

General Terms and Conditions

The following Terms and Conditions are a translation of the German version and are construed according to German Law. If the English legal meaning differs from the German legal meaning, the German meaning shall prevail.

I. Scope of Application

1. The present General Terms and Conditions shall apply only with respect to commercial customers within the meaning of § 14 BGB (German Civil Code), they shall not apply to consumers.

2. These General Terms and Conditions shall apply to the entire business relationship with our customers. They shall apply in particular to all sales, deliveries and services effected by us to the customer. They shall additionally apply to sales, deliveries and services effected by the customer to us, if and to the extent that products containing precious metals are concerned. Otherwise, our General Terms and Conditions of Purchase („Allgemeine Einkaufsbedingungen“) shall apply to the purchase of other products as well as to other services effected for us by the customer. We do not accept any opposing or deviating terms and conditions of the customer, unless they were expressly accepted by us.

3. Our General Terms and Conditions shall also apply to all future business, even if reference will not be made.

II. Deliveries

In addition to the General Provisions under section IV. hereof, the following provisions shall apply to all sales and deliveries.

1. Offer and Conclusion of Contract

1.1 Unless otherwise specified, our quotations are not legally binding and without engagement.

1.2 Any order shall be governed by the content of our written confirmation which may be sent with the invoice. Any objections of the customer against the content of the confirmation must be communicated without undue delay. Otherwise the contract shall take effect in accordance with the content of the confirmation.

2. Prices

2.1 In case it was agreed to pay the proportionate price for precious metal materials in Euros, any previously fixed price shall be binding. If we have not agreed upon any fixed price, the price of the precious metal portion shall be calculated on the basis of the daily market selling rate which is published on our website.

2.2 If the customer has a weight account for precious metal with us, handling shall be performed according section IV. 4.3 of these General Terms and Conditions.

2.3 The customer shall pay the processing costs (“facon“) for all precious metal products. These costs are primarily subject to individual agreement. As far as individual prices have not been agreed, our current price list shall apply.

2.4 Prices shall be ex works. Any costs for freight, packaging, insurance and other ancillary costs shall be borne by the customer.

3. Delivery of Precious Metals

In case the customer provides the required quantity of precious metals for the ordered goods, we may make the manufacture and delivery of ordered goods dependent on such prior provision by the customer. Any provision of the precious metals by the customer shall be for the account and at the risk of the customer.

4. Delivery and Passing of Risk

Dispatch and transportation of the goods shall be at the risk and expense of the customer. The risk shall pass to the customer as soon as the goods leave our premises, at the latest upon handing them over to the customer. If we choose the mode of shipment, the transport route or the shipping agent, we shall only be liable in case of gross negligence with regard to such selection.

5. Delivery Period and Delay in Delivery

5.1 The delivery period shall start with the calendar day we confirm the order, however not before all details, including but not limited to the receipt of any agreed prepayments, deliveries of precious metals or provision of securities, have been fully cleared.

5.2 In the event of Force Majeure, any interruption of our business operations or labour disputes beyond our control, the delivery period will be appropriately extended. The same shall apply in case material and/or accessories are not delivered to us or are delivered late without any mistake of us.

5.3 If delivery is delayed for reasons for which we are responsible, we shall be liable, in case of gross negligence, for the damage suffered by the customer attributable to the delay. In the event of slight negligence, our liability shall be limited to proven damage caused by the delay and furthermore the amount of 5 % of the sale price (excluding the proportionate material price for the precious metals) per complete week of delay, based only on the part of the delivery affected in the intended purpose by our delay, however not exceeding the maximum amount of 50%.

6. Material Defects

6.1 The customer is obligated to - without undue delay - inspect the goods and to notify us of any evident and noticeable defects or any incomplete delivery. Any hidden defects must be communicated without undue delay as they are discovered. Otherwise the delivered goods shall be deemed accepted.

