

## TERMS OF PURCHASE

### Scope, key definitions and Company information

- Hindustan Platinum Private Limited the “Company” or the “Purchaser” with CIN: U74999MH1961PTC012143 is a company registered under the Companies Act 1956 having its registered office at C-122, TTC Industrial Area, Pawane, Navi Mumbai -400 703, India.
- The relevant tax and trade information for the Company is given below:

PAN	AAACH1111J
TAN	MUMH00234D
GOODS AND SERVICES TAX NO	27AAACH1111J1Z2
IMPORTER EXPORTER CODE(IEC)	0388166088

- The term “Vendor” shall mean the supplier/seller/vendor named in the purchase order (“PO”) and supplying the goods and/or Services as specified in the PO.
- The term “goods” shall mean any material, metals (including precious metal whether scrap, pure or spent), equipment, scrap, machinery, spare parts and any other goods, as described in, and whose specifications are set out in, the PO.
- The term “services” shall mean all services rendered by the Vendor to the Company, whether or not in relation to the goods supplied by the Vendor, and including, but without limitation, any technology, know how, after sales support, maintenance, training, processing, refining and other services, as more particularly set out in the PO.
- The term “Terms of Purchase” shall mean these terms of purchase, instructions and specifications as set out herein and attached to, or referenced in, the PO.
- “Intellectual Property” shall mean all patents, rights to inventions, utility models, industrial designs, copyright and related rights, trademarks or rights to sue for passing off, service marks, tradenames, unfair competition rights, trade, business and domain names, designs, rights in goodwill, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in



each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

- “Work Product” shall mean work product produced or created by the Vendor or its sub-contractors under the PO (whether individually or jointly with the Company), and includes, but is not limited to, inventions, analysis, suggestions and other contributions, discoveries, compounds, reports, memoranda, process concepts, operations designs, drawings, devices, models, or other materials of any nature, or information relating to any of the foregoing, which are or were generated in connection with the PO.
- The Terms of Purchase shall be deemed to form an operative and integral part of the PO.
- The Terms of Purchase and the PO and a definitive agreement, executed between the Company and the Vendor, if any, shall together constitute the entire agreement between the Company and the Vendor with respect to the supply of the goods and/or services as specified in the PO. Unless otherwise agreed between the Company and the Vendor in writing, these Terms of Purchase shall supersede and override: (i) all discussions, proposals, communication (whether oral or in writing), agreements, contracts or writings between the Company and the Vendor; and (ii) the terms or conditions of sale of the Vendor.
- If there is any inconsistency or conflict between the PO and the Terms of Purchase, then unless otherwise stated in the PO, the Terms of Purchase shall prevail to the extent of such inconsistency or conflict. If there is any inconsistency or conflict between a definitive agreement executed by the Company and the Vendor, if any, and the Terms of Purchase then the Terms of Purchase shall prevail to the extent of such inconsistency or conflict.
- Any amendment to the terms of the PO or these Terms of Purchase shall be valid and binding only if issued by the Company in writing and acknowledged by the Vendor in writing.

### **Confirmation of PO and Validity**

- The purchase of goods or services by the Company under the PO is subject to the Vendor acknowledging the PO in writing (either through an electronic signature or an email confirmation or a physical execution or facsimile transmission or in any other written manner) within 7 (Seven) days from the date of receipt of the PO by the Vendor. It is clarified that the delivery of goods or services or any action or communication by or on behalf of the Vendor indicating acceptance of the PO or the commencement of performance of the PO or any part thereof shall constitute an unqualified acceptance of the PO and these Terms of Purchase by the Vendor and accordingly, shall be binding on the Vendor. It is further clarified that acceptance of the PO by the Vendor shall also be deemed to be an unqualified acceptance by the Vendor of these Terms of Purchase and shall be binding on the Vendor.



- Notwithstanding sub clause (a) above, the Company may, at its sole discretion, cancel the PO by intimating the Vendor in writing, if the Vendor has not acknowledged the PO as per sub clause (a) above within 7 (Seven) days from the date of receipt of the PO by the Vendor.
- Any additional or modified terms proposed by the Vendor in response to, or as part of the acknowledgment of the PO shall be deemed to be an express rejection of the PO by the Vendor and shall not be binding on the Company or the Vendor.

