



Morris and Watson Ltd

Precious Metal Refiners, Dealers, Fabricators, Casters
Chain Manufacturers and Distributors

TERMS & CONDITIONS OF SUPPLY

Introduction

Morris & Watson Ltd (“the Company”) is a manufacturer, supplier, dealer, distributor and refiner of precious metal products including gold, silver, platinum and palladium.

The Company supplies castings, fabrications, bullion and chain and provides refinery services.

Definition

1.1 In this document “Goods” shall mean:

- (a) All goods of the general description above and supplied or financed by the Company to the Customer;
- (b) All goods supplied or financed by the Company to the Customer;
- (c) All inventory of the Customer that is supplied or financed by the Company;
- (d) All goods supplied or financed by the Company and further identified in any invoice issued by the Company to the Customer, which invoices are deemed to be incorporated into and form part of these terms and conditions;
- (e) All goods that are marked as having been supplied or financed by the Company or that are stored by the Customer in a manner that enables them to be identified as having been supplied or financed by the Company.

The above description may overlap but each is independent of and does not limit the others. If required by the Company, the Customer will store the Goods in a way that enables them to be identified as having been supplied or financed by the Company.

Risk & Title

- 2.1 Risk in the goods shall pass to the Customer upon delivery to the Customer or to the address specified by the Customer.
- 2.2 Despite delivery of the Goods to the Customer, the Company retains title and ownership of all Goods supplied until the Customer has discharged all outstanding indebtedness (whether in respect of the Goods supplied or otherwise) to the Company.
- 2.3 The Customer acknowledges that the Company shall have a security interest as defined in the Personal Property Securities Act 1999 (the “PPSA”) in all the Goods (together with all proceeds, including without limitation, goods, money, account receivable, chattel paper, intangibles, negotiable instruments, investment securities

and documents of title) until such time as all monies due and payable by the Customer to the Company are paid in full. The Customer shall immediately upon request supply the Company with all information necessary to enable the Company to register a financing statement in relation to the Goods under the PPSA.

- 2.4 Any payments received by the Company in respect of any Goods supplied may be accepted and applied by the Company in respect of any indebtedness of the Customer in such manner as the Company thinks fit, including allocating payment against any specific Goods regardless of the time of supply and the Company shall not be bound by any conditions or qualifications attaching to such payments.

Due date for Payment

- 3.1 Unless the Customer is specifically notified about an earlier due date for payment of invoices, payment is due on the 20th of the month following the date of invoice.
- 3.2 Without prejudice to any other rights that the Company may have, if any payment is overdue:
- (a) the Customer will upon demand pay to the Company interest on any overdue payment at the rate of 1.5% per month, and shall compound from month to month;
 - (b) the Company may at its discretion cancel any agreement with the Customer and refrain from making further supplies until the Customer has discharged all outstanding indebtedness to the Company.

Repossession

- 4.1 Until payment has been made of the full amount due in respect of a purchase, the Customer acknowledges and agrees that it hereby irrevocably gives the Company and its servants/agents, leave and licence without the necessity of giving any notice to enter any premises occupied by the Customer or any other premises where the Goods are located, to search for and remove any of the Goods without in any way being liable to the Customer or any person or company claiming through the Customer.

Costs

- 5.1 The Customer will upon demand pay all the Company's expenses and legal costs (on a solicitor-own-client basis) in the collection of all overdue monies, or in the repossession by the Company of the Goods. The Customer will also be liable for any losses arising upon resale or otherwise incurred or suffered by the Company however arising.

Sale in the Customer's Ordinary Course of Business

- 6.1 The Customer may on-sell the goods to bonafide purchasers in the ordinary course of the Customer's business.