6.2 In cases of defects for which we are responsible, we may discharge our liability to perform the contract by subsequent performance, at our choice, by either eliminate the defects of the delivered goods or replace them by delivering new goods free of defects .

6.3 Claims for damages asserted by the customer shall be subject to the provisions under section IV. 3 hereof

7. Statute of Limitations

The general period of limitation for claims of the customer due to quality defects shall be one year from delivery. Such limitation period shall also apply to the contractual and non-contractual claims for damages of the customer which are attributable to the defective goods.

The statutory periods of limitation for damage claims shall apply in the following cases:

- claims for case of injury to life, body or health;
- claims under the German Product Liability Act;
- fraudulent concealment of a defect;
- in cases of absence of a guaranteed quality;
- if the delivered goods are a building or an object that, in conformity with its customary manner of utilisation, has been used for a building and has caused its defectiveness;
- in the event of recourse claims based on consumer goods purchasing regulations.

8. Retention of Title

8.1 We retain title to all delivered goods until the customer has fully satisfied all payment obligations arising out of the business relationship, including future claims, including side costs, as well as our claims from current account balances, including but not limited to claims from weight accounts for precious metals. This shall also include claims from bills of exchange and cheques as well as all claims on running account. In case the customer pays by bill of exchange, which might create the risk of recourse against us, we retain title until such risk is excluded.

8.2 If the customer is in default of payment or if it becomes apparent that our claims for payment are endangered by the customer's inability to perform such payments, we may claim surrender of the goods subject to reservation of title.

8.3 In the event of an attachment, seizure or other third-party intervention the customer shall notify us immediately thereof. The customer shall bear all costs necessary to interrupt such intervention and to repossess the goods delivered, to the extent such costs cannot be collected from such third party.

8.4 Subject to revocation for good cause, the customer shall be have the right to dispose of the delivered goods in the ordinary course of business. In particular it shall not be permitted to pledge the goods or use them as securities. The customer may only pass on goods subject to retention of title to any third party if the customer meets its obligations under the business relationship with us in due time.

In the event of resale, the customer already assigns to us hereby all and any claims from such resale, in particular purchase price claims, but also other claims relating to the sale, up to the total amount of our invoice (including value-added-tax), irrespective of the goods delivered being sold without or after processing by the customer.

Subject to revocation for good cause, the customer shall be entitled to collect the assigned claims on a fiduciary basis. Selling such claims in the sense of real factoring requires our prior consent. We may – for good cause - notify third-party debtors of the assignment of claims also on behalf of the customer. Notification of the assignment to a third-party debtor shall end the customer's right to collect the claim. If the right to collect the claim is revoked, we may require the customer to disclose to us the claims assigned as well as the debtors thereof, to provide us with all information required for collection, to hand over all relevant documents and to notify the debtors of the assignment.

Good cause in the foregoing sense shall include but not be limited to the customer being in default of payment, the customer having suspended his payments, in the event of insolvency proceedings having been initiated against him, bills having been protested or in the event of evidence indicating an over-indebtedness or imminent insolvency of the customer.

8.5 Processing and/or transformation of any delivered goods by the customer shall always be carried out on our behalf. We shall be deemed to be the manufacturer in the sense of § 950 BGB (German Civil Code), without any further obligation. If the delivered goods are processed together with other materials, we shall acquire joint title to the newly produced goods in proportion of the value of the invoiced amount to the purchase price of the other processed materials. In all other respects, the provisions applicable to the goods delivered shall also apply to the newly produced goods by such processing.

8.6 If the goods delivered are combined, mixed or blended with movable goods of the customer in a way that the customer's goods are considered to be the main thing, the customer already hereby assigns to us joint title to the main thing in proportion of the value of the goods delivered to the value of the other combined, mixed or blended goods. If the goods delivered are combined, mixed or blended with movable goods of a third party in a way that the goods of the third party are considered to be the main thing, the customer already hereby assigns to us its payment claims against the third party to the amount of the sum total of the invoice relating to the goods delivered.

