

Part D – CONDITIONS OF SALE FOR BOTSWANA SIGHTS

1 Application

- 1.1 These Conditions shall govern and be incorporated in every Contract between De Beers Global Sightholder Sales (Proprietary) Limited, trading as DTC¹ (“GSS”) and/or any other member of the De Beers Group and the Sightholder in Botswana. They shall apply in place of, and prevail over, any terms or conditions (whether or not in conflict or inconsistent with these Conditions) contained or referred to in any documentation submitted by a Sightholder (or any member of its Compliance Group) or in correspondence or elsewhere or implied by trade, custom, practice or a course of dealings. The signing by GSS of any of the Sightholder documentation shall not imply any modification of these Conditions.
- 1.2 In relation to Diamond supply, the 2024-2025 Supply Terms and Conditions (as published from time to time) shall be deemed to be incorporated into these Conditions and to prevail over these Conditions if there is any inconsistency.
- 1.3 If any Condition (or part of any Condition) is held to be void, invalid, ineffective or unenforceable, in whole or in part, these Conditions will continue to be valid as to all other provisions (and the remainder of the affected provision).

2 Purchase Procedures

- 2.1 GSS shall from time to time notify the Sightholder of the dates and venues of Sights and any changes thereto. The dates and frequency of Sights in one Sight Location may vary from time to time from the dates of Sights in other Sight Locations.
- 2.2 A Sightholder shall submit a request for the Boxes which it wishes to purchase at a Sight not less than fourteen (14) days before the first day of such Sight or such other date as is notified by GSS from time to time.
- 2.3 No less than two (2) business days prior to the commencement of the relevant Sight, GSS shall notify the Sightholder as to whether or not any or all of the Boxes specified in the Sightholder Box request are available. For the avoidance of doubt, such notification shall only include those Boxes applied for by the Sightholder under Condition 2.2 and shall not require the Sightholder to offer to purchase any Boxes not applied for.
- 2.4 GSS will determine and notify the Sightholder of, the venue of the Sight at which the Boxes notified to the Sightholder as available under Condition 2.3 will be available for inspection by the Sightholder. At that Sight, the Sightholder shall be entitled to offer to purchase (at the price notified by GSS) all or any of the Boxes made available for inspection at that Sight. Acceptance by GSS of the Sightholder offer shall create a binding Contract.

- 2.5 The Sightholder may decide not to offer to purchase any or all of the Boxes made available for inspection. For Boxes containing Diamonds of above a size notified in writing by GSS from time to time (as well as for other Boxes as notified to the Sightholder from time to time), the Sightholder may request a Buyback. Sight Buybacks will take place on the terms, and subject to conditions, as set out in the Sight Operational Guidelines, as published from time to time by GSS.
- 2.6 A Sightholder shall have a 48 (forty-eight) hour period of time, or such other period of time as notified in advance of Sight by GSS, to submit an offer to purchase the Boxes made available in accordance with Conditions 2.4 and 2.5 (including as applicable the right to request a Buyback). The 48 (forty-eight) hour period commences at the time GSS presents the relevant Boxes for inspection at the Sight. In the event a Sightholder does not attend Sight, the 48 (forty-eight) hour period, or such other period as notified in advance of Sight by GSS, shall commence at 09:00am CAT on the first day of Sight and conclude at 09:00am CAT on the third day of Sight. GSS reserves the right, in its absolute discretion, to extend the 48 (forty-eight) hour period in respect of a negotiation pursuant to Condition 2.5.
- 2.7 If a Sightholder submits an offer to purchase the Boxes presented by GSS at Sight or unseen if not attending Sight, GSS will only accept offers submitted by a Sightholder emailing sightmanagement@debeersgroup.com, copying the Key Account Manager and the relevant GSS Vice President (if applicable). For the avoidance of doubt, offers submitted by any other means will not be accepted by GSS. Further information regarding acceptance procedures at Sight is set out in the Sight Operational Guidelines, as published from time to time by GSS.
- 2.8 A Sightholder shall be responsible for:
- 2.8.1 complying with all labelling, marking, packaging, Box description and other applicable legal requirements in the territory to which the Boxes are to be delivered; and
- 2.8.2 obtaining any necessary licences and paying all applicable duties, taxes, levies, penalties and other charges or fees of any kind in respect of the delivery of the Boxes and their resale by the Sightholder; and
- 2.8.3 obtaining all necessary authorisations in terms of the Precious and Semi-Precious Stones (Protection) Act Cap 66:03 (as amended and/or replaced from time to time) for the purchase of rough or uncut diamonds,
- and shall co-operate with, and provide all necessary assistance to, GSS in relation to such matters.

