1. Scope of Application:

1.1. in dealings with metal and precious metals Allgemeine Gold- und Silberscheideanstalt AG, Kanzlerstraße 17, 75175 Pforzheim (‘Agosi’) manages weight accounts. These General Terms for Weight Accounts for Metals and Precious Metals (‘General Terms’) apply immediately in terms of content for the entire business dealings in connection with the weight accounts. For consumers the General Terms for Weight Accounts for Metals and Precious Metals (Consumers) apply. Agosi’s General Terms of Sale and Delivery are subsidiary.

1.2. Amendments to these General Terms of Business will be offered to the customer at the latest two months before the amendment 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 notified of the effect of the agreement in Agosi’s offer.

2. Property rights to the Account Balance:

2.1. Agosi maintains separate weight accounts for each customer and each precious metal. The balances on individual accounts will not be split separately. The individual account holders form a managed co-ownership. Agosi is entitled to change the form and state of the metals of the accounts in the customer’s business premises at his own discretion. Without additional costs: Kanzlerstraße 17, 75175 Pforzheim and Am Hauptgittertorbahn 24, 75177 Pforzheim.

2.2. Every account holder is a joint owner to the amount of the current complete balance owed on his account in metal or precious metal. However, Agosi is entitled, to reinstate the customer’s single ownership through selection.

2.3. In the context of Agosi’s administration of the community of owners, the existing total inventory of all owners is kept at Agosi’s business premises at the following addresses without additional costs: Kanzlerstraße 17, 75175 Pforzheim and Am Hauptgittertorbahn 24, 75177 Pforzheim.

2.4. When purchasing or selling metals or precious metals, the transfer of ownership will be considered complete once the amount is transferred onto the relevant account, or precious metal by the account holder, however, this is subject to the contract precedent of full payment of the purchase price.

3. Negative Account Balance:

3.1. When an account holder shows a negative balance upon special agreement with the customer.

3.2. Notwithstanding any written agreedwer, Agosi is entitled to declare due any negative account balances and set a reasonable period for repayment and, at Agosi’s own discretion, to charge the customer the costs (on the basis of the current market price) for delivery or purchase, or any other method of replacement, of the requisite amount of metal, or precious metal.

4. Currency Account:

4.1. The customer shall have a currency account to conclude any dealings of purchase or sale on the weight account.

4.2. The amount to be delivered, 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:

5.1. When the weight accounts are managed as a current account. Agosi will issue a statement of the account in the last quarter of each year, unless nothing else has been agreed upon, in which all dealings of purchase or sale on the weight account of the customer are summarised.

5.2. 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. Agosi 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:

6.1. Agosi is entitled to reverse any mistaken credits made onto current accounts (for example resulting from an incorrect weight account number or by means of a debit post to the end of the next accounting period, as far as Agosi is entitled to repay an error on the 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.

6.2. Should Agosi notice a mistaken credit after the statements have been sent and should Agosi be entitled to reverse the entry, Agosi will debit his account to the amount of the credit. Should Agosi is entitled (correction entry). Should the customer lodge a complaint regarding the correction and the credit, he will enter the amount onto his account and file a claim to repayment in another way.

6.3. Credits made as a result of error, a writing error or made for any other reason, without having been commissioned, may be reversed by Agosi by means of simple booking (cancellation).

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

7.1. The content of mandates must be recognisable without dispute. Unclearly written mandates may be questioned by Agosi and delayed in changes, confirmation or repetition of mandates must be labelled as such. Should a mandate be urgent, the customer is to inform Agosi in another way.

7.2. Mandates can be given in writing, text form, or orally including by telephone. 

7.3. Any damages caused by transfer 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 Agosi is not culpable. The same applies for damages resulting from delays in conducting mandates which have not been clearly formulated.

8. Disposal of Account Balance:

8.1. The customer, at his own discretion, can demand the replacement of his account balance within the boundaries of the business relationship with Agosi or the physical return of his account balance within a period in accordance with the general market practices. Figure 12 describes the unsecured term.

