



## JEWELLERY

### **Additional terms and conditions applicable to jewellery and watches for all jurisdictions**

- (1) Interpretation:
  - a. These additional terms and conditions ("Jewellery Terms") must be read together with TFG's Standard Terms and Conditions for Local Suppliers of Merchandise Goods or TFG's Standard Terms and Conditions for International Suppliers of Merchandise Goods ("Standard Terms") on TFG's website, as amended from time to time, whichever is applicable.
  - b. References to clauses in these Jewellery Terms refer to the clauses in TFG's Standard Terms and Conditions for Local Suppliers of Merchandise Goods and also to the equivalent clauses, albeit with different clause numbers, in TFG's Standard Terms and Conditions for International Suppliers of Merchandise Goods.
  - c. These Jewellery Terms form part of the entire agreement between you and TFG.
  - d. In these Jewellery Terms, the following definitions apply in addition to those in the Standard Terms:
    - i. "Products" means jewellery and watches made for TFG incorporating the Works;
    - ii. "you" refers to Jewellery suppliers;
    - iii. "Works" means Jewellery incorporating certain original artistic jewellery designs created by you on behalf of, and for use by, TFG.
- (2) Where the order indicates that a style of Product is "exclusive by agreement", you warrant that all of the elements of styling, relating to the style ordered, will in fact be confined to TFG and you will not sell the same Product to any other party or third person. Any styles designed exclusively for TFG or set aside by agreement between TFG and you as being exclusive for a period of time or indefinitely, may not be offered to any other party or third person unless by prior written agreement between TFG and you. Should this not be adhered to, TFG reserves the right to return to you all Products in question for a refund of the total cost of, and related to, the Products as incurred by TFG, which includes but is not limited to delivery costs and the purchase price paid by TFG to you for the Products. It is recorded that TFG may have been involved in the creative process, if not having created the Products and in both instances, copyright vests in TFG.
- (3) Purchase orders are generated on the strength of, and in reliance of a TFG final approved sample incorporating the Works ("Sample") and provided to TFG for which it pays you. Samples must be invoiced to TFG with all stone and caratage details. Once the Sample has been approved by TFG it is your responsibility for quality controlling the ordered Product. The Sample together with all intellectual property rights attaching thereto, may, in the event that you fail to confirm to TFG the fact contemplated in clause 4(a) below, or where you fail to deliver the Products on the delivery date or where you are, for any reason unable to produce the Products required by TFG, be used by TFG as it deems fit including, but not limited to, having it copied and/or reproduced as was to be done by you. The Products supplied by you shall replicate all the elements of the Sample, failing which TFG shall be entitled to reject and return the Products to you, and under no circumstances shall TFG be obliged to pay for them. Deliveries of Products are subject to prior examination by TFG.
- (4) You acknowledge that time is of the essence and it is a material term with respect to your performance under these Jewellery Terms and the Standard Terms, and you agree that:
  - a. 4 (four) weeks prior to the delivery date specified in the purchase order, you shall confirm to TFG in writing that you have commenced with the production of the ordered Products, failing which clause 3 above applies; and
  - b. all Products or part thereof delivered late, shall, if accepted by TFG in its sole and absolute discretion, be subject to a 2.5% (two and a half percent) penalty fee on the purchase price of the Products per week or part thereof, which penalty shall be deducted by TFG from the purchase price of the Products.
- (5) Any Sample provided by you to TFG and which is not used by TFG may at TFG's sole and absolute discretion, be returned to you within 6 (six) months after delivery of the Sample to TFG. Alternatively, after you have delivered and TFG has accepted all the Products as ordered in the purchase order and made in terms of the Sample, TFG shall receive a cash refund in respect of any monies that it may have paid you for the Sample.

