from ancillary agreements, shall be non-binding for HRA insofar as they have not explicitly been made subject matter of the contract in writing.
- b) The acceptance and/or delivery of goods, services, performances in any form whatsoever, or the acceptance of payments does not in any way signify that the T&C of HRA's partner have become part of the contract.
- c) These terms and conditions shall apply to all future business transactions even if they are not attributed in each individual case.

§ 2 Offers and agreements

- a) Offers made by HRA shall be subject to change. A contract shall not be deemed to have been concluded until a written or standard-form order confirmation is given in accordance with § 1 of these T&C.
- b) Amendments, additions or cancellations to a contract shall only become an effective part of the contract if they are confirmed in writing by HRA within the scope of § 1.

§ 3 Deliveries

- a) Each material for processing by or delivery to HRA must be clearly declared in advance by the partner. This declaration includes, for example, the following areas or points: Waste code number in accordance with ÖNorm 2100, including designation; Ordinance on Waste Disposal and Recovery Records (NachwV); legislation relating to dangerous goods; Hazardous Substances Ordinance etc., as well as general details pertaining to the type and quality of the material - particularly the precious metal content. The Partner shall be responsible for the correctness of the waste materials declaration. He shall undertake to provide true and complete information. The required declaration analyses are to be submitted upon request.
- b) Should excluded substances be determined during the incoming goods inspection or during further processing, the partner must take the material back at his own expense. HRA shall otherwise ensure the proper disposal of the material at the partner's expense 10 working days after the written request was made. HRA may also ensure the proper disposal of the material by separate order. HRA is entitled to have the contractual services performed by third parties. The claim for disposal services by HRA may be transferred provided that the disposal is carried out in facilities authorised for that purpose.
- c) HRA is entitled to take a sample of the residual material delivered to it for recovery and to take this as the basis for the binding quality sample in the order. HRA shall be entitled to reject any residual material or waste material that does not conform with the declaration.
- d) The partner shall bear the costs and risk for the delivery of the material to HRA. This shall still apply if a means of transport is provided by HRA. Any agreements deviating from this shall only apply if they have become part of the contract.
- e) The material must be properly packaged, whereby any instructions issued by HRA must be taken into consideration. The empty packaging shall only be sent back if expressly requested, whereby, the partner shall bear any costs accrued in the process.
- f) Material deliveries must be notified in writing at least 24 hours before delivery (notification). Additional costs incurred as a result of incorrect or incomplete information or as a result of omitted or late notification about the delivered materials shall be borne by the partner.

§ 4 Provisions governing waste management

- a) The delivery of materials that have one or several hazardous characteristics, such as substances that are poisonous, harmful, carcinogenic, sensitising, toxic for reproduction, harmful to the environment, corrosive, irritating, highly flammable, potentially explosive, oxidising or radioactive, and the handover of materials with damaging or harmful elements (e.g. arsenic, lead, bromine, cadmium, chlorine, fluorine, halogen compounds, mercury, selenium, tellurium etc.), require the approval of HRA.
- b) The partner shall undertake to provide notification of the presence of any of the substances listed in point a), irrespective of the declaration obligations in accordance with § 3.
- c) Moreover, the partner must ensure that the hazardous materials delivered by him and/or on his behalf have been transported and packaged in accordance with the relevant regulations.
- d) The partner shall be responsible for the correct declaration of the residual materials. This shall also apply in the event that HRA is authorised to represent vis-à-vis public authorities and other companies.
- e) Insofar as the supplied materials are subject to the provisions of the legislation relating to dangerous goods, the partner must ensure that he complies with the statutory provisions incumbent upon him and that the transport documents are available. This shall also apply in the event that a collection has been instigated by HRA.

