

TERMS AND CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1. "CPM" means Cape Precious Metals (Pty) Ltd, with the registration number 2009/000144/07 or its successors-in-title or assigns.
- 1.2. "Customer" means the person with whom CPM contracts for the sale of Precious Metal Products, Associated Jewellery Products and any Services.
- 1.3. "Product(s)" means all items sold and services rendered.

2. APPLICABILITY

- 2.1. These Terms and Conditions of Trade expressly exclude and supersede any of the Customers Terms and Conditions of sale, purchase, order or the like.

3. CREDIT FACILITIES

- 3.1. The Customer understands that CPM decision to grant credit facilities to the Customer is at the sole discretion of CPM.
- 3.2. CPM reserves the right to suspend the customer's credit facility at any time if the customer is in default under these Terms and Conditions of Trade or to withdraw the credit facilities by giving written notice to the Customer at least 10 (ten) business days before the credit facilities will be suspended or withdrawn. In such circumstances the provision of the Terms and Conditions of Trade will still apply to those amounts that are owed by the Customer under the credit facilities before the date in which CPM suspended or withdrew the credit facilities.
- 3.3. CPM reserves the right, by written notice to the Customer to reduce credit facilities granted to the Customer, which reduction will take effect on delivery of a written notice to the Customer.
- 3.4. CPM will increase the credit limit under the credit facilities with the written consent of the Customer, provided that CPM is satisfied that the Customer will be able to maintain its obligations under the increased credit limit.
- 3.5. The credit limit granted by CPM to the Customer shall not be deemed to be a limit of the Customer's indebtedness to CPM.

4. ORDERS

- 4.1. Orders placed by the Customer will not be binding upon CPM unless and until accepted in writing by CPM or delivered to the Customer accompanied by a delivery note/waybill and signed for by the Customer and CPM.
- 4.2. Every order placed will be a separate and distinct order subject to these Terms and Conditions of Trade.
- 4.3. Verbal orders shall be acceptance by CPM, however CPM will not be responsible for any errors or misunderstandings occasioned by the Customer's failure to make orders in writing.

5. DELIVERIES

- 5.1. Although CPM will use its reasonable commercial endeavours to affect the delivery of Products ordered by the Customer by the time and date agreed with the Customer, such times and dates of delivery are not binding on CPM.
- 5.2. Delivery will be made at the address nominated by the Customer, agreed by CPM and in compliance with the Precious Metals Act 2005.
- 5.3. Signature by the Customer or by any representative of the Customer on CPM delivery note/waybill, shall be regarded as acceptance by the Customer that the Products reflected on such delivery note/waybill have been properly and completely delivered.
- 5.4. The Customer warrants that the signatory to any tax invoices, delivery note/waybill or other documentation of CPM made out in the name of the Customer duly authorized to bind the Customer in relation to the transaction and shall also constitute prima facie proof of the proper delivery of the Products.
- 5.5. If the Customer disputes that the signature appearing on any tax invoice, delivery note/waybill or any other document of CPM in support of proof of delivery the onus will be on the Customer to prove that the Customer has not signed the document and that the delivery did not take place.
- 5.6. The Customer acknowledges that should the correct Products be supplied and delivered, and should these Products be returned at the Customer, then such Products will be subject to a handling charge, which shall immediately become due and payable by the Customer.
- 5.7. Ownership in and to the Products will pass to the Customer upon receipt of payment by CPM for the full purchase price.
- 5.8. CPM shall not be liable for any failure or delay in performing any of its obligations where such failure delay in a result of force majeure, which shall be deemed to include any event beyond the control of CPM.