¹ DTC™ is a trademark owned by De Beers UK Limited

3 Price

- 3.1** All prices will be expressed in US dollars (or such other freely convertible currency as is specified by GSS from time to time) and are exclusive of any and all (a) applicable value added, or other sales or similar, tax, (b) in the case of Diamonds offered by GSS to the Sightholder under a Standard ITO, transport, delivery and insurance charges, (c) duties or levies, and (d) in the case of goods offered by GSS to a Sightholder under a Planned ITO and/or Integrated Retailer ITO (as applicable), insurance charges and the Supply Planning Fee and/or the Integrated Retailer ITO Service Fee (as applicable) (pursuant to the Supply Planning Fee Terms and Conditions and/or the Integrated Retailer Service Fee Terms and Conditions (as applicable)), for each of which the Sightholder shall be additionally and solely liable.
- 3.2** Prices will be communicated to the Sightholder by way of invoice. Invoices shall only be delivered to Eligible Entities within a Compliance Group by (i) post to the nominated address of an Eligible Entity, (ii) emailed to the nominated email address, (iii) made available by GSS online or, (iv) may be collected by the Sightholder from the relevant Sight Location. The Sightholder shall be responsible for notifying GSS in writing of the address to which invoices shall be delivered.
- 3.3** All payments shall be made by the Sightholder in full in US dollars (or such other freely convertible currency as is specified by GSS from time to time) by telegraphic or electronic transfer to such bank account details as are notified by GSS to the Sightholder from time to time.
- 3.4** If the Sightholder fails to pay the price for any Boxes in full within five (5) business days after the date of GSS's acceptance of the Sightholder offer therefor, GSS shall be entitled by written notice to cancel or suspend delivery of the Boxes to the Sightholder. In the event a delivery is cancelled and/or suspended, GSS may at its discretion in respect of a Sightholder, impose a forfeiture of such Boxes from a Sightholder's ITO (which will therefore for the avoidance of doubt be reflected in the Sightholder's level of Demonstrated Demand). No credit facilities shall be made available. If a Sightholder that elects to receive a Planned ITO and/or an Integrated Retailer ITO (as applicable) fails to pay the Supply Planning Fee and/or the Integrated Retailer ITO Service Fee (as applicable) when due, GSS may (i) withhold or terminate the provision of any Planned ITO Service and/or Integrated Retailer ITO Service, (ii) suspend receiving applications for, and/or sales of, and/or deliveries of, Boxes from or to, as the case may be, the Sightholder, and (iii) terminate the Sightholder appointment as such if the Sightholder fails to remedy the default within a reasonable period (being not less than twenty (20) nor more than thirty (30) business days) of being requested in writing by GSS to do so, as more fully set out in Condition 5 of the Supply Planning Fee Terms and Conditions.

4 Title, Risk and Delivery

- 4.1** An Eligible Entity of the Sightholder shall be entitled to take delivery of each Box after GSS has received cleared payment in full for it. Delivery of each Box (and the Diamonds in it) shall be deemed to take place when GSS hands the Boxes to a GSS approved carrier at the Sight Location for onward despatch to the Sightholder. All risk of loss of, or damage to, each Box (and the Diamonds contained in it) shall pass to the Sightholder on delivery to such carrier.
- 4.2** Without prejudice to the other provisions of these Conditions or the terms of the Supply Planning Fee Terms and Conditions or the Integrated Retailer Service Fee Terms and Conditions (as applicable), when previously agreed in writing, GSS will appoint a carrier and arrange insurance (at the Sightholder cost) and transportation (at either the Sightholder cost or GSS's cost, as the case may be, depending on whether the Sightholder has elected to receive a Standard ITO, a Planned ITO, and/or an Integrated Retailer ITO (as applicable)) of Boxes on the Sightholder's behalf, but will accept no liability for such Boxes (or the Diamonds contained in them) following delivery in accordance with Condition 4.1. Any delivery of Boxes which is made pursuant to this Condition 4.2 shall only be delivered to the nominated address of Compliance Group companies. The Sightholder shall be responsible for notifying GSS in writing of the address to which Boxes should be delivered. All risk of loss of, or damage to, each Box (and the Diamonds contained in it) shall pass to the Sightholder on delivery to the relevant carrier.
- 4.3** Title to, and property in, each Box (and the Diamonds contained in it) shall pass to the Sightholder on delivery in accordance with Condition 4.1 or Condition 4.2 (as applicable).
- 4.4** GSS shall deliver the Boxes in accordance with Condition 4.1 or Condition 4.2 (as applicable) within a reasonable period, or at such other time as may be agreed between GSS and the Sightholder, after receipt of payment.

