

## **AFFINOR bvba – KOMPELLAAN 3 – B 3600 GENK**

### **GENERAL TERMS AND CONDITIONS RELATING TO THE PROCESSING, PURCHASE AND SALES OF MATERIALS CONTAINING PRECIOUS METALS.( January 2017 )**

#### **Article 1: Preliminary**

The present general terms exclusively govern the relationship between AFFINOR bvba and the Supplier, unless otherwise expressly agreed in writing. Any matter not covered by these general conditions shall be settled in accordance with the provisions of the applicable law. Supplier agrees to accept and be bound by the terms and conditions set forth herein. Suppliers' general terms and conditions of business will not be accepted, nor will they be implicitly accepted by the unconditional acceptance of goods, the provision of services or receipt of payment.

#### **Article 2: Definitions**

"Business Days" shall mean any day that is not a Saturday or a Sunday and on which banks are open for corporate business in Brussels, Belgium .

"Delivered Material" shall mean the returnable metals delivered by the Supplier to AFFINOR bvba.

"Product Form" shall mean, the form made up in two original copies at the same time of delivery of the returnable metals.

Business Day: means any day, which is not a Saturday, Sunday or a public holiday in Belgium .

Ounce or Oz: means a troy ounce of 31.1035 grams.

Currency: unless otherwise defined means Euro .

Delivery Point: means Kompellaan 3 - 3600 GENK - Belgium .

Material: means scrap ( all precious metals ) or Gold Dore, which is suitable for direct melting and sampling, produced by the Supplier or at the Mine.

Metal: means material emerged once the Material has been refined in accordance with the terms of this Agreement.

Mine: means a mine located in the country of origin .

Refining Point: means Kompellaan 3 -3600 Genk .

Splitting Limits: mean limits of acceptable level of difference between the assay results of the Supplier and the Refiner, such limits set at +/- 0.2% for AU/Gold and +/- 1% for AG/Silver.

#### **Article 3: Buying precious metals from Affinor bvba.**

3.1. Buying precious metals from Affinor bvba may be subject to additional rates and taxes, depending on the customer's country of residence. The customer is responsible for complying with the fiscal rules applicable to his/her situation. Affinor bvba shall not be held accountable in this matter. In case of doubt, the customer is advised to seek legal assistance.

3.2. Buying precious metals through Affinor bvba may be agreed upon by telephone and/or email. The transaction shall only be finalized upon confirmation given by Affinor bvba concerning the specific material, the purity, the sales price and the weight of the goods. In addition, Affinor bvba may ask the customer to confirm the transaction immediately via email from his side.

3.3. Once a sales / buying price has been agreed upon by both parties, the agreement is binding for both parties . If the counterparty of Affinor does not stick to this agreement , a penalty needs to be paid of 8% of the total transaction value .

3.4. Payment of the goods is possible by bank transfer or through cash payment ( max € 2.999 ). All payments need to be received by Affinor Bvba within 2 working days. All cash payments need to be in compliance with Belgian legislation.

If Affinor bvba fails to receive payment within 2 working days, Affinor bvba reserves the right to terminate the agreement and claim compensation from the customer. The compensation is equal to 8% of the total transaction value.

3.5. Affinor bvba commits itself to delivering the purchased goods within seven (7) working days after full payment receipt.

Upon delivery the customer becomes responsible for insuring and safekeeping of the precious metals.

Unless otherwise agreed upon, the customer will handle the shipping at his/her expense and by method of his/her choice.

#### **Article 4: Identification – Weighting – Sampling – Assaying**

4.1. The Delivered Material shall form a complete and separate lot and will be numbered to allow subsequent identification prior to the start of the weighing, sampling and assaying operations.

4.2. The Delivered Material is weighing at AFFINOR bvba using a calibrated scale. The weighing results are unconditionally accepted by the Supplier, save for proof of the contrary provided by the Supplier.

4.3. By signing the Product Form, the Supplier requests and authorizes AFFINOR bvba to perform an assay on a sample of the Delivered Material and to refine the Delivered Material is to be performed. A sample of Delivered Material is obtained through a sampling process at

AFFINOR bvba, which includes the melting of the Delivered Material, excluding the possibility of restitution of the Delivered Material in its original shape or form. The Supplier consents to this process.

4.4. The Supplier unconditionally accepts the results of the assay performed by the laboratory of AFFINOR bvba. The supplier is entitled to have an independent counter-assay carried out, which must be requested prior to delivery of the returnable metals by the Supplier, by indicating "counter-assay" on the Product Form or by sending a registered letter to AFFINOR bvba prior to delivery. The third Party performing the counter-assay will be the Royal Belgian Mint.