8.2. Should he demand the physical return, Agosi is obliged to provide the customer with the metal, or precious metal in a quality usual for the industry. Place of the delivery of the metal, or precious metal, to this location. The customer requires a currency account to conclude any dealings of purchase or sale on the weight account of another customer), the right of lien shall not extend to these assets.

8.3. Agosi shall be entitled to release assets held as collateral at Agosi’s discretion, and if 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.

8.4. Should a customer fail to fulfill his obligations in due time, Agosi shall have the right to utilise pledged assets even without an enforceable title, after the customer has been informed in writing of the utilisation and been given a respite period. For customers where the agreement on the validity of these General Terms and Conditions constitutes a mercantile relationship, the respite period shall be one week, otherwise it shall be two weeks after notice. Should a mandate be urgent, the customer is to inform Agosi in another way.

8.5. If assets of the customer are pledged to Agosi’s account in the context of this right of lien, Agosi will be entitled—Agosi’s discretion—to exercise Agosi’s right to utilise the pledged assets by either bringing about a transfer of ownership in the assets to Agosi upon unilateral declaration to the customer or through auction sale of the assets. The customer irrevocably agrees to such a transfer of ownership, as long as the customer is. In this case, the customer waives any complaints against the customer immediately.

8.6. If claims of the customer against Agosi 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. Agosi shall therefore be entitled—at Agosi’s 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 Agosi’s option right, or to sell the precious metals to be delivered.

9. Duty to Co-operate of the Customer:

9.1. The customer is to inspect any account statements, accounts, charts or any other calculations, notifications regarding the conduct of mandates or any other notification received by Agosi or Agosi or any person which Agosi or represent or act on behalf of in the case of capable of binding essential contract duties are obligations that must be fulfilled in order to duly implement the contract at all or that are fundamental to it and with which the contract partner may trust are fulfilled. In cases other than wilful or grossly negligent breach of contract, the liability of Agosi for damage compensation shall be limited to the foreseeable typically occurring damage. Liability to injury to life, body or health and liability under the Product Liability Act remain unaffected. The liability of Agosi is excluded unless explicitly regulated elsewhere above or elsewhere.

9.2. The limitations set out in paragraph 1 also apply in favour of the lawful representatives and vicarious agents of Agosi where claims are raised against them directly.

10. Fees and Expenses:

10.1. The management of weight accounts is free of charge.

10.2. Agosi is entitled to invoice the customer for any expenses incurred when Agosi becomes active in his probable interest in fulfilling his mandate and those which Agosi sees as necessary under the circumstances.

12. Right of Lien:

12.1. In the case of a customer accepts that Agosi has a right of lien in all customer’s assets in which Agosi has obtained or will obtain possession in the context of Agosi’s business relationship, and in all claims against Agosi arising to the customer from his business relationship with Agosi, now and in the future (collateral).

12.2. The right of lien serves to secure all existing, future and contingent claims arising to Agosi.

12.3. If assets of the customer come into Agosi’s 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 those assets.

13. Termination:

13.1. The weight account can be terminated by both contractual parties with a period of three months notice.

13.2. 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.

13.3. Should a weight account be prematurely closed by Agosi in accordance with section 1, Agosi is entitled to purchase the account balance, if more than 12 months have passed since the last account movement, the account balance is to be sold for a reasonable price to an interested third party within three months after notification has been received. In this case, the account holder hereby confirms the transfer of ownership to Agosi. Upon purchase, Agosi will credit the customer’s currency account with the market price current at the time of purchase.

14. Data Protection:

14.1. The customer’s data will be saved in accordance with the requisite commercial and legal documentation of the process.

14.2. The data will only be forwarded to a third party, as long as this is requisite for the fulfilment of the contract. Request for contractual fulfillment in this sense is the transfer of the customer’s data to Agosi’s credit insurer and affiliated companies who wish to be involved in the management of balances on the weight accounts or the transfer of metal or precious metal.

14.3. The customer can demand information regarding the saved data.

15. Miscellaneous:

15.1. The term of reference and business relationship is solely subject to German law.

15.2. The court with jurisdiction over Agosi’s registered offices has jurisdiction for tradesmen for both parties. Agosi is, however, able to file a law suit against Agosi’s customer before his local court, or the court with jurisdiction over his branch.