The newly produced goods by combining or mixing, the title respectively joint title thereto as well as the assigned payment claims pursuant to the foregoing paragraph shall serve to secure our claims in the same way as the goods delivered themselves.

8.7 The customer undertakes to adequately insure all goods subject to retention of title at its expense and to our benefit against fire, breakage and water damage as well as against theft and burglary. In the event of a claim, as early as with the present, the customer shall hereby assign to us his claims arising from such insurance contracts. We hereby accept such assignment.

8.8 If or to the extent that retention of title or an assignment of claims is ineffective or unenforceable due to mandatory provisions of foreign law, any security comparable to retention of title or assignment of claims applicable shall be deemed as agreed. If the assistance of the customer is required thereto, the customer shall take all steps necessary in order to establish and maintain such security.

III. Recycling and Purchase

In addition to the General Provisions the following supplementary provisions shall apply to the recycling (precious metal recovery) and purchase of products containing precious metals.

1. Properties and Condition

1.1 Before conclusion of the contract the customer/supplier shall inform us in writing of any hazardous condition (e.g. toxic, corrosive, explosive, highly flammable or radioactive components) as well as of any harmful or obstructive components (e.g. chlorine, bromine, mercury, arsenic, selenium, tellurium, etc.) of the material provided by the customer/supplier (material to be processed) (Link: <http://www.c-hafner.de/en/leistungen-und-produkte/precious-metal-recycling/recycling-technology/forms/>). Such material may be delivered to us only with our prior written consent. The material to be processed must be appropriately packaged in consideration of any instructions provided by us.

1.2 The customer/supplier affirms to provide only goods that do not contain any forbidden substances specified in the Directive 2011/65/EU (RoHS). The customer/supplier furthermore affirms that all relevant substances contained in the goods as well as their utilisation have either already been registered under Regulation (EC) No. 1907/2006 (REACH regulation) or have been exempted from registration thereunder, furthermore that any necessary authorisation under the REACH regulation has been granted. If necessary, the customer/supplier shall also prepare and submit to us the safety data sheet in accordance with Annex II of the REACH regulation. If goods are delivered to us, which, according to international regulations, need to be classified as hazardous goods, the customer/supplier shall inform us thereof at the latest with its order confirmation.

1.3 The customer/supplier shall be liable to us for all and any damage resulting from failure to notify us of any hazardous or harmful condition of the material to be processed.

1.4 We reserve the right to increase the handling or processing costs as well as the right to extend the time periods for returning or acquiring the goods if any special condition of the material to be processed requires additional effort and expenditure and if we did not know of such condition at the time we accepted the order.

2. Delivery / Passing of Risk

The customer/supplier shall bear the costs and the risk of the delivery of the material to be processed until it is handed over to us or delivered to location designated by us. If we have agreed to pick up the material, risk shall pass to us when the material is handed over to us or to our shipping agent.

3. Settlement of Accounts

The material to be processed shall be melted by us into homogenous bars. Samples shall be taken from this process to determine the weight and content of the precious metals. We prepare a statement of account based on the results of this analysis and inform the customer/supplier thereof. Such statement will become binding if the customer/supplier agrees to it or if the customer does not object in writing within three working days after receiving the statement. Once the statement is binding we have the right to process the material further. In case the customer/supplier receives upon its request prior notification in text form on the result of our analysis, such prior notification shall be deemed as statement of account in the sense of this clause.

4. Handling via Weight Accounts for Precious Metals

The weights and contents of precious metals established in the statement of account shall be credited to the customer's weight account for precious metals. Depending on the specific agreement, the customer/supplier shall be either entitled to delivery of the corresponding quantity of precious metals or, in the event of an acquisition, entitled to payment of the acquisition price for the precious metals.