If the Supplier has not nominated the Royal Belgian Mint as set out above, it shall be conclusively presumed that the Supplier has waived its right to the counter-analysis.

4.5. If the difference between the results of the assay carried out by the laboratory of AFFINOR bvba and those of the assay carried out by the Royal Belgian Mint is not more than 3%, the Supplier will unconditionally accept the results of the assays performed by the laboratory of AFFINOR bvba and will bear all costs related to the counter-assay.

4.6. Save for above, all costs related to weighing, sampling and assaying will be borne by the Supplier. These charges shall be paid by Supplier upon delivery of the returnable metals.

#### **Article 5: Restitution – Sale of Delivered Material to AFFINOR bvba**

##### 5.1. Offer

After completion of the weighing, sampling and assaying operations and exchange of the assay results, AFFINOR bvba may submit an offer to the Supplier to purchase the Delivered Material, depending on the results of the assay. Assays of gold will be performed at the latest 4 days on the Business Day following the day of delivery of the returnable metals. Assays of all other precious metals will be performed at the latest ten (10) Business Days following the date of delivery of the returnable metals. In case the Delivered Materials contains gold, Supplier must indicate by telephone, mail or email within same Business Hour calculated from the time of the offer, whether he wishes AFFINOR bvba to return the refined Delivered Material. In case the Delivered Material contains other precious metals, Supplier must indicate by telephone, fax, mail or email within same hour calculated from the moment of the offer; whether he wishes to accept offer AFFINOR bvba to buy the Delivered Material or whether he wishes AFFINOR bvba to return the refined Delivered Material. If the Supplier has not indicated as set out above within same Business Hour, whether he wishes to accept offer of AFFINOR bvba to buy the Delivered Material it shall be conclusively presumed that the Supplier accepted the offer of AFFINOR bvba. Any communication errors, misunderstanding or mistakes in telephone communications with the Supplier or third parties shall be borne by the Supplier. By accepting an advance at the date of delivery of the metals, the Supplier accepts the sale of the Delivered Material to AFFINOR bvba.

If Affinor bvba fails to receive the goods of the supplier within 3 working days when they fixed the price, Affinor bvba reserves the right to terminate the agreement and claim compensation from the supplier. The compensation is equal to 8% of the total transaction value.

## 5.2. Restitution

Restitution of the (refined) Delivered Material is only possible upon submission of the original Product Form. The Supplier is entitled to give instructions (country of Destination, forwarding agent, means of transportation etc.) Regarding the physical delivery of the (refined) Delivered Material. Supplier shall bear the costs and risk of the return delivery.

## 5.3. Value of Delivered Material and Payment

The value of Delivered Material is calculated based on recovered net metal content and based on the price agreed between AFFINOR bvba and the Supplier on the date of delivery of the returnable metals, unless otherwise indicated on the Product Form, in which case the value will be based on the price agreed between AFFINOR bvba and the Supplier on the date of sale. The value of the Delivered Material will be paid within five (5) Business Days following receipt of Supplier's invoice or cash ( € 2999 max ) upon presentation of a statement of purchase by AFFINOR bvba to the Supplier, under deduction of all pending charges due and of a possible advance as indicated on the Product Form. Supplier's invoice must be specifying the Product Form number.

5.4. The Supplier is entitled to appoint third parties who are mandated to receive disbursements or restitutions of precious metals by AFFINOR bvba. The identity of these authorized representatives must be indicated on the Product Form. Any disbursement or restitution to such representatives discharges AFFINOR bvba from any liability towards the Supplier.

5.5 Emails sent between Affinor bvba and the Supplier /Customer , as identified by the email address stated on the identification form, serve as prima facie proof of the subject matter of the transaction concerned.

## **Article 6 : Title and risk of loss**

Title to and risk of loss the Delivered Material shall remain with the Supplier throughout the entire process of weighing, sampling and assaying. Title to and risk of loss the Delivered Material will only pass to AFFINOR bvba upon the date the Supplier accepts the offer of AFFINOR bvba to buy the Delivered Material, notwithstanding the right of AFFINOR bvba to retain or sell returnable metals for an amount equivalent to the total amount due by the Supplier.

The Supplier declares that the Delivered Material is the property of the Supplier who has good and valid title thereto and that the Delivered Material is free of any mortgage, pledge, security interests, options, liens, claims, charges, contractual commitments or other encumbrances, whether existing or potential. The Supplier will provide AFFINOR bvba with any proof thereof if asked to do so by AFFINOR bvba.

