

General Terms for Weight Accounts for Metals and Precious Metals

SAXONIA Technical Materials GmbH, Hanau (As per: February 2018)



1. Scope of Application:

- (1) We manage weight accounts in dealings with metal and precious metals. These General Terms apply for the entire business dealings in connection with the weight accounts. Our General Terms of Sale and Delivery are subsidiary.
- (2) Amendments to these Terms of business will be offered to the customer at the latest two months before the amendment is to become effective. The customer's agreement is seen as given if he does not make his refusal known before the amendment becomes effective. The customer will be made aware of the effect of his agreement in our offer.

2. Property rights to the Account Balance:

- (1) We maintain separate weight accounts for each customer and each precious metal. The balances on individual accounts will not be stored separately. The individual account holders form a managed co-ownership. We are entitled to change the form and state of the metals and precious metals.
- (2) Every account holder is a joint owner to the amount of the current complete balance owned on his account in metal or precious metal. However, we are entitled, to reinstate the customer's single ownership through selection.
- (3) In the context of our administration of the community of owners, the existing total inventory of all owners is kept at our business premises at the following addresses without additional costs: Rodenbacher Chaussee 4 in 63457 Hanau.
- (4) When purchasing or selling metals or precious metals, the transfer of ownership will be completed once the amount is transferred onto the relevant account. For purchases of metals or precious metals by the account holder, however, this is subject to the condition precedent of full payment of the purchase price.

3. Negative Account Balance:

- (1) Weight accounts may only show a negative balance upon special agreement with the client.
- (2) Notwithstanding any deviant written agreements, we are entitled to declare due any negative account balances and set a reasonable period for repayment and, at our own discretion, to close the account at the customer's costs (on the basis of the current market price) by delivery or purchase, or any other method of replacement, of the requisite amount of metal, or precious metal.

4. Currency Account :

- (1) The customer requires a currency account to conclude any dealings of purchase or sale on the weight account.
- (2) The amount to be settled, incurred by the purchase of metal, or precious metal, will be taken from the currency account. After the sale of metal or precious metals, the profit will be credited to the currency account.

5. Account Statements with Weight Accounts:

- (1) The weight accounts are managed as a current account. We will issue a statement of the account in the last quarter of the year, unless nothing else has been agreed upon, in which all mutual entitlements which have arisen in this period are satisfied.
- (2) Complaints on the grounds of incomplete or incorrect account statements are to be made by the customer at the latest within six weeks after receipt; should he complain in text form, the period is seen as satisfied if the complaint is sent within the six week period. Should no complaint be made within this period, the account statement is seen as received. We will refer to this consequence in the account statement. The customer can demand a correct statement after the period has lapsed; he is however obliged to prove that his account was debited or credited incorrectly.

6. Reversal and Adjustment Entries:

- (1) We are entitled to reverse any mistaken credits made onto current accounts (for example resulting from an incorrect account number) by means of a debit post by the end of the next accounting period, as far as we are entitled to repayment by the customer (reversal entry). In such cases the customer cannot make any claims against the debit post, of which he has disposed to the amount of the credit.
- (2) Should we notice a mistaken credit after the statements have been sent and should we be entitled to repayment by the customer, we will debit his account to the amount to which we are entitled (correction entry). Should the customer lodge a complaint regarding the correction entry, we will re-enter the amount onto his account and file a claim to repayment in another way.
- (3) We will notify the customer immediately regarding reversal and correction entries.
- (4) Credits made as a result of error, a writing error or made for any other reason, without their having been commissioned, may be reversed by us by means of simple booking (cancellation).

7. Granting and Implementing Mandates; Damages in the case of Delays:

- (1) The content of mandates must be recognisable without doubt. Unclearly written mandates may be questioned and can lead to delays. Changes, confirmation or repetition of mandates must be labelled as such. Should a mandate be urgent, the customer is to inform us specially.
- (2) Mandates can be given in writing, text form, or orally.
- (3) Any damages caused by transferal errors, misunderstandings or errors resulting from telephone correspondence with the customer, or with third parties are to be carried by the customer as long as we are not culpable. The same applies for damages resulting from delays in conducting mandates which have not been clearly formulated.

8. Disposal of Account Balance:

- (1) The customer, at his own discretion, can demand the replacement of his account balance within the boundaries of the business relationship with us or the physical return of his account balance within a period in accordance with the general market practices. Figure 12 remains unaffected.
- (2) Should he demand the physical return, we are obliged to provide the customer with the metal, or precious metal in a quality usual for the industry. Place of the fulfilment for the return obligation is the registered offices of the company, as long as nothing else to the contrary has been agreed upon. We are only obliged to return the account balance to a different location upon prior agreement; in this case we are entitled to demand special remuneration to transport the metal, or precious metal, to this location.
- (3) Should the metal or precious metal have to be created, treated, or otherwise acquired in the desired form in order to fulfil the obligation to physically return the metal, or precious metal and deviant from section 1, the obligation is seen as fulfilled upon completion of the creation, treatment or other acquisition. In the case of unforeseen disturbances in the market, we are entitled to deny the physical return of the metal, or precious metal until the disturbance has passed. Should the disturbance take longer than 30 days, the customer can demand that we negotiate alternatives to fulfil our obligations.