5. Compensation / Offsetting

The customer/supplier shall bear the remuneration for recycling as invoiced. We may offset the remuneration for recycling against the customer's claims, or assert rights of retention.

6. Purchase

6.1 If we enter into an acquisition agreement with the customer/supplier to buy precious metals from the customer/supplier, any specifically agreed price shall apply hereto, otherwise our daily acquisition rate. Such shall also apply if the acquired precious metals are obtained from recycling.

6.2 If an acquisition contract is concluded, the customer shall make the acquired precious metals fully available to us. If the customer/supplier does not provide us with the full amount of precious metals acquired we may, at our choice, require the customer/supplier to subsequently deliver us with the missing quantity of precious metals or, if we have already paid the acquisition price to the customer/supplier, require the customer/supplier to refund the exceeding payment in accordance with the missing quantity of precious metals. Furthermore, after setting an appropriate deadline, we may also assert claims for damages. Such damages may in particular be determined in a way that we procure the missing quantity of precious metals from an alternative source and, if applicable, assert a higher acquisition price as damages. The aforesaid provisions shall in particular also apply if, after recycling, it is found that the precious metal content does not comply with the previously agreed quantity before recycling.

IV. General Provisions

The following General Provisions shall apply to all business relations with the customer within the scope of these General Terms and Conditions.

1. Terms of Payment

1.1 Unless otherwise agreed, invoices concerning semi-finished precious metal products shall be paid net, without deduction, within 30 days of the date of the invoice. Invoices for precious metals and dental invoices shall be due for payment net, without deduction, immediately upon receipt. Unless otherwise agreed, any accounts payable with regard to precious metals shall be due for payment immediately.

1.2 Cheques and bills of exchange shall be accepted only on account of performance. Bills of exchange shall only be accepted with our prior written consent and shall not be deemed an extension of the term of payment. Any resulting discount charges shall be borne by the customer.

2. Offsetting and Retention

The customer may only offset counterclaims that are undisputed or finally adjudicated. The customer may only enforce a right of retention if such claim is based on the same contractual relationship.

3. Damages

3.1 In the event of wilful misconduct and gross negligence we shall be fully liable for damages, irrespective of which legal grounds they are based. We shall be liable for slight negligence only in the following cases: for damages resulting from the injury to life, body or health; for damages resulting from the breach of fundamental contractual obligations (obligations, which are essential and necessary to be performed for the proper execution of the contract and on which the customer regularly relies and may legitimately rely upon); in such case, however, our liability shall be limited to the compensation of foreseeable damages that typically occur.

3.2 The foregoing limitations of liability shall not apply to fraudulent concealment of defects, absence of an expressly guaranteed quality as well as to liability under the German Product Liability Act.

3.3 The legal provisions on burden of proof shall remain unaffected by the foregoing provisions.

4. Weight Accounts for Precious Metals

4.1 For our trading activities with precious metals we keep weight accounts for our customers based on the following provisions.

4.2 Weight accounts for precious metals are current accounts on which the claims from acquisitions and sales, services, including but not limited to recycling services, and other entries and debits (e.g. precious metal transfers) are booked in accordance with their nature and amount. The respective amounts are booked to the account by weight (fineness) in grams.

4.3 If the customer purchases precious metals we shall credit the customer's account with the respective amount. This credit entry constitutes the claim of the customer to be supplied with the credited amount in precious metal. The customer may also utilise a credit balance on the precious metal account by instructing us to deliver an amount of precious metals covered by the credit balance to a third party. The transfer to a precious metal account named to us by the customer shall be equivalent to a physical delivery effected by us. The order to deliver precious metals to a third party shall be deemed executed and the claim of the customer fulfilled if and when the precious metal has been credited to the account of the third party. Precious metals can also be delivered in the form of products containing precious metals or by availing oneself of services in which precious metals are used, in particular electroplating/electroforming services. The respective share of the precious metals contained in the products will be debited to the account of the customer. All and any transactions on the part of the customer with respect to the precious metal credited on the basis of the purchase contract shall be on condition that the customer has paid the purchase price.

