

De Beers Auction Sales Singapore PTE. Limited

Terms and Conditions for Registered Buyers for Placed Sales

1 Applicability

- 1.1 Unless otherwise expressly agreed, these terms and conditions and the schedules hereto (together referred to as the “**Terms and Conditions**” or “**T&Cs**”) shall apply to all contracts for the Sale and Purchase of Rough Diamonds and/or Polished Diamonds by DBGA.
- 1.2 These T&Cs apply to DBGA customers that hold or would like to apply for Registered Buyer status. The T&Cs provide important information related specifically to our online Sales arrangements.
- 1.3 The T&Cs are intended to be supplemented by a Sales Confirmation which, together with the T&Cs comprise a contract referred to as the “**Sales Contract**”.
- 1.4 In the case of any conflict, discrepancy, inconsistency or ambiguity between the provisions of these T&Cs and a Sales Confirmation, the provisions of the Sales Confirmation will prevail. In particular, but without limitation, where a Sales Confirmation supplementing these T&Cs contains special conditions amending these T&Cs, the Sales Contract shall be deemed to incorporate the T&Cs as amended by the special conditions.
- 1.5 From time to time before, during or between any particular Sale, we may make amendments to any and/or all of the Sales Contract Documentation including the T&Cs. We will provide as much written notice as is reasonably practicable regarding any such changes, including the effective date from which any amendments will be implemented. Notwithstanding the foregoing, we reserve the right, in our sole discretion, to amend any and/or all of the Sales Contract Documentation without notice as we see fit at any time to address any legal and/or regulatory requirements applicable to us.

2 Definitions & Interpretation

The definitions and interpretative provisions set out in Schedule 1 shall apply to these T&Cs.

3 Commencement

The T&Cs shall come into effect, in respect of a particular DBGA customer, from the date of acceptance by us of a Registered Buyer application and shall apply at all times such status is held with us, including participation at our Sales.

4 Registration

- 4.1 Only Registered Buyers shall have access to our Sales and be eligible to purchase our Product.

- 4.2 Any applicant that would like to Purchase a Lot or Lots or Units within a Lot as a Registered Buyer at a Sale must first submit an application by completing the procedures as set out on our Website including confirmation that an applicant will comply in full with the Sales Contract Documentation. Acceptance of an application by us for an applicant to become a Registered Buyer is at our sole and absolute discretion.

- 4.3 An applicant shall be notified if an application to become a Registered Buyer is accepted, following which, a Registered Buyer will be provided with its account information, including if applicable, a reasonable number of individual user ID's and passwords. We cannot guarantee that an application to become a Registered Buyer can be processed in time for any specific Sale and an applicant accepts that it may only participate once registration has been processed, approved and communicated by us.

- 4.4 Neither ourselves, nor our management or employees shall register as a Registered Buyer nor place any Purchase Offer of any kind on any Lot, Lots or Units within a Lot. Furthermore, we shall ensure that no De Beers Group company, their employees or management, shall do the same (save with the exception of De Beers Diamond Jewellers Limited).

- 4.5 Registration shall be open at all times, though we reserve our right to not accept, suspend or cease accepting new applications for registration at our sole discretion including (but not limited to) where such acceptance, suspension or cessation is considered appropriate to manage our legal and/or commercial risk.

5 Participation and Access

- 5.1 All Sales are run through the Website and access to the Website is by individual user ID and password only. A user ID and password must be kept confidential at all times and a Registered Buyer shall be responsible for ensuring that effective security measures are in place to protect access to this information.

- 5.2 A Registered Buyer acknowledges that the submission of a Purchase Offer through its user ID and password shall be treated by us as having the full authority and consent of a Registered Buyer and will be treated by us as binding. We accept no responsibility if a user ID and/or password is used by any person not authorised by a Registered Buyer to do so or for the security or confidentiality of a user ID and/or password.

6 Products for Sale

- 6.1** We will determine, in our sole and absolute discretion, the type, quantity and format of Diamonds to be offered for Sale. Subject to a Registered Buyer noting an interest to us and/or its historic interest in a particular Lot or Lots or Units within a Lot, we may notify a Registered Buyer via the Website and/or e-mail of Product which we intend to offer for Sale to Registered Buyers.
- 6.2** Without prejudice to Clause 14.4, we shall be under no obligation at any time to offer any Lot or Lots or Units within a Lot for Sale and shall be entitled upon written notice to a Registered Buyer to cancel any Sale, reschedule a Sale, withdraw any Lot or Units within a Lot from Sale or change the Lot or Units within a Lot available at a Sale at any time in our sole discretion and without liability. Subject to the preceding sentence, we shall take reasonable steps not to cancel any Sale or withdraw any Lot or Lots or Units within a Lot from Sale that has commenced pursuant to this Clause 6.2.
- 6.3** We offer no assurance and/or guarantee that the Product offered for Sale is fit for purpose for inclusion in any specific diamond jewellery manufacturer and/or retailer marketing programme. It is the sole responsibility of a Registered Buyer to undertake its own due diligence prior to Purchase, including to ensure the Product offered for Sale is suitable for its own requirements.

7 Purchase Offers

- 7.1** A Registered Buyer may submit a Purchase Offer for a Lot or Lots or Units within a Lot at the Sales Price. We reserve the right at our discretion to accept or refuse a Purchase Offer.
- 7.2** Registered Buyers may only submit a Purchase Offer following the commencement of the relevant Sale.
- 7.3** All Purchase Offers must be made at the value of the Sales Price in United States dollars, exclusive of any and all (i) applicable value added, withholding or other sales or similar, tax, (ii) transport, delivery and insurance charges, (iii) customs, export or import duties or levies, and (iv) banking/financing fees, for each of which a Registered Buyer shall be additionally and solely liable.
- 7.4** A Registered Buyer's Purchase Offer shall be treated by us as a binding offer to purchase a Lot or Lots or Units within a Lot in accordance with these T&Cs and any other relevant Sales Contract Documentation issued by us.
- 7.5** We reserve the right to monitor all activity on the Website and to edit, bar or remove access to any Lot or Lots or Units within a Lot or Sale, at any time as we consider necessary in order to prevent, or deal

with, any breach of these T&Cs and any other Sales Contract Documentation related to online Sales, or any potential breach of any applicable laws or regulations.

8 Sale Purchases

- 8.1** On receipt of a Purchase Offer, DBGA shall on acceptance at its sole discretion of a Purchase Offer, notify a Registered Buyer that it is the Purchaser of a Sales Lot. Following acceptance by us of a Purchase Offer, a binding Sales Contract is created and the Purchaser is bound to comply with the process as set out in Clauses 9, 10, 11 and 12 of these T&Cs. Subject to statutory rights, which remain in force, such sale and purchase is binding upon, and may not be cancelled by, a Purchaser.
- 8.2** A Purchaser shall be notified by us on completion of the Sale by telephone, in writing or by email.

9 Sale Payments – Registered Buyer

- 9.1** A Sales Confirmation containing an invoice shall be sent to a Purchaser. Payment terms for the Purchaser will be set out in the Sales Confirmation, and the Purchaser shall comply with these in full. We will only issue a Sales Confirmation to the Purchaser and shall only accept payment of an invoice by the Purchaser from its authorised bank account and by no other means (including not from another company within a Registered Buyer Group). DBGA is the invoicing party for all The Sales Lot. For the avoidance of doubt, no credit facilities shall be made available to a Purchaser.
- 9.2** Purchasers are liable to pay for and complete the purchase of the Sales Lot as invoiced, at the price determined by the Sale (subject to Clause 10.2 of these T&Cs).
- 9.3** If a Purchaser fails to pay the invoiced price for a Purchased as set out in the Sales Confirmation, within 5 (five) business days from the date of invoice in respect of the Sales Lot, we shall be entitled by written notice, but without prejudice to any other rights or remedies we may have, to cancel or suspend delivery of the Sales Lot to a Purchaser. In our discretion, we may then decide to re-offer the Sales Lot to another Registered Buyer or re-list at a subsequent Sale. We will also be entitled to suspend or terminate the Purchaser's Registered Buyer status for future Sales pursuant to Clause 20 of these T&Cs.
- 9.4** Where notified in advance of a Sale, we may at our sole discretion levy a Service Fee on a Registered Buyer in respect of certain Product, in addition to the value of the Sales Lot. Payment of the Service Fee will be added to the invoice and is payable on the terms as set out in Clauses 9.2 and 9.3 of these T&Cs.

