



state  
diamond  
trader  
REPUBLIC OF SOUTH AFRICA

## CLIENT TRADING RULES

SIGNED BETWEEN

THE STATE DIAMOND TRADER

AND

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## **INTRODUCTION**

The purpose of this document is to present the State Diamond Trader's Trading Conditions in terms of which the State Diamond Trader conducts business with its clients. It is important to note that these conditions shall specifically apply to the 'buying and selling' transaction of rough diamonds to clients of the State Diamond Trader and therefore, do not in any way supersede mandatory statutory requirements.

## **BACKGROUND**

The diamond business is one that is undertaken on an informal basis. Generally, the industry is underlined by the relative simplicity of a verbal agreement. In most countries where diamond trading is undertaken the industry is regulated by means of an arbitration system in the event of non-compliance with the traditional code of conduct by traders.

These codes reflect the informal nature of the business and are dependent on mutual trust being displayed between the respective parties. In most cases, the breakdown of this trust is in itself a ground for suspension and /or cancellation of business.

## **SOUTH AFRICA**

Other countries that engage in diamond trading, such as Belgium and Israel, have strictly defined systems of controlling the industry. For instance, in order to be able to trade in diamonds in those countries, one has to become a member of a Diamond Bourse or Exchange. A Diamond Bourse is a private enterprise governed by its own set of rules and regulations although it still preserves the traditions of the diamond business. Should a dispute or disagreement arise, an integral part of the Bourse is its system of arbitration which is recognised by each member and its decisions are binding on such members. Failure to abide by the decision of the arbitrator can result in the withdrawal of the Bourse membership thus resulting in the suspension of business. The Bourses also work closely with government authorities to ensure that applicable legislation is adhered to by its members.

In South Africa there is, however, no similar system in place. Membership of the Exchange is voluntary. As a result, the Exchange or any other body within the industry is not empowered to decide on any disputes that may arise.

The function of control within the South African industry is governed by with the South African Diamonds and Precious Metals Regulator ("SADPMR"). Their functions include the issuing and withdrawal of beneficiation licences. Unlike the Bourse membership, this level of control merely operates within the requirements of the applicable legislation and does not preserve the code of 'mazal u'bracha' which is central to the traditions of the diamond business.

It is, therefore, apparent that the notion of trust between trading parties is not as strong in South Africa as it is in other countries. Hence, it is necessary for the State Diamond Trader to clearly define the conditions which clients are obliged to comply with when conducting their business.

## TRADING TERMINOLOGY

### **Mazal u'bracha**

A '*mazal u'bracha*', which means 'luck and blessing' is a traditional Jewish expression used at the conclusion of an agreement of buying and selling of diamonds. Usually, the expression is accompanied by a handshake. It is a way in which the seller wishes the buyer good luck and it further preserves a sense of continuity and commitment to the business ethics.

The term 'Mazal' is used across the international diamond trading community to indicate the completion of a deal and agreement on price. The breaking of a 'Mazal' is seen as extremely serious as it is construed as a breakdown of trust, the bedrock of the diamond industry.

### **Approval (Appro)**

The term Appro refers to a process whereby a client is permitted to take goods to his or her offices/premises for further inspection. Some diamond trading centres allow this process on the basis of trust. Others go to the extent of issuing a receipt or commission slip.

### **Holding**

Holding in the diamond industry applies when a client has inspected the goods but has not yet made a decision to purchase. The goods are kept under seal at the trading premises and cannot be shown to any other client.

### **Broker's Note**

A Broker's Note is a statutory document which indicates the passing of ownership from one party to the other. Failure to produce a valid Broker's Note, when transporting rough diamonds, can result in a penalty being imposed by the South African Diamonds and Precious Metals Regulator.