§ 5 Weighing, reworking, accounting and statements of account

- a) The quantities and weights determined by HRA after receipt of each consignment at its facilities shall apply. The partner shall be notified of the results where applicable with the order confirmation.
- b) The data thus received are binding for HRA and for the partner insofar as no objection is raised in writing within two weeks. The start of this deadline period is governed by point f).
- c) In addition, at the conclusion of the measurement (e.g. counting or weighing) HRA shall be authorised to send the materials for processing.
- d) Furthermore, the data determined in the context of the order confirmation (where applicable, the weights determined after homogenisation) - and in the event of a reworking - shall, together with the precious metal contents determined after sampling, form the basis of the invoice issued by HRA which shall be binding if the partner does not raise an objection to it in writing within two weeks. The start of this deadline period is governed by point f).
- e) Where required, HRA shall administer metal accounts for partners that have a claim to remuneration or supply of metals resulting from supplies or provision of services. The current status of the respective account is determined on HRA's premises on the basis of the weights or metal contents determined with the due care of a diligent businessman and communicated to the partner in writing (metal account statement). The metal account statement is legally binding for the legal relationship between the parties if no object is raised by the partner in writing within two weeks of receipt of the account statement. The deadline periods are governed by point f).
- f) The objection period resulting from points b), d) and e) shall begin on the date of issue of the respective notification (order confirmation or invoice).

§ 6 Processing costs

- a) The prices contained in the offers made by HRA are subject to change and do not include statutory value-added tax.
- b) Furthermore, HRA shall reserve the right to make reasonable adjustment to the stated prices if the materials have special characteristics which were not known at the time of order acceptance and which will result in additional outlay. This shall apply, in particular, to hazardous goods within the meaning of § 4 and particularly to waste requiring supervision.

§ 7 Remuneration and return of metal

- a) In the event that the precious metals extracted from the material, or other metals for which payment can be made, are purchased, the buying-in prices shall be determined based on the metal prices prevailing on the settlement date.
- b) Should the partner require a later settlement date, he must notify HRA in writing at least one week before the agreed period expires.
- c) If the return of the precious metals has been agreed, they shall be returned at the expense and at the risk of the partner.
- d) Furthermore, in the event of a return, HRA shall be entitled to select the packaging, shipping method and transport route at its best discretion. In this connection, the undisputed acceptance of the material consignment by the forwarding agent or carrier shall serve as evidence of proper packaging.
- e) Furthermore, HRA shall also be authorised to take out insurance for transport or valuables in transit on behalf of and at the expense of the partner.
- f) § 1, point a) shall remain unaffected by points d) and e).

§ 8 Payment

- a) The due date for payment of the invoice from HRA shall begin with receipt of the invoice. Deviations are possible in accordance with § 1, point a).
- b) Should a claim for payment appear to be in jeopardy for particular reasons, or should the partner have failed to make a payment within the agreed deadline period, HRA shall be entitled, without the further consent of the partner, to withhold, offset and sell in its own name the metal quantity resulting from the existing orders whose market value corresponds to or partially covers the amount of the debt. The partner shall bear the costs in this case.
- c) Furthermore, HRA shall reserve the right to demand advance payments or securities, in particular if, with respect to the partner, circumstances arise or become known that would indicate that payment of the debts owed to HRA is in jeopardy. Should the partner fail to comply with these demands, HRA shall have the right to withdraw from the contract. The partner shall bear any costs incurred up to that point.
- d) Furthermore, HRA shall have the option to demand compensation from the partner for any inconvenience or damage that HRA should suffer as a result of the withdrawal from the contract. Moreover, in the event of a credit note being issued for the metal value resulting from the reworking, HRA shall be entitled to offset the amount of the reworking invoice against the metal value contained in the credit note, or to deduct it from the payment to be made. HRA shall be entitled to withhold the goods / precious metals until such time as the invoice is paid in full.

§ 9 Transfer of ownership

- a) The partner shall retain ownership of the metals supplied or the metals to be recovered by HRA for the entire reworking period. In the event that the materials are combined or mixed with foreign material, the partner shall have co-ownership at least. However, HRA shall be entitled to restore the partner's sole ownership at any time through separation.
- b) Every payment made by HRA, whether it be an advance payment or final account, whether it be in money or metal, shall result in a transfer of ownership of the respective goods. Insofar as such an (advance) payment is made for goods in the partner's possession, said partner must at his own expense ensure that the insurance is sufficient to cover any loss of the goods. The goods must be separate from the partner's own material.