9.5 Without prejudice to the aforementioned rights, we shall be entitled to charge interest on the invoiced amount at a rate of 3% per annum above United States Dollar Overnight London Interbank Offered Rate at the time with interest accruing on a compound basis from the invoice date until the date of settlement in full.

10 Taxation, Deductions & Sales Levy

10.1 Unless otherwise stated in the T&Cs, all payments made by a Registered Buyer under the T&Cs shall be free and clear of (i) transport, delivery and insurance charges and (ii) without deductions or withholdings for any taxes, levies, imposts, duties, charges or fees imposed by any governmental authority ("**Tax Deduction**"). In the event a Registered Buyer is required by law to make any Tax Deduction from any of the sums payable hereunder, the sums payable hereunder by a Registered Buyer shall be increased to an amount which ensures that the net amount received by us (after the relevant Tax Deduction is made) is equal to the full amount we would have received under the T&Cs in the absence of any such Tax Deduction.

10.2 In the event DBGA is required by law to pay a Sales Levy on any Sales Lot, Service Fee and/or Default Fee (as applicable) under the T&C's, the sums payable by the Registered Buyer shall be increased to an amount in the Sales Confirmation which ensures that the net amount received by us (after the relevant Sales Levy is applied) is equal to the full amount we would have received under the T&Cs in the absence of such a Sales Levy.

11 Export & Import Formalities

De Beers Group Auctions

11.1 DBGA shall at its own risk and expense, obtain and maintain any and all necessary export and import licences or other authorisations relating to the delivery of the Diamonds and carry out all customs formalities necessary for the export of the Diamonds (where applicable).

11.2 A Registered Buyer shall at its own risk and expense obtain and maintain any and all necessary import licences and permits and/or other authorisations as may be required in respect of the Sales Lot and shall be liable for all import duties, levies, tax and any other charges on the Diamonds and other charges arising from the delivery, clearance and importation of the Diamonds and shall carry out all customs formalities necessary for the import of Diamonds. A Registered Buyer shall co-operate with, and provide all necessary assistance to, us in relation to the above matters of this Clause 11.2.

11.3 Should there be a delay in a Registered Buyer complying with Clause 11.2, a Registered Buyer shall remain liable to us in respect of payment of the

invoice in full. Further, if additional costs are incurred by us as a result of any non-compliance, a Registered Buyer shall also be liable for such costs.

12 Title, Risk & Delivery

12.1 A Purchaser shall be entitled to take delivery of the Sales Lot after we have received cleared payment in full.

12.2 A Purchaser shall be responsible for arranging and paying for transportation (with an Approved Carrier). A Purchaser shall also be responsible for arranging and paying for insurance (on a door to door basis, commencing from the time we hand a Sales Lot to an Approved Carrier) in respect of a Sales Lot .

12.3 Delivery and the passing of legal title from us to a Purchaser shall be deemed to take place:

12.3.1 if cleared payment in full for a Sales Lot has been received by us prior to our handing the Sales Lot to an Approved Carrier for onward despatch to a Purchaser, when DBGA hands the Sales Lot to the Approved Carrier and the Approved Carrier has accepted delivery of the same in writing; or

12.3.2 if cleared payment in full for a Sales Lot has not been received by us prior to DBGA handing the Sales Lot to an Approved Carrier for onward despatch to a Purchaser, when DBGA delivers confirmation in writing (including by email) to the Approved Carrier that payment in full for the Sales Lot has been received by DBGA from the Purchaser.

12.4 For the avoidance of doubt, the Sales Lot shall only be delivered by the Approved Carrier to a Purchaser on receipt of written (including email) confirmation to the Approved Carrier from us that the payment has been received and cleared in full. The Approved Carrier shall receive the written (including email) confirmation of payment from us within a reasonable period of time after receipt of payment.

12.5 Subject to Clause 12.6 below, all risk of loss of, or damage to, each Sales Lot shall pass to the Purchaser upon delivery by us to the Approved Carrier.

12.6 Where cleared payment in full for a Sales Lot has not been received by us prior to DBGA handing the Sales Lot to an Approved Carrier for onward despatch to a Purchaser, all risk of loss of, or damage to, each Sales Lot shall pass to the Approved Carrier. Once cleared payment in full for the Sales Lot has been received by us and communicated to the Approved Carrier in writing (including email), all risk of loss of, or damage to, the Sales Lot shall pass to the Purchaser (or as agreed

between the Purchaser or Purchasers and the Approved Carrier).

13 Insurance

Pursuant to Clause 12.2 of these T&Cs, a Registered Buyer is solely responsible for organising at its cost the provision of insurance, including with the Approved Carrier, in respect of the delivery of the Sales Lot.

14 Liability

General Limitations

14.1 Except as expressly stated herein, all conditions, warranties, representations and other terms, express or implied by (i) statute, (ii) common-law or (iii) otherwise, in relation to a Sale, a Lot, Lots or Units within a Lot, a Sales Contract and/or the Website are excluded, in each case to the extent permitted by applicable law.

14.2 Notwithstanding Clause 14.1, but subject to applicable law, our entire liability to a Registered Buyer (incorporating a Purchaser) hereunder, whether for breach of contract, negligence, misrepresentation or otherwise, is limited at our discretion to refunding a Purchaser for the price of the relevant Diamond or Sales Lot or replacing the relevant Diamond or Sales Lot or making good any shortage and shall not in any circumstances exceed the price paid, or to be paid, for the relevant Sales Lot.

14.3 For the purposes of this Clause 14, references to “we” or “us” includes our officers, directors, agents, Affiliates, and employees, and anyone else involved in creating, producing or delivering any Sale.

Registered Buyers

14.4 In the event of a dispute, error or any other possible issues with any Sale, Lot or Lots or Units within a Lot, or a Sales Contract, we reserve the right to provide a refund or compensation to any Registered Buyer, or to terminate, reverse or cancel a Sale at our reasonable discretion. If we withdraw a Lot or Lots or Units within a Lot once a Sale has commenced, for whatever reason, a Registered Buyer agrees to waive any claim on the Lot or Lots or Units within a Lot and not to institute any legal action against us for doing so.

14.5 In relation to a certain Lot or Lots or Units within a Lot comprising individual Rough Diamonds, we may, for illustrative purposes only, engage a third party to provide predictions and images as to the potential polished outcome(s) for such diamonds. Neither we nor any such third party accept any responsibility whatsoever for the actual outcomes of the Rough Diamonds purchased being different to the predicted outcomes based on the prediction and/or images

provided. Neither we nor such third party accept any liability for the consequences of any actions taken on the basis of the information provided. Reliance on such information shall be at a Registered Buyer's sole risk and neither we nor such third party assume any responsibility for any errors, omissions, or damages arising therefrom.

Website

14.6 We are under no obligation to offer online Sales to a Registered Buyer, and we will not be responsible for errors, failures or delays in the use of the Website and submitting Purchase Offers or executing Purchase Offers thereon including, without limitation, errors, failures or delays caused by (i) a loss of connection, (ii) breakdown or problems with the online platform/software and/or, (iii) a breakdown or problems with an internet connection, computer or system.