### **Warranty, Inspection and Rework**

- The Vendor warrants and undertakes that:
  - the goods supplied under the PO are free from defects or faults in material and workmanship;
  - the goods supplied under the PO match the description and specifications communicated by the Company to the Vendor;
  - goods supplied under the PO are new, of merchantable quality and free from defect or fault;
  - the goods supplied under the PO are fit for their intended purpose;
  - workmanship, spares and materials used by the Vendor, and goods supplied are in strictly as per the drawings, specifications and samples and applicable standards and codes and will be suitable for the purpose expressed or implied in the PO or otherwise communicated by the Company;
    - the Company will have the full benefit of any manufacturer's warranties; and
    - the goods and their use by the Company will not infringe any patent, trade mark, copyright, industrial design or other industrial property right and the Vendor agrees to indemnify the Company against all costs and liabilities resulting from any infringement or alleged infringement;
- The Vendor warrants and undertakes that:
  - the services rendered under the PO will be as per the key performance indicators communicated by the Company to the Vendor;
  - the services rendered under the PO will be provided with such standards of skill and care normally exercised by qualified and experienced professional or tradespersons in the performance of similar services; and
  - the services correspond in quality with demonstration provided if any by the Vendor to the Company.
- The Vendor warrants and undertakes that the Vendor shall comply with, and shall ensure its sub-contractors, if any, comply with, the 'Responsible Sourcing Policy'[ Available with the Company on request ] for sourcing of materials/ metals for refining of silver, which the Company is required to be comply with as a London Good Delivery Refiner.
- The Vendor warrants that it is aware of and will comply with all laws and statutory compliances, including but not limited to labour laws, environment laws, import and



export laws, government clearances, etc., as may be applicable in relation to the goods and services being rendered or delivered under the PO.

- Vendor further warrants that no claim, lien, or action exists or is threatened against Vendor that would interfere with Company's rights under the PO; and goods and services supplied or rendered under the PO do not infringe any proprietary or intellectual property right of a third party.
- Vendor also warrants that the services will be performed with the highest degree of skill and judgment exercised by recognized professionals performing the same or similar services.
- The warranties and undertakings of the Vendor set out above shall survive for a period of 6 (Six) years from the date of expiry of the term or termination of the PO.
- At any time after the delivery of goods or services, the Company may, at its sole discretion, reject goods and/or services that do not comply with the Company's acceptance criteria for a refund or require Vendor to repair or replace such goods or re-perform such services without charge and in a timely manner. At any time after the delivery of goods, the Company may, Company may return non-conforming goods to Vendor at Vendor's expense.
- Without prejudice to the warranties and undertakings of the Vendor or the Company's right to return the goods as set out above, all goods and all material used for the goods shall be subject to inspection and test by the Vendor and thereafter by the Company. Final inspection shall be by the Company at the Company's plant or premises.
- Goods, material, workmanship or services that are not of required tolerances and specifications may be rejected at the expense of Vendor, including transportation both ways, and testing costs (within 15 (Fifteen) days after notification of rejection) and Vendor shall bear all risks of rejected goods and services. In the event rework is necessary due to non-adherence to specifications due to the fault of the Vendor, the Company, at its own discretion may rework same and charge back to the Vendor at the prevailing rates.

### **Sub-contracting**

- The Vendor shall not, without the prior written consent of the Company, assign or subcontract the PO or any part manufacture or goods or any part thereof or the rendering of services any part thereof, save and except for procurement of raw materials and minor items which have been approved by the Company in advance.
- Subject to (a) above, The Vendor shall procure that the sub-contractor shall comply with all the terms of the PO and these Terms of Purchase and the Vendor shall be liable to the Company for any breach, violation or non-compliance by the Company of the terms of the PO or these Terms of Purchase.



## Packing

- Goods processed and supplied against this PO shall be suitably and properly packed and the Vendor shall ensure that all declarations set out in the packages are in compliance with all applicable law, confirming to any special conditions/specifications stipulated by the Company for safe and /or undamaged transport. In case of dangerous or hazardous goods, the Vendor shall submit details of the packing and transportation plan to Company for confirmation prior to shipment.
- All packaging and delivery charges, including freight, shall be borne by the Vendor and the Company is not liable to pay for the same.