§ 10 Complaints

- a) Complaints of any kind must be received promptly by HRA in writing, at the latest within 2 weeks of receipt of the invoice and return.
- b) If a complaint about the quality of the metals or of the precious metal products or compounds supplied by HRA is upheld, they shall be exchanged for faultless goods or a credit note for the value shall be issued.
- c) Claims made by the partner in excess of this with regard to material damage, financial loss or other damage (e.g. resulting from pre-contractual, contractual liability or from wrongful acts etc.) shall only be compensated to the amount of the risk cover, insofar as the partner quantifies the damage precisely and has provided evidence for the extent of the damage.
- d) Should the partner fail to exercise a complaint within the period specified in point a), any subsequent complaint shall be excluded.

§ 11 Delivery periods

- a) Delivery periods shall only apply if they have been expressly confirmed by HRA in writing (cf. § 1, point a). Should the reworking material supplied differ in terms of the composition and quantity of the original agreement, extended delivery periods are permissible.
- b) In the event of force majeure within the meaning of § 13, points a) and b) the provision stated therein shall apply.

§ 12 Precious metal trading and precious metal transfer transactions

- a) Orders placed by the partner over the phone shall be binding upon approval by HRA.
- b) The partner shall bear any loss resulting from transmission errors, misunderstandings or errors in telephone calls made with the partner or with third parties, provided that there is no fault on the part of HRA.
- c) HRA may reverse (cancel) by means of a simple entry any credit notes that are undertaken as a result of an error, typing error or for other reasons, without there being a corresponding order.

§ 13 Liability

- a) The partner shall be liable in the event of an infringement against the provisions in these T&C governing the supply of materials. This shall apply in particular to the declarations within the meaning of § 3 that, due to their hazardous nature or their hazardous or interfering components, loss or detriment can occur.
- b) The partner shall be liable for all loss and detriment which are attributable to the hazardous nature of the material or its hazardous or interfering components. This liability shall end when the material has been completely reconditioned and disposed of.
- c) However, should the material in question be a material with ongoing detrimental effect, the partner's liability shall continue until such time as the detrimental effects have fallen below the permissible values. This shall apply, in particular, to radioactivity.
- d) Only in cases of intentional or grossly negligent, improper handling shall HRA be liable for damage and loss of material that is in its possession for processing. Claims made by the partner in excess of this with regard to material damage, financial loss or other damage (e.g. resulting from pre-contractual, contractual liability or from wrongful acts etc.) shall only be compensated to the amount of HRA's risk cover, insofar as the partner quantifies the damage precisely and has provided evidence for the extent of the damage.
- e) The amount of the claims is limited to the respective material value. Claims for damages by the partner or by one of his customers, irrespective of the type, are generally excluded with respect to HRA in the event of force majeure within the meaning of § 15, points a) and b).

§ 14 Force majeure

- a) In cases of force majeure (earthquake, war, labour, energy and raw material shortages, official orders, stoppages, riots, looting and similar events), in which the availability of the required metals cannot be ensured, HRA shall, for the duration of the impediment, be released from meeting the contractual obligations affected.

§ 15 Data processing

- a) HRA shall be entitled to process and to save all data relating to the business relationships with the partner within the meaning of the Data Protection Act.

§ 16 Charges

- a) Taxes, duties and other charges that are levied on the goods and associated documents in the case of supplies from abroad, within or outside the Republic of Austria, shall be borne by the partner.

§ 17 Place of performance and place of jurisdiction

- a) The place of performance and place of jurisdiction for all obligations arising from the contract are the HRA works in A-5400 Hallein.
- b) Any payment obligations with respect to HRA shall only be deemed to have been met when the respective payment is entered in the company account at the place of payment stated on the invoice and HRA is able to dispose of the amount. In the event of § 8, point d) the payment obligation owing to HRA from the contract shall be deemed to have been met as soon as the opposed values (cf. § 8, point d) have been offset against each other.

§ 18 Further provisions

- a) The law of the Republic of Austria shall apply to HRA contracts under exclusion of The Hague Uniform Law on the International Sale of Goods.
- b) Should individual provisions of these T&C be legally ineffective, the remaining part shall remain unaffected.
- c) In the event of partial invalidity, the contracting parties are required to adjust the passage concerned without delay. Should this fail, the statutory provisions of the Republic of Austria shall apply.
- d) The German-language version is the legally binding version of the T&C. The German version shall apply in case of doubt in the event of contradictions, misunderstandings or errors resulting from the translation in the foreign-language version.