14.7 Whilst we will use our reasonable endeavours to ensure that information on our Website is accurate, complete and up-to-date, we do not warrant, and will not be responsible for, any damage, liability, loss, costs or expenses of whatever nature which might arise from use or reliance on the content of the Website to the fullest extent permitted by applicable law, save to the extent such liability arises from our fraud or fraudulent misrepresentation or our negligence.

14.8 In addition, we give no warranty or representations and accept no liability in respect of the security or otherwise of the Website or that it will meet user's requirements. No responsibility is accepted in respect of any viruses that may infect a user's computer equipment or other equipment on account of access to or use of the Website or downloading of any content, materials or software therefrom. We accept no responsibility for any third-party website linked to from the Website.

15 Warranties

15.1 A Registered Buyer acknowledges that it has obligations to us acting (i) as a provider of Sales; and (ii) as a diamantaire operating within the industry to maintain the integrity of Diamonds. A failure of a Registered Buyer to comply with this Clause 15 shall be a Material Breach of these T&Cs which may lead to the suspension or termination of Registered Buyer status with immediate effect pursuant to Clause 20 and without notice.

Registered Buyer

15.2 A Registered Buyer acknowledges and warrants that:

15.2.1 it will comply always with our requirements in respect of our intellectual property rights pursuant to Clause 16 of these T&Cs;

- 15.2.2 its participation in any Sale is not for the purposes of, or connected with (either directly or indirectly) terrorism, money laundering or any other illegal act;
- 15.2.3 its participation in our Sales will at all times be on an independent basis and it will act with the utmost integrity such that it will comply (and will continue to comply) with all applicable national and/or international civil and criminal competition laws;
- 15.2.4 it will not directly or indirectly collaborate, co-ordinate or co-operate in any way with any other third party, in any way that influences or may influence the outcome of a Sale;
- 15.2.5 it will not enter into any discussions, arrangements or agreements with any third party, including any other Registered Buyer or any other third party entitled to submit a Purchase Offer, to try to affect the outcome of any Sale;
- 15.2.6 it will not fix or adjust any Purchase Offer in accordance with any agreement or arrangement with any third-party;
- 15.2.7 it will submit Purchase Offers in (i) good faith and (ii) wholly independently of and not on behalf of any other Registered Buyer and/or third party; and
- 15.2.8 it will not interfere with or disrupt networks connected to the Website or conduct any other unauthorised activity on or in connection with the Website.

16 Proprietary Rights & Intellectual Property

- 16.1 All trademarks, logos, service marks and trade names (collectively the “Trademarks”) displayed on or through the Website are registered or unregistered Trademarks of us or members of the De Beers Group or the Website operator and may not be used save as otherwise expressly authorised. Nothing contained on the Website or on or through the Sales process should be construed as granting any licence or right to use any Trademark displayed on the Website without our express prior written consent.
- 16.2 A Purchaser shall not (amongst other things) use, pass off, misrepresent or in any way infringe any Trademarks of the De Beers Group, including (but not limited to) DE BEERS and/or A DIAMOND IS FOREVER, and including in connection with the sale and/or marketing of (i) Sale Diamonds; and/or (ii) any jewellery or other product incorporating such Sale Diamonds. For the avoidance of doubt, a Registered Buyer must not pass off (in any form) that Sale Diamonds and/or any jewellery or other product

incorporating such Sale Diamonds are DE BEERS Diamonds and/or DE BEERS jewellery and/or is being sold or marketed on behalf of DE BEERS or any member of the De Beers Group.

- 16.3 Where indicated, DBGA Product Polished Diamonds promoted for Sale may be eligible for inclusion in the Forevermark diamond brand, in that they fulfil the Forevermark product criteria and pipeline integrity requirements.
- 16.4 A Registered Buyer that purchases eligible Forevermark Polished Diamonds from us must be an authorised Forevermark diamantaire, jeweller and/or manufacturer to market and/or sell the eligible Polished Diamonds as Forevermark and further must procure grading, certification and inscription services from Forevermark at the request, processing and cost of the Registered Buyer.
- 16.5 Where deemed appropriate by us and in compliance with applicable laws, we may use certain Sales data (including, but not limited to, Purchase data) in order to better understand prevailing demand for Rough Diamonds and/or Polished Diamonds.
- 16.6 As between a Registered Buyer and us, we (or our appointed Website operator) own, solely and exclusively, all rights, title and interest in and to the Website, all the content, software, data and materials thereon, including but not limited to copyrights, Trademark rights, patent rights, database rights and other intellectual property and proprietary rights (whether registered or unregistered in any jurisdiction) therein. The use of the Website by a Registered Buyer does not grant any ownership of any content, software, data or materials accessed on the Website.
- 16.7 A Registered Buyer agrees to comply with all applicable law, statutes and regulations regarding use of the Website.

17 Confidentiality

- 17.1 As part of registration requirements, or otherwise in connection with use of the Website or participation in any Sale, a Registered Buyer may be asked to provide certain Confidential Information. The provider of such Confidential Information is solely responsible for its accuracy and content and for ensuring that it is kept up-to-date. Confidential Information transmitted to us by online users may be held on file for future transactions and the provider expressly consents to the use by us of such Confidential Information pursuant to the application of the Sales Contract Documentation.
- 17.2 Except as otherwise agreed in writing, we and a Registered Buyer agree to hold all disclosed Confidential Information in confidence under these T&Cs and other applicable documentation related to online Sales and will not disclose such information to

any other person or use it for any purpose save as required for fulfilling their obligations hereunder.

- 17.3** Confidential Information may be disclosed within the Anglo American Group, or, if required by mandatory provision of law, to a governmental or other authority or regulatory body or to the Website operator (if required in order for it to properly comply with its obligations to operate the Website) and to consultants and professional advisers provided that (i) where a request for disclosure is received from a governmental or other authority or regulatory body, the recipient of the request will use all reasonable endeavours to consult with the other party in a timely manner in relation to such request, and consider such other party's reasonable requests in relation thereto, and (ii) a confidentiality undertaking is obtained from such consultants, professional advisers or brokers on terms no less restrictive than this Clause 17.

18 Force Majeure

- 18.1** If a Force Majeure Event interrupts or prevents the performance of a party's obligations to the other in respect of any aspect of these T&Cs, the obligations of the parties under the Sales Contract (other than an obligation to pay money) shall be suspended for the duration of the Force Majeure Event. The affected party will not be in default of its obligations (except obligations to pay money) under the Sales Contract if a failure or delay in the observance or performance of those obligations by the affected party is caused by a Force Majeure Event and the other party will not be in default of its obligations (except obligations to pay money) under the Sales Contract if a failure or delay in the observance or performance of those obligations by that party occurs during a Force Majeure Event.
- 18.2** Should a Force Majeure Event or its effects last for a period in excess of 90 (ninety) continuous days, a party may, on giving 5 (five) business days' written notice to the other party/parties, terminate the Sales Contract without liability, save that such termination shall be without prejudice to any rights or obligations of the parties which have accrued prior to the occurrence of that Force Majeure Event, including without prejudice to any outstanding rights to payment we may have hereunder in respect of the period prior to termination or our rights under Clause 9.
- 18.3** Provided that no party has given notice to terminate the Sales Contract in accordance with Clause 18.2, as soon as reasonably practical after the occurrence of the Force Majeure Event, together we will discuss how best to continue any Sales Contract that has commenced or delivery of the Sales Lot (as relevant) so far as possible in accordance with these T&Cs.

19 Events of Default

- 19.1** Each of the following events, acts, occurrences or conditions shall be an event of default (an "**Event of Default**") with respect to the party specified:

Insolvency

- 19.1.1** The occurrence with respect to a Registered Buyer or us of any Insolvency Event shall be an Event of Default with respect to that party.

Material Breach

- 19.1.2** The occurrence of a Material Breach where that breach is either not capable of remedy or not remedied on or before the 5th (fifth) business day following the day on which notice to remedy is given to the party in Material Breach shall be an Event of Default with respect to that party.