Cancellation

- 7.1 The Company shall be entitled to cancel all or any part of any contract or contracts with the Customer, in addition to its other remedies, if any one of more the following occurs:
- (a) any amount payable by the Customer to the Company is overdue;
 - (b) the Customer fails to meet any obligation under this or any other contract or obligation to the Company;
 - (c) the Customer becomes insolvent or is unable to pay its debts as they fall due;
 - (d) a receiver, statutory manager, or liquidator is appointed in respect of the assets of the Customer,
 - (e) the Customer no longer carries on business or threatens to cease carrying on business;
 - (f) an arrangement with the Customer's creditors is made or likely to be made; or
 - (g) the ownership or effective control of the Customer is transferred, or the nature of the Customer's business is materially altered.
- 7.2 Without limiting the provisions of clause 7.1, upon the occurrence of one or more of the events provided by clause 7.1, the company shall have the immediate right to retake and resume possession of the Goods for which payment in full of the purchase price has not been made and may exercise such right notwithstanding that the due date of payment for such Goods has not then arrived.
- 7.3 The Company shall be entitled to assign to any other person all or any part of the Customer's indebtedness to the Company, and the assignee shall be entitled to claim all or part of the indebtedness and shall have the same rights of recovery as the Company. In this document, the term "person" is not restricted to mean an individual or individuals.

Claims against the Company

- 8.1 The Customer agrees that it is a business as defined by the Consumer Guarantees Act 1993 ("CGA") and that it is acquiring the Goods for the purposes of a business and that the CGA does not apply. Where a court of competent jurisdiction holds that the CGA applies, or where any other legislation applicable to the sale of goods which cannot be contracted out of ("the Act") applies, the Customer shall have all the remedies provided under the relevant Act but no other remedies.
- 8.2 All other express or implied warranties (statutory or otherwise), descriptions and representations are excluded other than those specifically included in these terms and

conditions. The liability of the Company (if any) in respect of any contract shall be limited to the price of the relevant Goods supplied.

8.3 The Company shall not be liable in any way to the Customer or any third party, whether in tort or contract, for any indirect, special or consequential loss or damage.

8.4 The Company shall not be liable for any loss or damage whatever due to failure by the Company to deliver the goods (or any of them) promptly (or at all in the event of the Customer's default).

PPSA

9.1 The Customer acknowledges, agrees and undertakes (as the case may be) that it will:

- (a) Sign any further documents and/or provide any further information that is required to register a financing statement or financing changed statement on the Personal Property Securities Register;
- (b) Upon demand, meet the Company's costs in relation to any enforcement of the Company's security interest (including legal costs on a solicitor/client basis);
- (c) Not change the Customer's name without giving the Company at least 14 days' written notice;
- (d) Not permit anything which may adversely affect the Company's security interest;
- (e) Not change the Customer's place of incorporation (if the Customer is a Company) or relocate the Customer's principal place of business outside New Zealand;
- (f) Not sell or part with the Customer's business or substantially alter the nature of the Customer's business from that which is carried on as at the date the Goods were supplied, without the prior written consent of the Company (which will not be unreasonably withheld);
- (g) Not register a change demand without the Company's prior written consent which may be given or withheld at its absolute discretion.

9.2 The Customer agrees for the purposes of Section 107 of the PPSA that:

- A. Nothing in Sections 114(1)(a), 116, 117(1)(c), 120(2), 121, 122, 132(2), 133, 134 and 148 (its right to receive a verification statement) shall apply to the Customer;

- B. The Customer waives its right to:
- (i) not have any Goods damaged when the Company removes an accession under Section 125 of the PPSA;
 - (ii) receive notice of the removal of an accession under Section 129 of the PPSA;
 - (ii) apply to the Court for an order concerning the removal of an accession under Section 131 of the PPSA.

Termination

10.1 Either party may terminate this agreement by giving the other no less than 30 days prior written notice. The termination of this agreement shall be without prejudice to the rights of the parties accrued up to the date of such expiry or termination, or which by their nature, are intended to survive termination.

General

11.1 **Governing Law:** This contract shall be governed by and construed in accordance with New Zealand law, and the parties hereby submit to the exclusive jurisdiction of the New Zealand courts.

11.2 **Notices:** Demand may be made by the Company posting a letter or invoice to the Customer at the postal address given by the Customer, which shall be deemed to be received by the Customer two working days after the date of the posting of the letter or invoice.

11.3 **Refining Methods** and procedure used in accordance with usual industry practice. Refining returns calculated after metal recovery allowance (if any) made.

11.4 **Variation of Terms and Conditions:** Going forward, these terms and conditions may be varied by the Company at its discretion, by updates sent to the Customer.