## **STATE DIAMOND TRADER - TRADING CONDITIONS**

- 1. Notwithstanding any meaning, translation and / or interpretation of any of the provisions of these Trading Rules, the laws, rules and policies of general application in the Republic of South Africa shall be applicable at all times to all diamond trading transactions to be concluded between the State Diamond Trader and any of its clients. The State Diamond Trader shall not conclude any transaction with any of its clients where a failure to comply with any law or policy of general application in the Republic of South Africa has been established.**
  
- 2. All State Diamond Trader clients shall produce a valid Beneficiation Licence and South African Revenue Services Tax Clearance Certificate in order to inspect rough diamonds for purchase. In the case of a company being the licence holder, a duly authorised representative shall be required to produce an authorised representative certificate.**
  
- 3. In order to further the objective of promoting the growth of the industry, the following constitutes additional / supporting conditions;**
  - 3.1 The State Diamond Trader shall be permitted to continue trading with clients that have proof of application for Beneficiation Licence renewal. Such a provision will have a time limit of 3 months from the issuance of the proof of application. On expiry of this period, the client is required to submit the new beneficiation licence or written confirmation from the South African Diamonds and Precious Metal Regulator that the process is still pending and the reasons for such.**
  
  - 3.2 No client shall be able to trade with the State Diamond Trader without a valid South African Revenue Services Tax Clearance Certificate. If a client fails to produce a valid South African Revenue Services Tax Clearance Certificate immediately upon expiry or before expiry, the State Diamond Trader shall immediately suspend trading with such client.**
  
  - 3.3 If after a period of one month of the expiry of the South African Revenue Services Tax Clearance Certificate, the client fails to submit a valid South African Revenue Services Tax Certificate, the process of suspension and removal from the list of registered clients as indicated in paragraphs 3.4 to 3.6 shall be implemented.**
  
  - 3.4 A suspension, as referred to in paragraph 3.3, shall be for a period of six months pending submission of the required documents – with the commencement date of the**

suspension indicated in official correspondence signed by the Chief Executive Officer of the State Diamond Trader.

3.5 In an event a client produces the required documents within the six-month period of the suspension; the reinstatement of their client status shall be determined by the Chief Executive Officer or his/her delegated official.

3.6 In the event that a client fails to submit the required compliance documents within the applicable timeframes or as indicated in 3.3 and, in the case of Beneficiation Licence renewal no mitigating circumstances are given by the South African Diamonds and Precious Metal Regulator, this shall result in the removal as a registered client of the State Diamond Trader and such removal shall be in writing.

4. During inspection, clients and / or members of the public shall not be permitted to bring rough diamonds into the premises of the State Diamond Trader. This is aimed at preventing the possibility of swapping stones during the inspection process.
5. The 'Appro' process shall not be applied to any inspection and trading by the State Diamond Trader.
6. In the event of Holding, clients wishing to purchase the reserved rough diamonds shall purchase them within 72 hours of inspection. To the extent that the client does not purchase the rough diamonds in Holding within the prescribed period hereof, the State Diamond Trader shall be entitled to sell those rough diamonds to any third-party purchaser in the normal course of its business.
7. The inspection and purchasing of diamonds shall strictly be on an appointment basis. A predetermined appointment with a client to inspect rough diamonds shall be arranged according to the State Diamond Trader sales plans.
8. Unless otherwise authorised by the State Diamond Trader, only authorised representatives of State Diamond Trader registered clients (companies) shall be permitted to inspect the rough diamonds presented.
9. All rough diamonds shall be weighed and checked by the State Diamond Trader sales team before and after each inspection. All corresponding documentation will also be checked prior to

presentation to clients. This shall be done for security purposes to ensure that diamonds are not removed from the State Diamond Trader premises by the clients.