Failure to Accept Delivery

- 19.1.3** Failure by a Purchaser to accept delivery of or, if relevant, to nominate a carrier for transportation, shall be an Event of Default with respect to the relevant Purchaser ("**Failure to Accept Delivery**").

Non-Payment of Sales Lot

- 19.1.4** Failure by a Purchaser to pay for any Sales Lot (including a Sales Levy (as applicable)), or to pay any amount due and payable by it in accordance with Clause 9 of these T&Cs shall be an Event of Default with respect to the Purchaser ("**Non-Payment of Sales Lot**").

19.2 Consequences of an Event of Default

Insolvency (19.1.1) and Material Breach (19.1.2)

- 19.2.1** In the event that an Insolvency Event or a Material Breach Event of Default occurs with respect to a party (the "**Defaulting Party**") the other party (the "**Non-Defaulting Party**") may, without prejudice to its other rights and remedies under the Sales Contract or in law, take any or all of the following actions:
- (a) terminate the Sales Contract pursuant to Clause 20.1 of these T&Cs; and/or
 - (b) claim damages against the Defaulting Party.

Failure to Accept Delivery (19.1.3) and Non-Payment of a Sales Lot (19.1.4)

- 19.2.2** In the event there is a Failure to Accept Delivery or Non-Payment of a Sales Lot (including a Sales Levy (as applicable)) Event of Default in respect of a Sale by a

Registered Buyer, we will notify a Registered Buyer in writing of the same and a Registered Buyer shall pay us within 5 (five) business days of receipt of an invoice:

- (a) a sum equivalent to the total invoice amount of the Sales Lot (plus a Sales Levy (as applicable)) of:
 - (i) 2% where the value of the Sales Lot is equal to, or greater than US \$500,000; or
 - (ii) 2.5% where the value of the Sales Lot is equal to, or greater than US\$100,001, but less than US\$500,000; or
 - (iii) 3% where the value of the Sales Lot is equal to, or less than US\$100,000; and
- (b) any applicable shipping charges incurred by us as a result of a Failure to Accept Delivery,

together the “**Default Fee**”. For the avoidance of doubt, non-payment by a Registered Buyer of the Default Fee shall be a Material Breach Event of Default for the purposes of Clause 19.1.2.

19.3 In the event there is an occurrence of 2 (two) Events of Default by means of either a Failure to Accept Delivery and/or Non-Payment of a Sales Lot (including a Sales Levy (as applicable)), within any 12 (twelve) month period by a Registered Buyer, we will notify the Registered Buyer in writing and without prejudice to our other rights and remedies under the Sales Contract or in law, take any or all of the following actions:

- (a) suspend a Registered Buyer for 3 (three) months from submitting Purchase Offers following the date of the second Event of Default or for so long as the Event of Default is continuing in accordance with Clause 20.1 of these T&Cs; and/or
- (b) propose to a Registered Buyer any revised terms under which we are prepared to continue the performance of the Sales Contract and if such terms are not agreed, terminate the Sales Contract upon written notice; and/or
- (c) terminate a Sales Contract pursuant to Clause 20.1 of these T&Cs; and/or
- (d) claim damages against a Registered Buyer.

20 Suspension & Termination

20.1 If a Registered Buyer is suspected of or commits a breach, including a Material Breach, of these T&Cs

at any point in time it holds such status, we reserve the right to suspend or terminate a Registered Buyer's status or a Sales Contract (as applicable and at our discretion) with immediate effect and without notice.

20.2 Suspension of a Registered Buyer's status and/or termination of a Sales Contract pursuant to these T&Cs shall be without prejudice to any rights and remedies accruing to us before such suspension or termination.

20.3 In the event we suspend a Registered Buyer's status (if applicable) as a result of an extraordinary audit in accordance with Clause 21 of these T&Cs, we reserve the right to impose a suspension until such time as the extraordinary audit process has concluded.

20.4 In the event a Registered Buyer has its status as a Sightholder and/or Accredited Buyer Customer suspended or terminated for reason of a material breach of the terms of the Supply Agreement, we reserve our right to suspend or terminate your status as a Registered Buyer with immediate effect.

20.5 A Registered Buyer is entitled to terminate its registration at any time by writing to us at our registered address, however, (i) termination by a Registered Buyer shall not in any event affect any unsatisfied obligations of a Registered Buyer to us in respect of any Sale.

21 De Beers Best Practice Principles

21.1 A Registered Buyer Group that is also a Sightholder and/or Accredited Buyer Customer shall comply in full always with the De Beers Best Practice Principles (as applicable) incorporating the De Beers Best Practice Principles Assurance Programme Requirements as set out in Schedule 2 to these T&Cs.

21.2 A Registered Buyer Group that is not a Sightholder and/or Accredited Buyer Customer shall use its best endeavours to comply always with the De Beers Best Practice Principles (as applicable) incorporating the De Beers Best Practice Principles Assurance Programme Requirements as set out in Schedule 2 to these T&Cs.

21.3 In the event a Registered Buyer Group (that is also a Sightholder and/or Accredited Buyer Customer is not in full compliance with the De Beers Best Practice Principles, it must immediately notify us in writing days setting out the detail of the non-compliance (in addition to any notification required as a result of holding Sightholder and/or Accredited Buyer Customer status).

21.4 Where we believe there are reasonable grounds to suspect that a “major infringement” or a “material breach” (as such expressions are defined in the De

Beers Best Practice Principles Assurance Programme Manual) has or have occurred or is or are occurring or may occur in relation to a Registered Buyer Group, we reserve the right to conduct spot check audits also known as extraordinary audits in accordance with Clause 21.5 of these T&Cs, through independent third party auditors which may include a visit to the operations of a Registered Buyer.

21.5 The procedures and requirements of an extraordinary audit are set out in further detail in the De Beers Best Practice Principles Assurance Programme Manual. The costs associated with such visits shall be covered by: (i) us should these concerns be unfounded; or (ii) a Registered Buyer should these concerns be confirmed in full or in part or in the event an unrelated "major infringement" or a "material breach" is subsequently identified during the extraordinary audit. A Registered Buyer hereby consents to such spot check audits taking place and for our third party auditor to enter operations for such purpose and that a Registered Buyer will co-operate in all respects with such spot check audits.

21.6 Failure to comply with this Clause 21 shall be a Material Breach of these T&Cs which may lead to the suspension or termination of Registered Buyer status in accordance with Clause 20 of these T&Cs.

22 Statement of Compliance, Integrity & Probity

22.1 A Registered Buyer Group shall at all times it holds Registered Buyer status, comply in full with the terms of the Statement of Compliance, Integrity and Probity, an integral part of these T&Cs and set out in Schedule 3 to these T&Cs.

22.2 In the event a Registered Buyer Group is not in full compliance with the Statement of Compliance, Integrity and Probity, it must notify us in writing within 5 (five) business days setting out the detail of the non-compliance.

22.3 Failure to comply with this Clause 22 shall be a Material Breach of these T&Cs which may lead to the suspension or termination of Registered Buyer status in accordance with Clause 20 of these T&Cs.

23 Kimberley Process Compliance

23.1 A Registered Buyer Group and each of their respective Key Individuals confirm that since the inception of the KPCS in January 2003, as applicable, it has not purchased, sold, exported, imported or otherwise traded in Rough Diamonds without the full authority of, and in compliance with, the KPCS. For the avoidance of doubt, Rough Diamonds sourced from the Marange region of Zimbabwe without the approval of the Kimberley Process Certification Scheme-appointed monitor (acting under the direction of the relevant KPCS working group) do not have the full authority of, and are not in compliance with, the KPCS.

23.2 Failure to comply with this Clause 23 shall be a Material Breach of these T&Cs which may lead to the suspension or termination of Registered Buyer status in accordance with Clause 20 of these T&Cs.