6. PRICE AND PAYMENT

- 6.1. The price agreed when the order is taken and signed for on the delivery note/waybill will be the price due and payable.
- 6.2. The Customers agrees that the amount reflected on the tax invoice issued by CPM shall be due and payable (a) cash on order; or (b) if the Customer has been approved for credit facilities according to the Term and Conditions of these credit facilities.
- 6.3. Until such time as the Customer has paid the purchase price in full in respect of the Products purchased, the ownership in and to all such Products shall remain vested in CPM. CPM shall in its sole discretion, without notice to the Customer, be entitled to take possession of any Products which have not been paid for and in respect of which payment is overdue.
- 6.4. CPM shall be entitled to bill the Customer by e-mail (electronic data message).
- 6.5. The preferred method of payment shall be done by E.F.T.
- 6.6. The Customer carries all risk associated with or arising from any method elected to effect payment, the onus vest on the Customer to verify CPM banking details.
- 6.7. The Customer shall not be entitled, for any cause whatsoever, to withhold, deduct from or defer any amount due to CPM and shall pay all amounts free of exchange and set off.

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- 6.8. CPM may allocate all payments made by the Customer to such invoices or accounts, cost, interests, capital or any other items and amounts outstanding by the Customer to CPM as it may in its sole and absolute discretion decide.

7. WARRANTY

- 7.1. The Products shall be regarded as having been sold "voetstoets" without warranty against latent defects therein.
- 7.2. No liability whatsoever shall arise furthermore on the part of CPM for any representation or warranty made or alleged to have been made at any time in respect of the Products sold by CPM to the Customer.
- 7.3. Notwithstanding anything herein contained CPM shall on no account be liable for any special, consequential or indirect damages, nor CPM be liable for any person for any loss and /or damages whether to person or property however arising, unless such loss or damages is directly caused by the negligence or wilful conduct of CPM. Any liability of CPM for direct loss or damages will not exceed in the aggregated of damages, costs, fees and expenses capable of being awarded to the Customer, the amount paid or due to be paid by the Customer for the Products
- 7.4. On signature of the delivery note/waybill the Products delivered will be deemed to be correct and of the correct quality.

8. INDEMNITY

- 8.1. The Customer hereby indemnifies CPM against all and any claims of whatsoever nature which may be made by any person against CPM for any loss or damages (including special, indirect and consequential damages) of any nature arising out of Products supplied by CPM.
- 8.2. The aforesaid indemnity includes any legal Cost which may be incurred by CPM in defending and /or opposing any such claim, calculated on the scale as between attorney and own client.

9. ACKNOWLEDGEMENT AND AUTHORITY IN RESPECT OF INFORMATION

- 9.1. The Customer acknowledges and agrees that CPM may at anytime:
- 9.2. conduct searches with any person, including credit bureaus and banks for the purpose of assessing and reassign the Customer's creditworthiness
- 9.3. Contact any of the Customer's creditors to enquire as to credit facilities granted to the Customer and where applicable, to extend, Terms and Conditions thereof, and record with any Credit Bureau or advice any third party of the details of the credit facilities granted by CPM to the Customer, including the Customer's performance or non-performance of its credit obligations, and details of any securities which CPM holds for the Customers indebtedness.
- 9.4. The Customer hereby waives any claim and indemnifies and holds CPM harmless against any claim of any nature and howsoever arising from the aforesaid instances.