## Price

- The price/rates set out in the PO shall be final and conclusive and no changes to the pricing/rates shall be permissible during the execution of the PO. Payment for services rendered shall be subject to necessary withholding or tax deducted at source as per the applicable rates.
- The prices/rates governing the PO shall exclude, GST at the rate then applicable, but shall include all other costs incurred by the Vendor in relation to the goods/services, including but not limited to the cost of delivery, cartage and freight, testing, certification, packaging, handling, storage, insurance, taxes, tariffs, duty and excise travel and accommodation costs and any delivery costs and expenses. The prices/rates of goods and services includes, and Vendor shall be responsible for all applicable taxes, impositions, duties, fees, and other charges. Delivery of goods and services shall be at the Company's manufacturing facilities, warehouse or any place specified in the PO. Any ex-works or ex-warehouse pricing of the Vendor, non-conformity with transport requirements or any supplementary cost incurred due to expedited delivery to meet the delivery deadline shall be borne by the Vendor.
- For deliveries involving installation, commissioning, the risk in the goods transfers from the Vendor to the Company, upon the goods functioning/becoming operational and for deliveries not involving installation or commissioning, the risk in the goods or services transfers from the Vendor to the Company upon receipt by the Company of such goods or services at the designated place of receipt.

## Time of Delivery

- Time shall be of the essence.
- If the Vendor fails to deliver the goods /services within the time prescribed under the PO, the Company may at its sole discretion:
  - Treat the PO as cancelled at any time before accepting such delivery and recover any loss or damage incurred due to such delay from the Vendor.
  - Purchase the goods/services ordered or any part thereof from a substitute Vendor, in which case the Vendor shall be liable to pay the Company not only



the difference between the price at which goods or services have been so purchased and the price calculated at the rate set out in the PO, but also any other loss or damage the Company may suffer. Decision of the Company in such events shall be final and binding.

- Without prejudice to the foregoing, the Company may accept late delivery, subject to deduction in payment of 1% (One percent) of the total order price for every week or part thereof of the delay toward liquidated damages subject to maximum deduction of 25% (Twenty five) percent of the order price.
- For the purpose of determining the timelines for deliveries involving installation, commissioning or rectification, the relevant point in time shall be the date of the acceptance of the goods/services.

## Invoice and Payment

- The Company shall pay all accurate and properly submitted invoiced amounts due to Vendor within [90] days after the Company receives such invoice, except for any amounts disputed by the Company. Without prejudice to any other right or remedy it may have, the Company shall have the right to set off any amount owing to it by the Vendor against any amount payable by Vendor to the Company under the PO.
- The Company shall not be obligated to process invoices that are not compliant with the instructions contained herein or the PO.
- All invoices should be raised in the name of Hindustan Platinum Private Limited, C-122, TTC Industrial Area, Pawane, Navi Mumbai -400 703, India.
- The original hard copies of all invoices should be submitted in triplicate duly bearing the Vendor's GST information, if applicable, and supported by requisite documents as specified in the PO along with the description of material, quantity, PO number and date. The invoices should be accompanied with the Vendor's challan numbers duly receipted by the Company/ Company's designated consignee. In case of Vendors who are non-residents, the soft copies of the invoices may be submitted with the Company.
- The Vendor shall be required to provide the invoice to the Company in proper form and manner as prescribed under the GST rules and regulations as may be applicable from time to time. The Vendor shall comply with all the provisions of all applicable laws, including but not limited to ensuring that the GST credit of the tax charged by the Vendor is not denied to the Company due to any non-compliance at the Vendor's end. Any failure to comply with this condition would be considered as a breach of these Terms of Purchase by the Vendor.
- Payment for goods delivered or services rendered, provided they are not rejected by the Company shall be made as per the terms stated in the PO.
- Notwithstanding any of the above, any invoice without reference to the number and date of the PO shall be not processed for payments. Where invoices are being raised for a particular period, they must be received by the Company within a week of expiry of the period being billed for.



- Where the Vendor is required to provide material testing, test records or quality control documents or any other documentation, the PO shall not be considered to be executed and the Company shall not be required to process the invoice unless such requirements have been completed.
- For all international Vendors, soft copies of invoices can be accepted to process invoices in so far as they are not required as compulsory documents for transit or by banks. The Vendor shall send such invoices to the Company's email addresses. Invoices which are not signed manually should clearly mention that these are computer generated and do not require a manual signature or should be digitally signed.
- All goods or services shall be subject to inspection, test, acceptance or rejection.