24 Statement of Principles for Laboratory-Grown Diamond Business Activities Compliance

24.1 A Registered Buyer Group and each of their respective Key Individuals shall comply with the provisions of the Statement of Principles for Laboratory-Grown Diamond Business Activities as applicable from time to time.

24.2 In the event a Registered Buyer Group is not in full compliance with the Statement of Principles for Laboratory-Grown Diamonds, we will issue a letter of non-compliance. In the event we issue 2 (two) letters of non-compliance over a rolling 6 (six) month period, we reserve our right to review your continued status as a Registered Buyer with immediate effect.

25 Sanctions Compliance

25.1 A Registered Buyer Group and each of its Representatives shall:

- (a)** comply with any Sanction and ensure that a Registered Buyer Group or Representative does not become a Sanctioned Entity;
- (b)** promptly notify us upon becoming aware that any company in a Registered Buyer Group has become a Sanctioned Entity or is in violation of any Sanction;
- (c)** promptly notify us upon becoming aware of any Representative becoming a Sanctioned Entity or having violated any Sanction;
- (d)** use reasonable endeavours to provide us with information that we may require from time to time in order for us to determine whether any of the Representatives or any company of a Registered Buyer Group has become or is reasonably likely to become a Sanctioned Entity;
- (e)** subject to applicable laws and confidentiality requirements, provide all information to us which is requested by a regulatory authority that oversees Sanctions; and
- (f)** use reasonable endeavours to assist us in managing the risk of Sanctions being imposed on any party in connection with a Sales Contract .

25.2 The obligations in relation to notification and the provision of information as set out above shall only apply to the extent the parties can lawfully comply with such obligations.

25.3 Failure to comply with this Clause 25 shall be a Material Breach of these T&Cs which may lead to the suspension or termination of Registered Buyer status in accordance with Clause 20 of these T&Cs.

26 Bribery & Anti-Corruption Compliance

26.1 DBGA and a Registered Buyer shall, and shall procure that each company in a Registered Buyer Group and their Representatives shall, in the performance of their respective obligations under the Sales Contract, comply at all times and act in a manner consistent with all applicable Anti-Corruption Laws (the “**Anti-Corruption and Bribery Undertakings**”).

26.2 Should we have a reasonable suspicion of any breach (actual or potential) and/or any conduct which may give rise to any breach of the Anti-Corruption and Bribery Undertakings, a Registered Buyer shall promptly provide any further information requested in connection with such suspicion.

26.3 A Registered Buyer shall notify us immediately in writing upon becoming aware of any potential or actual breach (including any potential or actual breach by any company in a Registered Buyer Group, or any of their Representatives) of the Anti-Corruption and Bribery Undertakings and/or any conduct which may give rise to a breach of the Anti-Corruption and Bribery Undertakings, providing full particulars.

26.4 We may, upon receipt of any notice under the Anti-Corruption and Bribery Undertakings and/or should a Registered Buyer fail to comply with the Anti-Corruption and Bribery Undertakings and/or should a Registered Buyer otherwise become aware of any breach and/or conduct which may give rise to any breach of the Anti-Corruption and Bribery Undertakings (the “**Misconduct**”), at our sole option:

26.4.1 request a Registered Buyer to provide any further information which it is reasonable to request in relation to the Misconduct; and/or

26.4.2 require a Registered Buyer to forthwith implement such remedial measures as may be necessary to address and/or mitigate the risk and/or damage or potential damage arising from the Misconduct and to confirm to the requesting party in writing that such measures have been implemented.

26.5 A Registered Buyer warrants that it has no Foreign Public Officials as officers, employees or direct or indirect owners at the date of becoming a Registered Buyer. Further, a Registered Buyer warrants that it shall immediately notify us if a foreign public official becomes an officer or employee of and/or a member of a Registered Buyer or acquires a direct or indirect interest in it at any time it holds such a status with us.

26.6 Failure to comply with this Clause 26 shall be a Material Breach of these T&Cs which may lead to the suspension or termination of Registered Buyer status in accordance with Clause 20 of these T&Cs.

27 Anti-Money Laundering Compliance

27.1 A Registered Buyer is required to comply at all times with our policies on anti-money laundering and combating the financing of terrorism as notified by us.

27.2 We reserve our right to (i) conduct on-going monitoring of your compliance with anti-money laundering legislation and regulations and (ii) conduct random data verification compliance reviews of a Registered Buyer in accordance with our policies on anti-money laundering and the combating the financing of terrorism, including under the instruction of an independent third-party verifier at our sole discretion. A Registered Buyer’s full cooperation and compliance is required by us in respect of this Clause 27.2.

27.3 Failure to comply with this Clause 27 shall be a Material Breach of these T&Cs which may lead to the suspension or termination of Registered Buyer status in accordance with Clause 20 of these T&Cs.

28 Data Protection

A Registered Buyer acknowledges that in using our Sales and/or Website, we may process personal data that we collect from you. We will process and hold all data in accordance with our Privacy Policy which is set out at:

<https://secure.debeersgroup.com/auctionsales/en/site-services/privacy.html>

29 Dispute Resolution & Governing Law

29.1 The Sales Contract Documentation, incorporating these T&Cs and all matters relating to them shall be governed by and construed in accordance with English law. Neither De Beers Group Auctions nor a Registered Buyer will initiate any of the procedures listed below unless senior representatives of De Beers Group Auctions and a Registered Buyer have first discussed the subject matter of the dispute in good faith with a view to finding an amicable resolution to the dispute. In the event no resolution has been reached within 14 (fourteen) business days of either De Beers Group Auctions or a Registered Buyer being duly notified of a dispute and notwithstanding Clause 14.4, De Beers Group Auctions and a Registered Buyer agree that:

29.1.1 subject to Clause 29.1.3 below, a dispute howsoever arising out of or in connection with these T&Cs shall be referred to and resolved by arbitration with its seat or legal

place in London in accordance with the LCIA Arbitration Rules (the “**LCIA Rules**”) in force at the time of the referral to arbitration, which LCIA Rules are deemed to be incorporated into the Sales Contract ;

- 29.1.2** the arbitration shall be conducted in London, in the English language, by a single arbitrator who shall be familiar with, and have experience of the diamond industry. Prior to a party referring any dispute to arbitration, that party shall serve upon the other party a notice in writing giving 21 (twenty-one) clear business days’ notice of its intention to refer a dispute to arbitration (the “**Arbitration Notice**”);
- 29.1.3** notwithstanding Clauses 29.1.1 to 29.1.2 above, we may, by giving written notice, elect to have a dispute determined by the Commercial Court of the High Court of England and Wales. If a Registered Buyer is the claiming party in a dispute, then we shall give written notice to elect to refer a dispute commenced by a Registered Buyer to the Commercial Court of the High Court of England and Wales no later than the 14th (fourteenth) day following the date of receipt of an Arbitration Notice given pursuant to Clause 29.1.2. If we make such an election, each party shall appoint a solicitor admitted and located in England and Wales to accept service of proceedings relating to the dispute by the 14th (fourteenth) day following receipt of a written request to do so;
- 29.1.4** where we elect to have a dispute determined by the Commercial Court of the High Court of England and Wales in accordance with Clause 29.1.3, the parties shall take any and all steps necessary to discontinue any arbitration proceedings commenced and any costs incurred in relation to such arbitration proceedings shall become costs incurred in relation to the proceedings before the Commercial Court of the High Court of England and Wales; and
- 29.1.5** nothing in this Clause 29.1.5 shall prevent either party from seeking interim, provisional or conservatory measures from any court or other judicial authority of competent jurisdiction at any time whether before or after the formation of the arbitral

tribunal or the commencement of proceedings in the Commercial Court of the High Court of England and Wales.