- (6) TFG shall at all times be entitled to:
- a. return Products not meeting its specifications as set out in the purchase order, or not replicating all the elements of the Sample, for fixing or refund, at TFG's sole discretion, provided that the risk, benefit and ownership in and to the Products shall not have passed to TFG in respect of the Products referred to in this clause 6 and all costs of delivery of the Products to and from TFG to your premises are for your cost; and
  - b. return all defective Products or Products found to be of a lesser quality than that originally represented by you, for fixing or cash refund at your cost and at the sole discretion of TFG, including where the Products have already been delivered to TFG stores and sold to its customers, the latter requiring a Product recall.
- (7) All returnable Products shall be returned to you on a freight collect basis, for your account and all imported orders will be on an FOB basis unless otherwise agreed in writing by TFG.
- (8) In the event that materials belonging to TFG are delivered to you for inclusion in the production of the Products, including but not limited to diamonds ("Materials"), the benefit and ownership to and of such Materials shall remain vested in TFG. Risk to the Materials shall vest with you and you shall, at your own cost, take adequate precautions to ensure that the Materials are safeguarded. You shall be obliged to take out sufficient insurance, in TFG's name, to cover the Materials while in your possession and provide TFG with proof thereof on demand by TFG. All unused Materials shall be returned by you to TFG in good condition and at your cost, immediately upon request by TFG. You must keep the Materials in your possession and under your control physically separated and easily distinguishable from your own materials or materials belonging to any other third parties. You must further protect the Materials from loss or damage and keep them free from attachment, hypothec or other legal charge or process. If you carry on business from premises in respect of which you are not the registered owner, you must notify your Landlord that ownership of the Materials vests in TFG, your Landlord must countersign the notification and, if requested by TFG, you must provide TFG with a copy of such notification.
- (9) If TFG requires you to do so, products must be marked and ticketed by you, and at your cost, prior to delivery to TFG. Products remain at your risk until delivered to TFG or TFG's shipping agent.
- (10) Where you supply diamonds to TFG, you warrant that you comply with the Kimberly Process Certification Scheme, which is a process designed to certify the origin of rough diamonds from sources which are free of conflict funded by diamond production. All invoices for diamonds and diamond jewellery shall have the following wording: *"The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict, in compliance with the United Nations General Assembly Resolution 55/56. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds."*  
In addition, you warrant that you comply with the provisions of the Diamonds Act of 1986 and all laws applicable to precious and semi-precious stones wherever you manufacture product and wherever TFG trades or conducts business.
- (11) In addition to the provisions of clause 9 of the Standard Terms, you warrant that neither the Products, nor the sale nor the use thereof shall infringe upon the rights of third parties as concerns any intellectual property rights including trade marks, trade names, labels or tags, registered designs or patents. You hereby indemnify and hold TFG and the ultimate users of the Products harmless against all actions, costs, claims, criminal fines, demands, expenses, penalties and liabilities whatsoever, resulting from any actual or alleged infringement of any third party's intellectual property rights or contraventions of the law, and for all claims for damages as a result of any defects in the Products or negligence in their manufacture or supply.
- (12) Despite the provisions of clause 4 of the Standard Terms regarding only the delivery date, for the purposes of the Products, the delivery date of the Products which you are required to deliver to TFG in terms of the purchase order is the last date as allowed for delivery as specified in the order, and all the Products must have been received by TFG at the designated delivery address on that date, unless TFG has, in its sole and absolute discretion agreed in writing to extend the time for delivery. Whilst TFG may accept early delivery, payment for the Products will only be made to you in accordance with the date originally specified in the purchase order for delivery of the Products, unless TFG requested the early delivery. Partial deliveries will not be accepted unless TFG advises you otherwise.
- (13) You undertake and agree that you will not substitute lesser materials for those requested in terms of the order. You shall specifically *inter alia*:
- a. not substitute cubic zirconias for diamonds;
  - b. not substitute treated, created, simulated and/or synthetic stones for genuine, natural and untreated stones;
  - c. disclose whenever treated, created, simulated or synthetic stones are supplied to TFG; and/or
  - d. not use metals of a lesser carat or alloy than what was ordered by TFG.

- (14) In the event that the you breach any of your obligations as set out in clause 13 above and in terms of the Standard Terms, you shall be liable to pay to TFG a penalty of R250 000.00 (two hundred and fifty thousand Rand) per transgression, which penalty may be set off against any amount due and owing to you by TFG.
- (15) Should there be a conflict of interpretation on any provisions of these Jewellery Terms and the Standard Terms, including the international merchandise procurement terms and conditions, as relates directly and specifically to the Products and their supply, then these Jewellery Terms shall prevail.

[Version: 12/05/2016]