5 Liability

- 5.1** Any shortage, defect or other claim by the Sightholder (including any request for GSS to assist in tracing any Box (or any Diamonds contained in it)) must be notified in writing to GSS within sixteen (16) business days of delivery in accordance with Condition 4.1 above. If the Sightholder fails to do so, the Boxes, and the Diamonds contained in them, shall be conclusively presumed to be in accordance with the Contract.
- 5.2** GSS's entire liability to the Sightholder hereunder, whether for breach of contract, negligence, misrepresentation or otherwise, is limited at GSS's discretion to refunding the price paid for the relevant Diamond or Box or replacing the relevant Diamond or Box or making good any shortage or non-delivery and will not in any event exceed the price paid, or to be paid, for the relevant Diamond or Box.

5.3 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 the Boxes (or the Diamonds contained in them) are excluded, in each case to the extent permitted by law.

6 Governing Law and Disputes

6.1 These Conditions shall be governed exclusively by and construed exclusively in accordance with the law of Botswana.

6.2 The following provisions relate to the resolution of any dispute arising out of or connected with these Conditions and all references to 'dispute' shall mean a dispute of that kind.

6.3 Any dispute shall be resolved in accordance with one of the procedures set out in Conditions 6.4 or 6.5. Neither the Sightholder nor GSS may bring any substantive proceedings in relation to a dispute in any other forum. This is without prejudice to either party's right to bring ancillary applications in any court in support of substantive proceedings or arbitration.

6.4 The dispute may be resolved by arbitration in accordance with the provisions of the Arbitration Act Cap 06:01 (as amended and/or replaced from time to time) and pursuant to the Rules for the Conduct of Arbitrations as published by the Botswana Institute of Arbitrators. The arbitration shall be conducted in Gaborone, Botswana in the English language by a single arbitrator. The arbitrator shall be familiar with, and have experience of, the diamond industry and shall be appointed by GSS.

6.5 The dispute may be resolved by litigation in the courts of Botswana.

6.6 Neither party will initiate any of the procedures set forth above unless GSS and the Sightholder have first discussed the subject matter of the dispute in good faith with a view to finding an amicable resolution of the dispute. Such discussions may include a reference by either GSS or the Sightholder to a senior representative of each of GSS and the Sightholder for resolution in accordance with such procedures as the senior representatives may agree.

6.7 Neither party will initiate any of the procedures set forth above unless in the case of arbitration or litigation, no resolution has been reached within twenty-five (25) business days of the commencement of the good faith discussions referred to in Condition 6.6.

6.8 In the absence of a resolution to the dispute as provided in Condition 6.6, the claimant shall be entitled to elect any of the dispute resolution procedures set forth above that is applicable to the dispute. This election shall be binding on the other party subject to Conditions 6.9 to 6.12.

6.9 If GSS is the claimant and elects to proceed by way of arbitration, it shall serve an Arbitration Notice on the Sightholder. Arbitration shall become the dispute resolution procedure unless the Sightholder informs

GSS in writing within thirty (30) days of the date of the Arbitration Notice that it requires the dispute to be resolved by litigation.

6.10 If the dispute is to be resolved by litigation, the parties shall, jointly or individually, apply to the court for an order that no Business Secrets be referred to in open court or in any resulting judgment or order.

6.11 If arbitration proceedings are already pending between GSS and the Sightholder the arbitrator may determine, where in his opinion it is expedient so to do, that any further disputes shall be resolved in the same arbitral proceedings. If he so determines, the parties shall be treated as having consented to such disputes being resolved accordingly and neither party shall commence or continue any other proceeding (whether by way of arbitration or litigation) with respect to that dispute.

6.12 If court proceedings are already pending between GSS and the Sightholder which arise under or in connection with the arrangements constituted by the 2024-2025 Supply Documentation referred to in paragraph 1.3.1 of the 2024-2025 Supply Terms and Conditions, any such further disputes must be resolved by way of litigation.

6.13 The Sightholder will irrevocably appoint a person in Botswana as its agent for the service of process, and it will promptly provide to GSS such details of the person so appointed as GSS may request.

1 January 2024