30 General Provisions

- 30.1** The Sales Contract shall apply in place of, and prevail over, any terms or conditions (whether or not in conflict or inconsistent with these T&Cs) contained or referred to in any documentation submitted by a Registered Buyer or in correspondence or elsewhere or implied by trade, custom, practice or a course of dealings. The signing by De Beers Group Auctions of any documentation of a Registered Buyer shall not imply any modification of these T&Cs.
- 30.2** If any provision in these T&Cs or the Sales Contract Documentation shall be held to be illegal, invalid or unenforceable, in whole or in part in any jurisdiction, under any enactment or rule of law, such provision shall to that extent, in such jurisdiction, be deemed not to form part of these T&Cs or the Sales Contract Documentation and the legality, validity and enforceability of the remainder of these T&Cs shall not be affected.
- 30.3** The Sales Contract Documentation, including but not limited to these T&Cs, and the Sales Contract comprise the entire agreement between us and a Registered Buyer in relation to any Sales.
- 30.4** No rights or obligations conferred on a Registered Buyer hereunder may be assigned, transferred, sub-contracted or delegated. We may, in our absolute discretion and without giving notice to a Registered Buyer, sub-contract the operation of any Sale to a member of the De Beers Group.
- 30.5** Nothing in these T&Cs (or arrangements entered into under them) shall constitute a partnership or franchise arrangement between us and a Registered Buyer (or any member of our respective groups).
- 30.6** To the extent that a Registered Buyer are a partnership, the liability of the partners under these T&Cs shall be joint and several.
- 30.7** Save for us and members of the De Beers Group, no third party (including, for the avoidance of doubt, members of any Registered Buyer Group) has rights (including under the Contracts (Rights of Third Parties) Act 1999) to enforce these T&Cs (or arrangements entered into under them). For the avoidance of doubt, Clause 16 and Clause 17 are for the benefit of us and a Registered Buyer and may be relied on, and enforced directly by, us and a Registered Buyer against any and all third parties.

Schedule 1

Interpretation & Definitions

Interpretation:

When we refer to “us”, “we”, “our” or “De Beers Group Auctions” it means De Beers Auction Sales Singapore PTE. Limited, a company incorporated under the laws of Singapore located at 10 Collyer Quay, #03-04 Ocean Financial Centre, Singapore 049315. When we refer to a Registered Buyer, we are referring to you as a customer of De Beers Group Auctions. When we refer to a party or the parties, we mean one or both parties.

Definitions:

In these Terms and Conditions, words with initial capitals have defined meanings which are set out below:

Affiliates means in relation to the Anglo American Group, De Beers Group Auctions, a Registered Buyer, a Subsidiary of that company, a Holding Company of that company, any other Subsidiary of that Holding Company or in respect of De Beers Group Auctions only, a Branch of that company.

Anglo American Group means any company or division directly or indirectly controlled by Anglo American Plc, a company incorporated at 20 Carlton House Terrace, London SW1Y 5AN.

Anti-Corruption and Bribery Undertakings has the meaning given to it at Clause 26.1.

Anti-Corruption Laws means:

- (i) the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997 (“**OECD Convention**”);
- (ii) the Foreign Corrupt Practices Act (“**FCPA**”) of 1977 of the United States of America (as amended by the Foreign Corrupt Practices Act Amendments of 1988 and 1998);
- (iii) the Bribery Act 2010 of the United Kingdom;
- (iv) the Prevention of Corruption Act, the Penal Code and the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act of Singapore;
- (v) the United Nations Convention against Corruption 2003; and/or
- (vi) any other applicable law which:
 - (a) prohibits the offering of any gift, payment or other benefit to any person or any officer, employee, agent or advisor of such person; and/or
 - (b) is broadly equivalent to the FCPA and/or the Bribery Act 2010, or was intended to enact the provisions of the OECD Convention, or which has as its objective

the prevention of corruption, and which is applicable in the jurisdiction in which we and a Registered Buyer are registered, conduct business and/or in which any aspect of the Sales Contract is to be performed.

Approved Carrier means Brinks or Malca-Amit or another secure transport carrier approved by us for the delivery of Rough Diamonds and/or Polished Diamonds under a Sales Contract .

Beneficiary/Beneficial Owner means a natural person(s) who ultimately enjoys 50% or more in percentage terms (or such other percentage as may be communicated by DBGA from time to time for any applicable purpose or purposes) of the benefits of ownership of a Registered Buyer either directly or indirectly, meaning either legally and/or through a beneficial interest, including through a trust structure.

Branch means in respect of De Beers Group Auctions, a branch office of the company (as applicable).

Confidential Information means the terms of the Sales Contract, any Sale (including its existence) and all information, documentation, data or know-how disclosed by De Beers Group Auctions or a Registered Buyer pursuant to any Sale whether oral or written or in any other form including without limitation, information relating to a Registered Buyer's identity, our or a Registered Buyer's products, operations, current or historic Sale results, Sales information or practices, processes, plans or intentions, know-how, design rights, trade secrets, market opportunities and business affairs.

De Beers Group Auctions or **DBGA** means De Beers Auction Sales Singapore PTE. Limited, a company incorporated under the laws of Singapore located at 10 Collyer Quay, #03-04 Ocean Financial Centre, Singapore 049315.

De Beers Best Practice Principles Assurance Programme Manual and the **De Beers Best Practice Principles Assurance Programme Requirements** means the documentation which sets out the monitoring, measuring, verifying and reporting requirements of the De Beers Best Practice Principles as set out in Schedule 2 to these Terms and Conditions.

De Beers Best Practice Principles or **BPP** means the “De Beers Best Practice Principles” and the associated assurance programme, incorporating the De Beers Best Practice Principles Assurance Programme Manual and De Beers Best Practice

Principles Assurance Programme Requirements, to be complied with by the De Beers Group and a Registered Buyer (that is also a Sightholder and/or Accredited Buyer Customer), and as published from time to time and able to be viewed at <http://www.debeersgroup.com>

De Beers Group means any company or division directly or indirectly controlled by De Beers Plc, a company incorporated at 44 Esplanade, St Helier, Jersey JE4 9WG.

Defaulting Party has the meaning given to it at Clause 19.2.1.

Diamond means a mineral consisting essentially of carbon crystallised in the isometric (cubic) crystal system, with a hardness on the Mohs' scale of 10, a specific gravity of approximately 3,52 and a refractive index of approximately 2,42, created by nature meaning formed completely without human intervention during the formation.

Diamond Related Business means (i) a Subsidiary deriving any revenue from the sale of Rough Diamonds, Polished Diamonds or Diamond-based products or (ii) a Holding Company whose holdings are in businesses of this nature BUT excludes entities solely involved in Diamond mining.

Event of Default has the meaning given to it at Clause 19.

Failure to Accept Delivery has the meaning given to it at Clause 19.1.3.

Force Majeure Event means the occurrence or effect of any event or circumstance (or any combination of events and/or circumstance) that: (i) is beyond the reasonable control of a party to the Sales Contract ; and (ii) partly or wholly prevents, hinders or delays due performance by that party of its obligations under the Sales Contract (other than the obligation to pay money) and, provided that the above conditions are satisfied, includes but is not limited to:

- (i) fire, flood, washout, storm, lightening, windstorm, hurricane or other acts of God; or
- (ii) acts of public enemies, war (whether declared or undeclared), civil war, piracy, terrorist activities, embargo, blockage, revolution, political disturbance, sabotage, explosion, riot, insurrection, mobilisation, civil commotion; or
- (iii) strikes, lockout, labour disputes or other form of industrial action or industrial disturbances, stoppages of workmen; or
- (iv) acts, orders or restrictions of governmental or local authorities (including interruptions occurring as a result of such acts, orders or restrictions of governmental or local authorities) or of any court, or controls on exports; and/or
- (v) in the case of DBGA, any circumstance or event which affects our ability or that of any De Beers

Group company to produce, transport, deliver or sell Rough Diamonds and/or Polished Diamonds including mining events (including a roof collapse or slope failure as relevant), other production, facility or transport infrastructure damage failure or breakdown, or technical damage, failure or breakdown of our IT/software systems, including our Website.