## Termination

- The Company may terminate the PO:
  - if any application is filed or proceedings are initiated for liquidation or bankruptcy or insolvency of the Vendor or if a receiver, liquidator, custodian is appointed of the whole or any substantial part of the assets of the Vendor or Vendor enters into any scheme or arrangement for settlement or compromise with its creditors or stakeholders;
  - if the Vendor commits any material breach of its obligations or warranties under the PO or these Terms of Purchase or misrepresents; or
  - if the Vendor ceases to hold any necessary authorizations or registrations in order for it to carry out its obligations under Vendor or to conduct its business.
- Notwithstanding anything to the contrary, the provisions of Clause 10 (Intellectual Property), Clause 16 (Confidentiality), Clause 19 (Governing Law and Dispute Resolution) and Clause 11 (Indemnity) and this Clause 9 (Termination), shall survive the termination of PO, together with such other provisions of the PO or these Terms of Purchase , which expressly or by implication will survive termination.
- Termination of the PO shall not affect the rights and obligations of the Company or the Vendor that accrued prior to the effective date of such termination.
- After termination of the PO, the Vendor shall forthwith hand over all the machines, tools, drawings, equipment, material, documents, etc. belonging to the Company and which are in the Vendor's custody.
- The Company may at any time instruct the Vendor to suspend part or all of the supply of goods and/or services. During suspension the Vendor, without any cost to the Company, shall protect, store and secure such part or all of the work or goods against any deterioration, loss or damage or other losses. All work so suspended shall be resumed by the Vendor based on a schedule mutually agreed upon between the Company and the Vendor.



## Intellectual Property

- Nothing in the PO or these Terms of Purchase is intended to grant any rights to the Vendor or its sub-contractors under any patent, design, copyright, trade secret or other Intellectual Property right of the Company, nor will the PO or these Terms of Purchase grant to the Vendor or its sub-contractors, any rights in or to the Confidential Information. The PO or these Terms of Purchase does not authorize the Vendor or any of its sub-contractors to use Confidential Information for development, experimentation, optimization, patent applications or product registration or for any other purpose, save and except for any activity forming part of the PO, and the Vendor acknowledges that any such use is outside the scope of the purpose of the PO. In particular, the Vendor agrees that the Confidential Information will not be used by the Vendor to interfere or provoke interference with, in any manner whatsoever, any patent application that the Company has filed or may file with respect to its Intellectual Property, Confidential Information or Assigned Intellectual Property, and will not be used by the Vendor to expand, amend, change or alter any claim in any pending patent application or to claim, cover or dominate any invention, process or product (whether or not patentable) disclosed in the Confidential Information.
- Any Work Product, and all proprietary rights and rights to Intellectual Property therein, including the right to commercially exploit the same, shall be and is the sole and exclusive property of the Company.
- The Vendor (i) shall assign and does hereby exclusively and irrevocably assign to the Company, and (ii) shall procure that its sub-contractors and the respective employees/consultant of the Vendors and sub- contractors, exclusively and irrevocably assign and have executed all necessary documents (to the Company's satisfaction) in favour of the Company to exclusively and irrevocably assign to the Company, exclusive, irrevocable and royalty free worldwide right in all Intellectual Property comprised in the Work Product or conceived or first reduced to practice pursuant to PO, by the Vendor or its sub-contractors (collectively, the "Assigned Intellectual Property"). The Company shall, at no additional consideration, have the exclusive, irrevocable and royalty free worldwide right to such Assigned Intellectual Property, including to the right to commercially exploit the same.
- The Vendor shall, and shall procure that its sub- contractors, cooperate with the Company in the enforcement and perfection of the Company's rights under these Terms of Purchase.
- The Vendor agrees to indemnify, defend and hold harmless, the Company and its officers, directors and agents from and against all losses, claims, actions, damages, costs and expenses arising out of or in relation to any claims for infringement or violation of intellectual property or proprietary rights of any third party pursuant to any goods or services delivered by the Vendor.





## Indemnity

- The Vendor shall defend, hold harmless, and indemnify the Company and its affiliates and their respective officers, directors and agents from any loss, damages, liabilities, claims or actions (including without limitation costs, expenses and attorneys' fees) arising from (a) infringement or violation of any intellectual property rights of any third party by the Vendor or its employees or sub contracts or other representatives; (b) breach of Vendor's obligations under the PO or these Terms of Purchase; or (c) breach of any warranty provided or deemed to have been provided by the Vendor as per the PO or these Terms of Purchase; or (d) gross negligence, fraud or wilful misconduct on part of the Vendor or its employees or sub-contractor or other representatives; or (e) violation or infringement of the intellectual property rights of the Company; or (f) violation or non-compliance with applicable law by the Vendor or its employees or sub contracts or other representatives; or (g) breach or violation of any safety or security related laws, requirements or procedures or protocols by the Vendor.

## Safety and security

- The Vendor shall comply with all applicable laws and with the requirements of any public authority or agency, including, without limitation, those relating to safety, occupational health, environmental protection and regulations and construction works, and all regulations and orders made thereunder, together with all rules and procedures issued by the Company from time to time and with all directions and instructions from the Company.

