



# ***TERMS & CONDITIONS***

MST ("MST")

Terms and Conditions (the "Contract")

This Contract expressly limits acceptance to the terms stated herein and any additional or different terms proposed by customer (the "Customer") are rejected unless expressly assented to in writing by MST. Customer accepts and shall be bound by the terms of this Contract when it commences performance hereunder.

1. -Claims. No claim for errors, shortages, adjustments, or rejections will be allowed by MST unless made in writing within 3 business days from receipt of MST documents. Failure to make such claims with-in such period shall be conclusive evidence that the metal content stated and the MST charges are satisfactory in all respects.

If any metal delivered by MST to Customer does not meet the applicable specifications, MST's liability shall be limited to replacement of such metal. MST shall under no circumstances be responsible for any consequential or incidental damages.

2. -Inspection and Rejection. All material submitted by Customer (the "Material") shall be subject to inspection and test by MST. MST reserves the right to reject any Material which fails to meet the specifications contained herein or Customers warranties (expressed or implied). Rejected Material shall be stored and removed at the expense of Customer including transportation both ways, promptly after notification of rejection.

Customer shall bear all costs of inspection and all risks of loss of rejected goods, as well as any and all consequential and incidental damages. Acceptance of any Material under this contract shall not obligate MST to accept future shipments of such Material nor deprive it of the right to revoke any acceptance theretofore given.

3. -Weighing and Weights. Weighing is at MST's plant. MST's weights shall govern. Any objection to the MST weight confirmation shall be made in writing to MST within 3 business days of receipt of confirmation. Failure to make such objection within such period shall be conclusive evidence that the MST weights are satisfactory.

4. -Processing. MST will select the procedures and techniques it deems best designed to prepare, sample and analyze the Material based upon MST's years of experience in the metal refining business. In this regard, Customer acknowledges that the determination of metal content of the Material is not an exact science.

MST makes no warranties, express or implied, as to the amount of metals recoverable or the value thereof. If processing is required by MST to properly sample and analyze the Material, MST has the absolute right to so process and shall be held blameless for reasonable losses occurring during such processing. In those instances where, in the judgment of MST, the cost to process the material (all or in part) exceeds the expected value of the material, MST is under no obligation to process the material and is not responsible to the Customer for any payment.

MST shall account to Customer only for those metals specifically covered by this Contract. Any metals assaying less than minimum standards are not recoverable and will not be reported or credited by MST.

Treatment and refining charges for each metal are payable whether or not minimum deduction standards are met. MST reserves the right to revise this Contract if inspection or analysis shows that the Material falls outside specifications provided by the Seller.

5. -Representation. MST shall allow Customer to have a mutually agreeable representative to witness, at the Customer's expense, MST's processing of the Material. Customer must notify MST in writing in advance of MST's acceptance and weight confirmation of the Material at MST's plant, and reserve representation times that are subject to available production capacity. Specific representation, umpire, and splitting limits are outlined in the Representation Protocol, which is described in Paragraph 8 below separately. Absent notification in writing prior to MST's acceptance and weight confirmation of the Material at MST's plant, the Customer shall have waived any right to representation and MST shall be entitled to proceed with processing.

6. -Terms. Treatment charges, refining charges, metal accountability, assay charges, metal pricing and other applicable terms (the "Terms") are imposed in accordance with MST's Quotation (the "Quotation") and this Contract. MST reserves the right to adjust the Terms in the Quotation at any time.

7. -Metal Content. MST has developed various methods to determine the metal content of Material. Metal content varies in relation to a number of factors, including, but not limited to: lab analysis, Material characteristics, historical quality of the Material, Customer's estimate of metal content, and actual yield during final recovery.

When the Customer is not represented, MST will submit its determination of Settlement Content to Customer in writing ("the Process Summary") and such amount will be binding upon both parties and shall be referred to as the "Agreed Upon Settlement Content" unless objected to by the Customer within three business days.

Customer's failure to provide MST with a written objection to such Settlement Content on or before the end of such three day period shall be considered by the parties as unequivocal acceptance by Customer of such Settlement Content. If represented, Settlement Content shall be determined as set forth in paragraph 8 below.

8. -Representation Protocol. In the event that Customer has representation as described in paragraph 5 above, the following protocol for determining Settlement Content shall be used:

Upon completion of processing at MST's plant, three sets of representative material samples shall be taken - one each for Customer and MST, and one retained by MST for umpire analysis.

If MST and Customer's metal content analysis of the representative material sample each lie within the "Splitting Limit" (defined herein as two percent of the lower of MST's or Customer's analysis) then the arithmetic mean shall be accepted as the Settlement Content.