10. Clients shall be required to sign a copy of the sales (pro-forma or quotation) invoice presented with the rough diamonds to be inspected by them. The signing of which confirms the client's appointment at the specified time and that the rough diamonds inspected were subsequently checked weighed back in by the State Diamond Trader sales team.
11. Upon completion of the selling transaction, the client shall issue a Broker's Note, which shall be signed by both the authorised representative of the State Diamond Trader and the respective client's authorised person. The sold diamonds shall only be removed from the State Diamond Trader premises upon presentation, to the respective official of the State Diamond Trader, of a properly executed Broker's Note, and proof of payment of the purchase price.
12. Purchased rough diamonds will only be released to the purchasing client upon confirmation of funds received in the State Diamond Trader's bank account.
13. Non-compliance with the diamond industry recognised 'mazal' expression shall result in the immediate suspension of the client's customer status with the State Diamond Trader for a specific period as decided by the State Diamond Trader. The lifting of the suspension (reinstatement of the client) will be determined by the Chief Executive Officer.
14. The State Diamond Trader reserves the right to remove clients from its registered list in the event of the non-compliance with the diamond industry recognised 'mazal' expression.
15. Before viewing goods at the State Diamond Trader, clients must ensure that they have appropriate finance and manufacturing capability to uphold any commitment to purchase.
16. Clients shall notify the State Diamond Trader in writing of any change of details recorded in the client's application document within 14 days of any changes occurring. Failure to do so shall result in the immediate suspension of the client's customer status at the State Diamond Trader. It shall be the client's responsibility to keep the State Diamond Trader informed of any changes, especially its licence position, financial and shareholding arrangements as well as its manufacturing capability.
17. If the State Diamond Trader becomes aware that a client has not informed it of any changes to that client's business operation as defined in the original application – that client shall be

suspended immediately and given 7 days to inform the State Diamond Trader in writing of such changes. Failure to do so within the time period will result in suspension of that client for a period of 6 months with reinstatement determined by the Chief Executive Officer.

18. The State Diamond Trader reserves the right to suspend sales to any client at any time without prior notice.

19. The State Diamond Trader does not warrant:

19.1 the value, caratage, clarity or colour of any rough diamonds offered for inspection to clients;

19.2 that any rough diamonds will be available for purchase in any period.

20. The client indemnifies and holds harmless the State Diamond Trader against any claim which it, it's customers, officers, employees or shareholders may have arising out of the purchase of rough diamonds from the State Diamond Trader, non-availability of rough diamonds for purchase, or the suspension or removal of the client from the client list in terms of clauses previously stated or otherwise howsoever arising, save for the delivery of rough diamonds purchased in compliance with these trading conditions.

21. The State Diamond Trader shall not provide any credit / financial assistance to clients and rough diamonds shall only be released to client/s on receipt of payment by the State Diamond Trader.

22. Cheque payments shall not be acceptable unless it is a bank guaranteed cheque and has been verified with the respective bank. Such verification shall occur prior to the goods being released to client. No cash payments are permitted.

23. The State Diamond Trader shall in no case accept payments from a third party are permitted.

24. Clients shall effect payment and ensure that such payment is received by the State Diamond Trader within 72 hours of the agreement to purchase. In case of failure to effect payment within the specified timeframe, the clients should notify the State Diamond Trader in writing of the reasons why and of the period in which payment will be executed.

25. The State Diamond Trader shall be entitled to remove the name of any company or individual from its client list should such client:



25.1 be found guilty of an offence under the Diamonds Act 56 of 1986, as amended;

25.2 breach the State Diamond Trader's Trading Conditions; or cease to hold a diamond beneficiation licence.

23.3 any other reason deemed fit by the State Diamond Trader upon/ written consultation with the South African Diamonds and Precious Metal Regulator

26. The client acknowledges the penalties applicable under section 87 of the Diamonds Act 56 of 1986, as amended.

27. Prohibition of Exports: State Diamond Trader clients are not permitted to export goods they bought from the State Diamond Trader other than under the terms of the 80/20 rule provided for in the Diamonds Amendment Act Regulations and Diamonds Export Levy Act. The State Diamond Trader has a right to stop trading with those who transgress this rule.

I ..... (Name and surname) of .....(Company name) have read and understood the Trading Rules of the State Diamond Trader and understand that I am/my company is bound by these Rules as a client of the State Diamond Trader. Any contravention of any section of these Rules may lead to the removal of my name/company from the Register of clients of the State Diamond Trader.

**SIGNED AT** ..... **ON THE** ..... **DAY OF** .....

**For and behalf of**

.....

**Company name**

.....

**Signature**

**AS WITNESSES:**

1. ....

2. ....