10. GENERAL

- 10.1. Unless the context otherwise requires, the words importing the singular shall include the plural and vice versa, a natural person shall include an artificial person and vice versa and the one gender shall include the other gender and vice versa.
- 10.2. The Customer chooses as its legal address (domicilium citandi et executandi) the physical address selected by the Customer for the delivery of the Products as indicated in the Customers credit application and in compliance with the Precious Metals Act 2005.
- 10.3. In addition the legal address will be indicated on the delivery note/waybill.
- 10.4. In addition to the aforesaid the Customer also chooses the aforesaid address as address where it will receive any notice (including legal documents) in terms of the National Credit Act 34 of 2005.
- 10.5. Any notice shall be deemed to have been received by the Customer within 3 (three) days of it having been sent by prepaid registered mail to the Customer's business or postal address; or on the business day following the date of it having been faxed to any of the Customer's fax numbers, or, in the event of it having been delivered by hand to the Customer, on the day of delivery.
- 10.6. The Customer will notify CPM of any change of address in writing.
- 10.7. These terms and conditions, read together with any agreement signed by the parties, constitute the whole of the agreement between the parties relating to the matters dealt with herein. No undertaking representation, term, condition or any variation or addition relating to the subject matter hereof not incorporated herein or reduced to in writing and signed by the parties shall be binding.
- 10.8. Failure to delay in the part of CPM in exercising in any right, power or privilege here under will not constitute or be deemed to be a waiver or novation thereof, nor will a single or any partial exercise of any right, power or privilege precluded any other or further exercise thereof or the exercise of any other right, power or privilege.
- 10.9. The Customer shall not be entitled to cede, assign or transfer any part, share or interest of its agreement with CPM without the prior written consent of CPM. CPM shall be entitled to cede, assign and transfer its right and obligations under its agreement with the Customer, in which event these Terms and Conditions of Trade will govern the Product sold to the customer by the cessionary. The agreement shall be binding on the successors in title and permitted assigns of the parties.
- 10.10. CPM shall be entitled to claim any cost incurred by enforcing its right against the Customer on the attorney and own client scale, including cost of council on brief (whether or not legal proceedings are instituted), tracing agents fees ,collection commission and all costs incidental thereto.
- 10.11. In terms of Section 45 of the magistrates Court Act OF 1944, as amended, the Customer hereby consents to the jurisdiction of the Magistrates Court having jurisdiction in terms of Section 28 of the said Act in respect of any action to be

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instituted against the Customer by the Company in terms of the contract. It shall nevertheless be entirely within the discretion of CPM as to whether to process against the Customer in such Magistrates Court or any other Court having jurisdiction

- 10.12. The Customer undertakes to inform CPM in writing 7 (seven) days of any changes of ownership of the business, directors, members, shareholders, owner or partner (as the case may be), and of any changes of its addresses at least 14 (fourteen) days prior to same occurring.
- 10.13. The Customer agrees that immediately upon any change of ownership in the Customer any outstanding amount whether due or not shall be deemed to be forthwith payable by the Customer.
- 10.14. In the event of any term or provision of the agreement between CPM and the Customer is held to be invalid, void, illegal or unenforceable in any respect, that shall not affect any other term or provision hereof, and the agreement shall be interpreted and constructed as if such term or provision had never been contained herein.
- 10.15. The agreement between CPM and the Customer shall be governed by the laws of the Republic of South Africa.

11. BREACH

- 11.1. Should the Customer commit any breach of these terms and conditions or any breach of any other agreements entered into with CPM, or failed to make payment of any amount that may be due or owing to CPM on the due date for payment thereof (whether in terms of these Terms and Conditions of Trade or on respect of any agreement between parties), or pass a resolution for its winding up or be placed under any order or sequestration or liquidation or judicial management (whether provisional or final), or compromise with its creditor's or any class of them or attempt to do so, or suffer the judgment against it and allow same to remain unsatisfied for a period of 7 (seven) days or cease to carry on business, then CPM shall be entitled, at its sole discretion and without prejudice to any rights that it has in terms of these Terms and Conditions of Trade or any agreement or in law, forthwith to:
 - 11.1.1. cancel these Terms and Conditions of Trade, if applicable, withdraw any credit facility granted to the Customer; and / or
 - 11.1.2. repossess and remove any Products supplied to the Customer; and / or
 - 11.1.3. retain all amounts paid by the Customer which amounts shall be forfeited by the Customer as a genuine pre-estimate of damages; and / or
 - 11.1.4. claim payment of all amounts owing by the Customer to CPM, which shall all become immediately due and payable and recoverable; and / or
 - 11.1.5. claim specific performance under these Terms and Conditions of Trade or payments of any damages that CPM has suffered.

SIGNED at _____ on this _____ day of _____ 20__.

Signature (Duly Authorised)

Full Name & Surname

As Witnesses:

1. Signature: _____

Full Name: _____

2. Signature: _____

Full Name: _____