If MST and Customer's metal content analysis lie outside the Splitting Limits, Customer and MST shall try to come to a mutual agreement for Settlement Content. If a mutual agreement cannot be reached, an umpire analysis shall be made by a mutually agreed upon laboratory acceptable to both MST and Customer. In the event that an umpire analysis is required, the Settlement Content shall be calculated using the median of the Customer, MST, and Umpire's metal content analysis. The cost of the umpire analysis shall be borne by the party whose analysis is furthest from the umpire analysis.

9. -Arbitration. Except as to any dispute as to Settlement Content which is to be resolved as provided in Paragraph 8 above, any controversy or claim arising out of or relating to this Contract shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and the judgment of the arbitrators shall be final and binding upon the parties.

10. -Packaging. MST shall make no payment or reimbursement for packaging materials or containers nor shall MST return such unless so specified on the Quotation.

11. -Completion. Time to complete is subject to available production capacity at the time of receipt and is not governed by the estimated or approximate completion time or out-turn date as may be specified on the Quotation.

12. -Applicable Laws/Indemnification. Customer represents and warrants that the Materials to be shipped to MST do not contain any hazardous substances not otherwise disclosed on either Customer provided Material Safety Data Sheets or Regulated Scrap Material Profile Sheets provided to MST by Customer prior to shipment and that the Materials shipped are not being transported, converted or sold in violation of any federal, state or local order, rule or regulation issued there under.

Customer agrees to defend and hold MST harmless against all loss, expense and damages arising from bodily injury to any person, including death resulting therefrom, damage to property as well as fines or penalties imposed by any governmental body against MST resulting from the failure of Customer to advise MST fully as to the composition of

Material to be received hereunder or to any unusual properties not normally associated with such Materials.

13. -Waiver. MST's waiver for any breach or failure to enforce any of the terms, conditions or specifications of this Contract shall not in any way affect, limit or waive MST's right thereafter to enforce and compel strict compliance with every term, condition and specification hereof.

14. -Title. Customer represents and warrants that it has good and marketable title to Material shipped to MST and furthermore, agrees to defend MST from and against all claims with respect thereto. Title to all Material shall pass to MST upon MST's acceptance and weight confirmation of the Material at MST's plant.

15. -Freight. All insurance, handling, freight and other charges are for the account of the Customer unless otherwise specified in the Quotation. Collection charges shall be deducted from the Settlement at 115% of total charges. All risk of loss remains with the Customer until such time as the Material has been accepted in writing by MST.

16. -Settlement Price. Unless otherwise specified in writing, the Settlement Price for metals shall be computed by multiplying the Agreed upon Settlement Content times the metal accountability specified in the Quotation times the applicable market price on the settlement date specified in the Process Summary. MST shall not credit any metals not referred to in the Quotation.

17. -Payment. Unless otherwise agreed, MST shall pay the purchase price of the Agreed upon Settlement Content in accordance with the terms of the Process Summary in U.S. dollars, by check, or by wire transfer or, if so specified, in metal.

MST reserves the right not to deliver metal hereunder until all charges due and owing to MST from Customer have been paid in full. Charges not paid within thirty (30) days of invoice shall accrue interest at 1.5% per month and shall be deducted with interest from metal return based on market price as agreed by the parties, at the date of return.

18. -Shipment Exclusions. MST reserves the right to limit the amount of Material accepted from a Customer at any time without notice. MST reserves the right to require that specific authorization be obtained by Customer in advance of shipment to MST. MST reserves the right to refuse any and all Material received without proper authorization. All refused and rejected Material will be returned to Customer at the Customer's expense.

19. -Force Majeure. MST shall not be liable for any default, or delay, caused by any contingency beyond its control or the control of its supplier, toller, or manufacturer, preventing or interfering with MST or settlement including without limitation, fires, riots, war, governmental preemption, restraints affecting shipping or credit, strikes, lockout, disputes with employees, accidents, breakdown of machinery, or equipment, non arrival, or delay of steamer or carrier, disruption in trading markets, floods, droughts,

earthquakes, insolvency of supplier or manufacturer, short or reduced supply of fuel or raw materials or freight space or excessive cost thereof and any other contingency.

MST's obligation is also subject to the force majeure conditions contained in contracts of its manufacturers or suppliers.

20. -Statute of Limitations. The statute of limitations of any cause of action accruing to Customer hereunder shall be one (1) year from the date of receipt of Customer's Material by MST.

21. -Governing Law. This Contract shall be governed and shall be construed in accordance with the laws of the State of Rhode Island.

22. -Security. As security for any liabilities of Customer to MST or any of its affiliates however arising, Customer hereby grants to MST for itself and as agent or its affiliates, as security interest in, a lien upon and the right to set off against any property, rights and interest of Customer which at any time shall come into possession or custody or under control of MST or any of its affiliates.

MST shall be deemed to have possession of any such security in transit to or set apart for it or any of its affiliates.

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