Forevermark means the Forevermark diamond brand promoting the trade of Forevermark diamonds by entities authorised and accredited by Forevermark to trade Forevermark diamonds and to use intellectual property rights relating to this, including the Forevermark brands.

Foreign Public Official means an individual holding legislative, administrative or judicial posts or anyone carrying out a public function for a foreign country or the country's public agencies or an official or agent of a public international organisation.

Holding Company means in relation to a Registered Buyer Group, any other company in respect of which a Registered Buyer Group is a Subsidiary.

Insolvency Event means, with respect to a party, that party:

- (i) is dissolved; or
- (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as it becomes due; or
- (iii) makes a general assignment or arrangement or composition with or for the benefit of its creditors; or
- (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding, action or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation, or (ii) is not dismissed, discharged, stayed or restrained in each case on or before the 30th (thirtieth) day following the institution or presentation thereof; or
- (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); or
- (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; or
- (vii) has a secured party take possession of all or substantially all its assets or has a distress,

execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case on or before the 30th (thirtieth) day thereafter; or

- (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (i) to (vii) (inclusive) of this definition; or
- (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

Key Individual means an individual in respect of a Registered Buyer who is (i) a Beneficiary/Beneficial Owner, (ii) a Partner, and/or (iii) an individual who is a director or a shadow director (in each case, in either an executive or non-executive capacity, including any analogous roles as recognised by applicable local law).

Kimberley Process Certification Scheme or **KPCS** means the certification process to remove conflict diamonds from the global supply chain.

Laboratory-Grown Diamond (or Synthetic Diamond or Laboratory-created Diamond) means an artificial product that has essentially the same chemical composition, crystal structure and physical properties as a Diamond.

Laboratory-Grown Diamond Business Activities means including, but not limited to, the creation, manufacturing, polishing, processing, and/or trading (sale or purchase) of Laboratory-Grown Diamonds and/or jewellery incorporating Laboratory-Grown Diamonds, as applicable.

LCIA means the London Court of International Arbitration.

Lot means one or more numbered Units made available by us for Sale to Registered Buyers.

Material Breach means any breach of a Sales Contract by a party which is a breach of a condition and acts to deprive the other party of a substantial part of the benefit of the whole of the Sales Contract.

Non-Defaulting Party has the meaning given to it in Clause 19.2.1.

Non-Payment of a Sales Lot has the meaning given to it at Clause 19.1.4.

Partner means a person who participates in a partnership arrangement in which two or more individuals share the profits and liabilities of a business venture which is carried on in common between the relevant partners with a view to profit.

Polished Diamond means a Diamond that has been manufactured from a rough form through a process of cutting and polishing.

Product means a unique presentation comprising one or more Rough Diamonds (that may be solely of De Beers Group origin or a blended mix of Rough Diamonds from De Beers Group and of third-party origin) and/or Polished Diamonds offered for Sale as shall be determined by us and notified to a Registered Buyer from time to time.

Purchase means a Registered Buyer who pursuant to a Sale has submitted a Purchase Offer for the Sales Price which we have accepted for a Lot or Lots or Units within a Lot. **Purchased** shall have a corresponding meaning.

Purchase Offer means the submission of an offer at the Sales Price for a Lot or Lots or Units within a Lot by a Registered Buyer through the Website.

Purchaser means a Registered Buyer who has entered into a Sales Contract with DBGA for the Purchase a Lot or Lots or Units within a Lot.

Registered Buyer means an independent company which has applied for and been accepted by us to participate in our Sales of a Lot, Lots or Units within a Lot of Rough Diamonds and/or Polished Diamonds.

Registered Buyer Group means together with a Registered Buyer, its Holding Company and any Subsidiary Undertakings that are Diamond Related Businesses.

Representatives means in relation to a person (or group of persons), its Key Individuals, its (or their representatives) employees, officers, directors, agents, advisers, consultants, contractors and sub-contractors (and includes in the case of a party, any person performing that party's obligations under a contract).

Responsible Jewellery Council means the trading name of the Council for Responsible Jewellery Practices Ltd

Rough Diamond means a Diamond that has not been manufactured and remains in an uncut form.

Sale means the process of us offering a Lot, Lots or Units within a Lot to Registered Buyers for Purchase through the Website. For the avoidance of doubt, the format of a Sale will be determined solely by us from time to time. **Sales** shall have a corresponding meaning.

Sales Confirmation means an invoice and any supplemental written notification or documentation from us to a Purchaser following a Sale of our Product.

Sales Contract means these T&Cs and a Sales Confirmation with a Registered Buyer for the purchase of our Product.

Sales Contract Documentation means (i) the Sales Contract, (ii) the De Beers Best Practice Principles, (iii) the Statement of Compliance, Integrity and Probity, and (iv) the Website Terms and Conditions, and any other such documentation notified by us to a Registered Buyer from time to time which governs and is incorporated in every Sales Contract made by us with a Registered Buyer.

Sales Lot means all or part of a Lot or Lots or Units within a Lot that a Registered Buyer has Purchased at a Sale.

Sales Levy means a financial levy imposed by a government and/or a regulatory authority on digital transactions undertaken in connection with the relevant jurisdiction, that following a Sale is (i) added to a Registered Buyer's Winning Bid, and incorporated into a Sales Confirmation, and/or (ii) added to a Service Fee and/or a Default Fee, payable by a Registered Buyer (as applicable). For the avoidance of doubt, the Sales Levy does not refer to any income or withholding taxes that may be imposed on digital transactions by a government or regulatory authority.

Sales Price means the price attributable by us to the proposed Sale of a Lot or Units within a Lot.

Sales Provider means the owner and operator of the Sales software and platform who, as at the date of these T&Cs, is Curtis Fitch.

Sanction Authority means any of the United Nations, the European Union, Her Majesty's Treasury in the United Kingdom, the United States Department of Treasury's Office of Foreign Assets Control, the United States State Department, the governments of the Commonwealth of Australia, Switzerland, South Africa or any replacement of other regulatory body enforcing economic and trade sanctions legislation in such countries.

Sanctioned Entity means any person, being an individual corporation, company, association or other company which:

- (i) is the subject or target of a SDN Sanction or in respect of which a SDN Sanction has been imposed or targeted; or
- (ii) is owned, operated, controlled by any person who is the subject or target of a SDN Sanction or in respect of which a SDN Sanction has been imposed or targeted; or
- (iii) is the subject or target of a State Sanction or in respect of which a State Sanction has been imposed or targeted.

Sanctions means any SDN Sanction, State Sanction and any other similar sanctions, regulations, statutes, prohibitions and official

embargo measures that relate to the enforcement of economic and trade sanctions which are maintained, amended and imposed by any Sanction Authority (each a Sanction).

SDN Sanction means any Sanction used as a basis for listing a person on specially designated nationals or blocked person's lists and or any replacement lists which are maintained and imposed by any Sanction Authority.

Service Fee means a percentage fee payable by a Registered Buyer following a Sale as communicated by DBGA from time to time. For the avoidance of doubt, a Service Fee shall be subject to a Sales Levy in accordance with Clause 10.2 of these T&Cs (as applicable).

Sightholder and/or Accredited Buyer Customer means a customer holding Sightholder or Accredited Buyer status with De Beers Global Sightholder Sales (Pty) Limited, Sightholder Sales South Africa (Pty) Limited, Namibia Diamond Trading Company (Pty) Limited and/or De Beers Canada.

State Sanction means any program that prohibits/and or restricts (i) trade with or investment in, or the transfer of property or assets to or from, a specified country, including its government, government subdivisions, agencies and other entities under the control or acting on behalf of government or (ii) engaging in transactions that relate to investing in and/or provision of advice or assistance in relation to a specified country which, in each case, is maintained, amended and imposed by any Sanction Authority.