## Compliance with laws

- The Vendor shall: (i) comply with all applicable laws, rules, and regulations, including, without limitation, laws governing anti-money laundering, anti-corruption, anti-bribery, human rights, and environmental health and safety; and (ii) maintain in effect all licenses, permissions, authorizations, consents, and permits necessary to carry out Vendor's obligations under the PO and these Terms of Purchase.
- The Vendor shall, and shall ensure that its sub-contractors shall, obtain and maintain all requisite environmental licences (all of which are valid and subsisting) and shall at all times comply with all applicable environmental law and with the terms and conditions of all environmental licences.

## Insurance

- The Vendor shall, at its own cost and expense, obtain and maintain all applicable and appropriate insurance, (including, without limitation, business, workers' compensation, errors and omissions, professional, commercial and general liability insurance) in an amount consistent with Vendor's industry practice and as required



under applicable law. Each policy shall name the Company as a loss payee or additional insured, as appropriate.

### **Force Majeure**

- The Company shall not be liable for failure to make any payments to the Vendor or to accept the delivery of goods or services, if such acts of failure are due to any force majeure event such as fire, earthquake, hurricane, floods, or any natural calamities or transportation embargoes, civil commotion, riots, or any other similar reasons or circumstances beyond the control of the Company.

### **Confidentiality**

- The Vendor shall keep confidential all information belonging to the Company or its affiliates including information obtained pursuant to or acquired as a result of the PO (“Confidential Information”). Confidential Information shall include, without limitation: (i) the fact that the Company is conducting research or development in any particular area or intends to develop or market any product or service; (ii) the terms of PO or any definitive agreement which the Company may have executed (or may be negotiating) with the Vendor; (iii) non-public information concerning the business or finances of the Company; and (iv) any other information the disclosure of which might harm or destroy a competitive advantage of the Company.
- The Vendor shall not, at any time, directly or indirectly, disclose any Confidential Information of the Company, nor shall the Vendor use any Confidential Information, except for the purpose of carrying out the PO. The Vendor shall not, at any time, directly or indirectly publish or disclose to any third party, any Confidential Information.
- The Vendor shall not advertise, publish or release, information or statements to the media or the public concerning the PO or the operations of the Company, without the prior written approval of the Company.
- If the Company furnishes the Vendor with documents or goods or material belonging to the Company or are made by the Vendor for the Company such as drawings, documents, specifications, material or equipment, etc, then the same shall be (i) kept strictly confidential by the Vendor; (ii) shall be used by it only to execute the PO; and (iii) shall be returned to the Company after completion or termination of the PO, unless already consumed pursuant to the PO.
- On demand by the Company at any time or on completion of the PO, the Company’s any drawings, documents, specifications, etc. whether made by the Vendor or furnished by the Company shall be returned forthwith by the Vendor to the Company. The Vendor shall under no circumstances, allow such drawings, documents, specifications, etc to be used or accessed by the Vendor or any third party.



## Relationship of the parties

- Nothing in the PO or these Terms of Purchase (or any of the arrangements contemplated by it) shall be deemed to constitute a partnership between the Company and the Vendor, nor constitute the Vendor as the agent of the Company for any purpose, or entitle the Vendor to commit or bind the Company in any manner.

## Severability and Waiver

- If any provision of the PO or the Terms of Purchase is found to be void or unenforceable, but would be valid or enforceable if some part of it were deleted or the period or area of application reduced, the restriction shall apply with such modifications as may be necessary to make it valid. Further, the provision found to be void or unenforceable shall be amended with such modifications as may be necessary to make it valid.
- No failure or delay by the Company in exercising any right or remedy provided by law under or pursuant to the PO or these Terms of Purchase shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

## Governing law and dispute resolution

- The PO and the Terms of Purchase shall be governed by, and construed in accordance with the laws of India, without regard to conflict of law principles. Subject to Clause 19(b) below, the courts of Mumbai, India shall have exclusive jurisdiction in relation to all matters arising out of the PO or the Terms of Purchase.
- The parties agree to resolve any dispute arising out of PO or the Terms of Purchase by an arbitration that is conducted by a sole arbitrator in accordance with the Arbitration and Conciliation Act, 1996 and any statutory amendment or repeal thereto.
- Customary trade terms shall be interpreted in accordance with the most recent INCOTERMS.

## Counterparts

- The PO may also be delivered by means of email or facsimile transmission and in any number of counterparts, each of which shall be an original and all of which, taken together, shall constitute one and the same instrument.