4.4 If the customer supplies us with products containing precious metals, in particular in the form of material to be processed for recycling, such precious metal shall also be handled by way of precious metal accounts.

4.5 The customer may only require us to deliver precious metals if the customer's precious metal account has a corresponding credit balance and if we have no counter-claims against the customer.

4.6 Debit balances on precious metal accounts shall only be permitted if such has been specifically agreed with the customer. Unless otherwise agreed, we shall have the right to request repayment of the debit balance at any time. Instead of the delivery of precious metals we may also require the customer to pay the respective amount in Euros. The respective market rate (based on the first London Fixing) applied by us on the date the precious metal falls due, as communicated on our website, shall apply.

4.7 Credit balances on precious metal accounts shall not bear interest. Debit balances shall however bear interest.

4.8 We shall be entitled to reverse incorrect book entries on precious metal accounts due to errors, typing errors or other reasons by way of a simple accounting entry.

4.9 The customer shall receive a statement for all precious metal account accounting transactions specifying initial balance, accounting entry and current balance. Amounts shall be debited and credited for each business transaction on an ongoing basis with redeeming effect (German "Staffelkontokorrentkonto" – special form of current account).

4.10 At regular intervals or upon customer request we shall send the customer a balance confirmation. Such balance confirmation shall become binding upon the customer unless the customer objects to it in writing within a time period of two weeks from receipt of the confirmation. In the confirmation, we shall advise the customer of the consequence of not submitting an objection.

4.11 We shall be entitled to offset debit and credit balances on precious metal accounts. At our discretion, such offsetting shall either be by converting both balances into Euros and offsetting the Euro claims, which will then result in a claim in Euros, or by converting the credit balance into Euros, purchasing the respective amounts of precious metals and charging such to the debit precious metal balance.

If the customer has a credit balance in a precious metal account we shall have the right to offset such credit balance after its conversion into Euros against a money claim owed to us by the customer. We shall also have the right to offset a debit balance in a precious metal account after conversion against a money claim owed by us to the customer.

All conversions of balances in precious metal accounts shall be effected at the respective market rate for purchase and sale applied by us at the time of settlement. Offsetting ensures that the claims – to the extent that they correspond – shall be deemed expired at the point in time at which we were first able to off-set.

5. Right of Lien

5.1 The customer shall hereby grant us a right of lien to all assets of whatever type or nature which may come into our possession or under our control within the scope of the business relationship. This shall include all and any property and rights of every type and manner as well as claims the customer may have against us (e.g. from credit balances in precious metal accounts).

5.2 The lien shall secure all and any claims we may have against the customer in connection with the business relationship, i.e. all and any existing and future claims, conditional claims or claims subject to a time-limit, and statutory claims.

5.3 We will retain the assets subject to a lien under these General Terms and Conditions only in the event of a legitimate interest for security. We shall have the right to utilise the assets if the customer fails to meet its liabilities upon after date in spite of a reminder granting the customer a reasonable extension and only after a warning of utilisation of the assets in accordance with § 1234 [1] BGB (German Civil Code).

6. Release of Securities

Upon request of the customer we will release securities, if the realisable value of the securities to which we are entitled exceeds the value of our claims by more than 10 %, whereas the choice of securities to be released lies with us.

7. Place of Performance, Jurisdiction, Applicable Law

7.1 Unless otherwise agreed, place of performance for delivery, payment and all other obligations arising from the contractual relationship shall be Wimsheim.

7.2 In the event of any legal disputes arising out of the contractual relationship as well as its conclusion and effectiveness, our company's principal place of business shall have jurisdiction for both parties if the customer is a merchant or a public law entity. At our choice, we may also bring a legal action to the courts at the customer's principal place of business.

7.3 The contractual relationship shall be exclusively governed by German law. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

Wimsheim, September 2015