Statement of Compliance, Integrity and Probity means the compliance statement that all Registered Buyers must comply with all times it holds the respective status and as set out in Schedule 3 to these T&Cs.

Statement of Principles for Laboratory-Grown Diamond Business Activities means a set of principles applicable to the De Beers Group and all relevant customers, including Registered Buyers, in respect of their Laboratory-Grown Diamond Business Activities to protect and maintain consumer confidence in both natural diamonds and Laboratory-Grown Diamonds.

Subsidiary means an undertaking (the "Subsidiary Undertaking") in respect of which another undertaking:

- (i) holds a majority of the voting rights in the Subsidiary Undertaking;
- (ii) holds a membership interest and has the right to appoint or remove the majority of the board of directors of the Subsidiary Undertaking;
- (iii) has a right to exercise a dominant influence over the undertaking, by virtue of provisions contained in the Subsidiary Undertaking's

- constitutional documents or in any contract dealing with control or management of the Subsidiary Undertaking; or
- (iv) is a member of the Subsidiary Undertaking and controls alone, or pursuant to an agreement with the other members, a majority of the voting rights in the Subsidiary Undertaking; and
 - (v) an undertaking is a Subsidiary of another undertaking if the undertaking is a Subsidiary of an undertaking that is itself a Subsidiary of that other undertaking.

Supply Agreement means the contractual agreement between De Beers Global Sightholder Sales (Pty) Ltd, Namibia Diamond Trading Company (Pty) Ltd, De Beers Sightholder Sales South Africa (Pty) Ltd or De Beers Canada Inc (as the case may be) and a Sightholder and/or Accredited Buyer for the supply of rough Diamonds over a relevant supply period.

Unit means a defined carat volume of Product made available by us for sale to Registered Buyers as a Lot or a component part of a Lot.

Website means www.debeersauctionsales.com incorporating the Sales Provider platform.

Schedule 2

The Best Practice Principles¹

These principles are designed to ensure that best practice is observed in the gem diamond industry

1 Consumer Confidence

We are committed to operating our businesses with a view to ensuring that consumers buying diamond jewellery are able to rely with confidence on the professional and ethical standards and technical skills of the gem diamond industry, taking account of the following:

- (i) natural diamonds are object of prestige, a luxury good, generally acquired for sentimental reasons and are regarded as items of value by the consumer;
- (ii) diamonds are a unique item about which the consumer has limited expertise and consequently, in order to make an informed choice, the consumer is reliant on (i) the standards and integrity of the diamond industry, and (ii) information from the diamond industry as to cut, colour, clarity and carat weight and other attributes, including the application of any treatment;
- (iii) the highest professional and ethical standards and technical skills are necessary to ensure that consumer trust is not misplaced and that the reputation of the gem diamond industry is maintained and enhanced;
- (iv) consumers expect to purchase diamonds in their natural state, without any treatment, beyond the accepted skills of craftsmanship associated with their cutting and polishing and therefore the danger of non-disclosure of treatment of natural diamonds, and the passing off of partly or wholly synthetic diamonds and simulants as natural diamonds, is contrary to the interests of consumers; and
- (v) the injury and hardship suffered by local populations (and the potential for it) when conflicts arise in diamond producing areas are unacceptable, as is seeking to profit from such conflicts.

2 Business Practices

We are committed to operating our businesses in such a way that we neither engage in, nor encourage in any manner, the following practices which are regarded as unacceptable and against the public interest and that of the diamond industry.

- (i) buying and trading rough diamonds from areas where this would encourage or support conflict and human suffering;
- (ii) the use of child labour;
- (iii) practices which intentionally or recklessly endanger or harm the health or welfare of individuals; and
- (iv) conduct which conflicts with the principles set out in (1) above, thereby bringing the diamond industry into serious disrepute.

3 Commitment

We are committed to the highest industry ethics including the following:

- (i) action to address concerns arising out of the misuse of rough diamonds in support of conflict and regular discussions on other issues relevant to the gem diamond industry to enable appropriate and timely industry responses;
- (ii) the provision of proper working conditions (including the health, safety and well-being of workers);
- (iii) the dignity of individuals and best practices to ensure the fair treatment of individuals;

¹ Version as published on 31 March 2015.

- (iv) full compliance with international best practice and the related regulatory framework with respect to the environment; and
- (v) full disclosure at all levels of the diamond distribution chain and, most importantly, to consumers, of all treatments to natural diamonds and with respect to wholly or partly synthetic stones and compliance with the rules, regulations and guidelines published from time to time by the diamond industry's governing bodies.

The De Beers Group is taking the lead in introducing best practice principles to ensure the diamond industry is run in an ethical and professional way.

De Beers is committed to abiding by these principles and is making it a condition of supplying all clients that they too agree to comply with them. Moreover the principles are formulated to ensure that De Beers and its customers encourage adherence to them at all levels of the supply chain down to the consumer. De Beers will also encourage industry organisations in the major diamond cutting centres to adopt these principles.

The implementation and monitoring of these Best Practice Principles will ensure consumers buying diamond jewellery will be able to rely with confidence on the ethical standards of the industry.

Schedule 3

A Registered Buyer Group Statement of Compliance, Integrity & Probity

Part A – A Registered Buyer Group² must at all times it holds the respective status be able to confirm that since **7 July 2011**, it:

- (i) has not been charged with, reached a settlement in relation to, or been convicted of in any jurisdiction in relation to any illegal activity, including, but not limited to, any offence of fraud (including for the avoidance of any doubt, money laundering), theft, dishonesty or for causing any damage to the health or welfare of any individual or individuals;
- (ii) has not been declared (a) bankrupt, (b) has not had an encumbrancer take possession or a receiver or administrative receiver been appointed over all or any of its property or assets, (c) has not entered into a voluntary arrangement with its creditors or an administration order having been made (including, for the avoidance of doubt, Chapter 11 arrangements in the US or any equivalent arrangements in any other jurisdiction), (d) has not been made or had a resolution passed for its liquidation and/or winding-up or it having been wound-up (except for the purposes of solvent reconstruction), (e) has not entered into a scheme of arrangement (except for the purposes of amalgamation or merger), (f) has not had a bank or other relevant financial institution or representative declare that any of the assets and/or members of a Registered Buyer Group constitute a non-performing asset, and/or (g) anything analogous to the above which has occurred in any jurisdiction or where any proceedings or other action has been commenced in respect of the above;
- (iii) has not been expelled from a Diamond Bourse, or similar such industry organisation, whether pursuant to a judgement of the Bestuur or otherwise;
- (iv) has disclosed all treatments to natural diamonds, as defined in the De Beers Best Practice Principles;
- (v) has not misrepresented simulants and/or synthetics as natural diamonds;
- (vi) has not been involved in or associated with conflict diamonds;
- (vii) has not been involved in or associated with the refusal by any grading laboratory to grade any diamond or diamonds or the contravention of any code of ethics or conduct operated by a grading laboratory;
- (viii) has not been turned away or had its status as a customer terminated by any supplier of diamonds on the basis of a failure to comply with any code of conduct or ethical code operated by such a supplier; and
- (ix) has not been turned away or had its status as a member of any diamond industry body or trade association terminated or suspended on the basis of a failure to comply with any code of conduct or ethical code operated by such diamond industry body or trade association.

Part B – A Key Individual³ of a Registered Buyer must at all times it holds the respective status be able to confirm that since **7 July 2011**, it:

- (i) has not been disqualified as a director;
- (ii) has not been convicted in any jurisdiction of any offence of fraud, theft or dishonesty;
- (iii) has not been expelled from a diamond bourse or any similar such industry organisation;
- (iv) has not been declared bankrupt; and
- (v) has no past conduct that in any way casts doubt upon their personal probity or integrity.

² As defined in Schedule 1 (Interpretation & Definitions) to the T&Cs.

³ As defined in Schedule 1 (Interpretation & Definitions) to the T&Cs.