9. Duty to Co-operate of the Customer:

- (1) The customer is to inspect any account statements, accounts, charts or any other calculations, notifications regarding the conduction of mandates or any other notification received by us immediately in terms of correctness and completeness and to lodge any complaints against them immediately.
- (2) Should any account statements or notifications not reach the customer in the way expected in normal business proceedings, he is to inform us immediately. This obligation includes any other notifications from us for which the customer is waiting.
- (3) The customer is obliged to inform us immediately of any change to his name, address, or the annulment or change of any power of attorney given to us. The notification or declaration is seen as received when it has been sent to the last address of which we are aware.

10. Exclusion of Liability:

- In cases of a slightly negligent infringement of contractual obligations, the fulfilment of which enables the proper implementation of the contract and upon the fulfilment of which the contractual partners may regularly trust, our liability is limited to the replacement of typical, foreseeable damages; in cases of the slightly negligent infringement of other contractual obligations, our liability is excluded. The limitation and exclusion of liability does not apply to damages resulting from damage to life, limb or health and in cases in which we are obliged to be held liable for other reasons.

11. Fees and Expenses:

- (1) The management of weight accounts is free of charge.
- (2) We are entitled to invoice the customer for any expenses incurred when we become active in his probable interests in fulfilling his mandate and those which we see as necessary under the circumstances.

12. Right of Lien

- (1) The customer accepts that we have a right of lien in all customer's assets in which we have obtained or will obtain possession in the context of our business relationship, and in all claims against us arising to the customer from his business relationship with us, now and in the future (collateral).
- (2) The right of lien serves to secure all existing, future and contingent claims arising to us against the customer from the business relationship.
- (3) If assets of the customer come into our possession under the reserve that they may only be used for a specified purpose (e.g. delivery of metals or precious metals for transfer to the weight account of another customer), the right of lien shall not extend to these assets.
- (4) We shall be obligated to release assets held as collateral at our discretion, if and to the extent that the realisable value of all collateral exceeds 110% of the collateral value according to section 2 on a more than temporary basis.
- (5) Should a customer fail to fulfil his obligations to us in due time, we shall have the right to utilise pledged assets even without an enforceable title, after the customer has been informed in writing of the utilization and been given a respite period. For customers where the agreement on the validity of these General Terms and Conditions of Business constitutes a mercantile transaction, the respite period shall be one week, otherwise it shall be one month.
- (6) If precious metals of the customer have been pledged in the context of this right of lien, we shall be entitled—at our discretion—to exercise our right to utilise the pledged assets by either bringing about a transfer of ownership in the assets to us upon unilateral declaration to the customer or through auction sale of the assets. The customer irrevocably agrees to such transfer of ownership to us. In this case, the customer's account will be credited with the amount corresponding to the current market value at the time of transfer of ownership.
- (7) If claims of the customer against us for the delivery of precious metals (e.g. from futures transactions) have been pledged in the context of this right of lien, section 6 above shall apply accordingly. We shall therefore be entitled—at our discretion—to credit the customer with the amount of the current market price of the precious metals to be delivered at the time of exercising our option right, or to sell the precious metals to be delivered.

13. Termination:

- (1) The weight account can be terminated by both contractual parties with a period of three months' notice.
- (2) The weight account can be terminated by all contractual parties without a period of notice when done on good grounds. Good grounds are if facts become apparent, the presence of which no longer make the continuation of the weight account reasonable for the party terminating the relationship after taking into account all individual circumstances and interests of the contractual parties. The infringement of significant contractual obligations or lack of capacity are examples of important reasons for termination.
- (3) Should a weight account be properly terminated by us in accordance with section 1, we are entitled to purchase the account balance, if more than 12 months have passed since the last account movement, the customer has been informed in writing and he has not objected within three months after notification has been received. In this case, the account holder hereby confirms the transfer of ownership to us. Upon purchase, we will credit the customer's currency account with the market price current at the time of purchase.
- (4) Figure 8 applies accordingly to the closure of the account after ordinary termination in accordance with section 1 and after an extra-ordinary termination by the customer in accordance with section 2.

14. Data Protection:

- (1) The customer's data will be saved in accordance with the requisite commercial and legal documentation of the process.
- (2) The data will only be forwarded to a third party, as long as this is requisite for the fulfilment of the contract. Requisite contractual fulfilment in this sense is the transfer of the customer's data to credit insurance and concern companies who wish to be involved in the management of balances on the weight accounts or the transfer of metal or precious metal.
- (3) The customer can demand information regarding the saved data.

15. Miscellaneous:

- (1) The Account and Business relationship is solely subject to German law.
- (2) The court with jurisdiction over our registered offices has jurisdiction for tradesmen for both parties. We are, however, entitled to file a law suit against our customer before his local court, or the court with jurisdiction over his branch.