## **Article 7: Insurance**

The Supplier shall, at his own expense, obtain and pay for any insurance with a first class underwriter of good reputation to cover the value of the Delivered Material.

The insurance shall be taken against all risks including strike, riot and war risks including transport from warehouse to warehouse.

### **Article 8: Warranty and Representation**

The Supplier warrants and represents that the funds used and the Delivered Material do not serve any illegal purpose such as money laundering or the financing of any criminal or terrorist activities.

The Supplier undertakes to verify by all means at his disposal the origin of the Delivered Material and the funds at his disposal. Any irregularity shall be reported immediately to AFFINOR bvba.

The Supplier declares that all Delivered Material, especially jewelry, is registered in their books, which can be consulted on simple demand by official and competent services.

### **Article 9: Absence of precious metals**

Should the assay reveal that the Delivered Material do not contain any of very few precious metals, the Supplier will bear all costs for any customs formalities and/or taxes, as well as the costs for destruction or return of the Delivered Material

AFFINOR bvba is entitled to require a security as it sees fit from the Supplier to cover the expenses mentioned above.

### **Article 10 : Absence of Toxic Substances**

The Supplier commits to strongly confirm that the Delivered Material does not contain toxic substances such as but not limited to mercury. If the Supplier disregard to disclose the existence of toxic substances in the Delivered Material, he will be held liable for all caused adverse effects and he will compensate all costs . A minimum penalty of € 100.000 needs to be paid by the supplier to Affinor.

#### Impurities

10.1. The contaminants and their maximum limits can be found on the table hereunder. Impurities, which interfere with processing as well as impact on health and the environment.

Element	Acceptable Levels
Lead (Pb)	Max. 0.10%
Tin (Sn)	Max. 0.05%
Selenium (Se)	Max. 0.10%
Tellurium (Te)	Max. 0.05%
Bismuth (Bi)	Max. 0.01%
Antimony (Sb)	Max. 0.01%

Zinc (Zn)      Max. 0.50%

If Impurities element(s) was found higher than maximum limits above, a charge penalty of minimum € 10.000 is applicable and will be considered on case by case bases.

### **Article 11: Miscellaneous**

In the event that any one or more provisions contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall remain in full force and effect.

AFFINOR's failure to enforce, or AFFINOR's waiver of a breach of, any provision contained herein shall not constitute a waiver of any other breach or of such provision.

### **Article 12: Jurisdiction and applicable law**

These general terms as well as any relationship or agreement between parties shall be governed by and construed in accordance with Belgian law, excluding the Belgian law of conflict of laws.

All disputes which may arise between parties belong to the exclusive jurisdiction of the courts in TONGEREN, HASSELT and ANTWERP.

### **Article 13 :**

The supplier of the gold is agreeing how Affinor bvba works concerning the invoices. Affinor chooses to use the " Selfbilling system " : the supplier can choose the option to refine the goods as well but has to inform Affinor before any action has taken place .

If Affinor chooses to use the Selfbilling system, the supplier of the goods has to inform their VAT office: Affinor cannot be held responsible to wait for the necessary papers from the suppliers VAT office. Affinor uses their ET number " 118.935 " to be correctly in order with all Belgian law .

### **Article 14 : Fees and Payment**

**(a)** Fees not established between Affinor and Client at the time the order is placed or a contract is negotiated shall be at the Company's standard rates (which are subject to change) and all applicable taxes shall be payable by Client.

**(b)** Unless a shorter period is established in the invoice, Client will promptly pay not later than 30 days from the relevant invoice date or within such other period as may be established by Affinor in the invoice (the "Due Date") all fees due to Affinor failing which interest will become due at a rate of 1.5% per month (or such other rate as may be established in the invoice) from the Due Date up to and including the date payment is actually received.

**(c)** Client shall not be entitled to retain or defer payment of any sums due to Affinor on account of any dispute, counter claim or set off which it may allege against Affinor.

**(d)** Affinor may elect to bring action for the collection of unpaid fees in any court having competent jurisdiction.

**(e)** Client shall pay all of Affinor's collection costs, including attorney's fees and related costs.

**(f)** In the event any unforeseen problems or expenses arise in the course of carrying out the services Affinor shall endeavour to inform Client and shall be entitled to charge additional fees to cover extra time and cost necessarily incurred to complete the services.

**(g)** If Affinor is unable to perform all or part of the services for any cause whatsoever outside Affinor's control including failure by Client to comply with any of its obligations provided for in clause 3 above Affinor shall nevertheless be entitled to payment of:

1. the amount of all non-refundable expenses incurred by Affinor; and
2. a proportion of the agreed fee equal to the proportion of the services actually carried out.