

KH-Gold Refinery GmbH & Co.KG
Frankfurter Str. 2, 65451 Kelsterbach



From: KH-Gold Refinery

To: Buyer

Date:, 2016

Gold Sales and Purchase Agreement

Transaction code:
Buyer Transaction Code:
Seller Transaction Code:

For their mutual benefit, the Parties A) Seller and B) Buyer enter into this Agreement on
....(Day, Mont, Year)...

A) Seller:

Company Name:
Street:
Country:
Represented by:
Name:
Passport n.:
Position:
Fon:
e-mail:

Hereinafter referred to as the "Seller"

B) Buyer:

Company name:
Street:
Country:
Registration number:.....
Represented by:
Name:
Position:
Passport n.:
Fon:
e-mail:

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Hereinafter referred to as the "Buyer"

The **Seller** warrants that it has complete legal authority to sell the Gold and confirms and warrants that the Title of the Gold to be sold herein will be free and clear of any and all Liens and/or encumbrances and is not of terrorist and or criminal origin. It also certifies that it has full entire authority and responsibility to sell and organize the delivery in the CIF Airport Free zone (Buyer destination) in accordance with the characteristics described in the contract

The **Buyer** is in the business of buying, refining, storing, selling and investing in Gold and other Precious Metals and confirms and warrants that it has full financial and legal capability to purchase all offered Gold, at the price and terms stated herein and guarantees that payment of the Gold, shall be free and clear of any criminal or terrorist origin.

Moreover certifies that it has the full and entire responsibility to purchase and organize the payment of the price of the quantity of refined gold, as established by its refinery, as set out hereinafter

The **period of this Agreement** is formonths with extensions as mutually agreed between the Buyer and Seller from time to time.

Now , therefore, the Parties hereby represent and warrant all information submitted in this agreement is true and agree to the following Terms and Conditions:

- A) This transaction is for the sale and purchase of Gold.....and the Parties will sign this agreed to Sales and Purchase Agreement in person
- B) The Byer will provide an acceptable and verifiable Proof of Funds (POF) in respect of the Buyers financial capacity, transmitted via Swift by MT 199 or MT 799 to the Seller's bank
- C) The Seller will provide in the same time an acceptable and verifiable Proof of Product in respect that its goods complies with the specifications described in the contract
- D) Within maximum 10 banking days of verification of the validity of the Proof of Funds, the Seller will deliver the agreed upon quantity of the Commodity CIF, to the mutually agreed place in

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- E) Latest 2 days after arrival of the Commodity, the Buyer will smelt, weigh and assay the Commodity in the mutually agreed refinery. If the Seller wants, he can be represented during this process
- F) Upon completion of the assay, the Buyer agrees to transfer the full cash payment to the Seller’s designated account immediately by SWIFT,MT 103
- G) The Parties will continue shipments and deliveries ofkg or that amount to be mutually agreed by both parties
- H) This agreement is Non-Transferable and Non-Assignable by either Party

1. Commodity:

Commodity:

Form:

Origin:

Purity:

Quantity Total

Delivery

First Tranche

2. Price:

2.1 The Buyer shall purchase the Commodity based on the following pricing: LBMA Gold price, minus a gross discount of% and a net discount of%
% to Buyer side beneficiaries commissions as per the agreed IMFPA
% to Seller side beneficiaries commission (Closed)

2.2 At the time of delivery of the Commodity to the mutually agreed refinery in, the price will be based on the second fixing of the LBMA Gold price on the day of the Buyer’s refinery assay. If the LBMA Gold price was not set on the day of the Buyer’s assay, then the price will be based on the second fixing of the last day it was set

3. Quantity:

3.1 The Buyer shall purchasekg of the Commodity, every month, for 12 consecutive months. The amounts to be delivered and the delivery schedule will be agreed between the principals from time to time

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3.2 If there is a change in the availability of the Commodity that affects the Seller's ability to provide the Commodity, the Parties will mutually agree on a revised delivery schedule

3.3 If the Buyer wishes to increase the quantity of the Commodity purchased in a particular month, the Buyer must notify the Seller a minimum of 15 banking days in advance. The Seller will provide confirmation if the quantity can be increased for that particular month

4. Payment Terms

4.1 Upon delivery of the Commodity, the Buyer's Refinery will provide a Goods Received Receipt to the Seller. The Refinery agrees to smelt, weigh and assay the Commodity on the same day it is delivered

4.2 Upon completion of the assay, the Buyer agrees to transfer the full cash payment, as per the Seller's invoice, to the Seller's designated account immediately by SWIFT wire transfer as per the account coordinates stated in this Agreement

4.3 In the event of the commission not being paid to the beneficiaries as stated in the IMPFA, then the Seller has the full right to withhold any further deliveries to the Buyer at the Seller's sole discretion

4.4 The beneficiaries will be entitled to the same commissions as mentioned in this agreement and the associated IMFPA, in respect of any renewal of this agreement or any additional agreements that is to be signed between the same Buyer or any other Buyer that is introduced to the Seller by this Buyer, or any Broker, Advisor or intermediate associated with this Buyer now or in the future

5. Delivery

5.1 The Parties agree that the first delivery shall be within maximum 10 banking days after the Proof of Funds has been verified by Seller's bank

5.2 Seller will deliver to Buyers refinery in thekg (or whatever volume the parties agree to in writing) of the Commodity for 12 consecutive months

5.3 Seller is responsible for all transportation charges for the delivery of the Commodity to the Buyers destination Airport Free zone.....

5.4 Buyer has to deliver full information of location of Buyer's Refinery.

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Name of Buyer’s Refinery:.....
Responsible person:
Address of Refinery:
Telephone (office):
Telephone (mobile):
Import License no.:

5.4. If the Seller cannot perform, he must pay a penalty of 3% from the total amount to the Buyer

6. Notices

Any and all notices related to this Agreement shall be in writing and delivered via certified post to the address or addresses as stated herein and copied by Email, directly to the Parties herein

7. Bank Details

7.1 Buyer’s Bank

Bank Name:
Bank Address:
Account Name:
Account Number:
IBAN:
SWIFT CODE:
Bank Officer:
Bank Tel:

7.2 Seller’s Bank

Bank Name:
Bank Address:
Account Name:
Account Number:
IBAN:
SWIFT CODE:
Bank Officer:
Bank Tel:

8. Documents

8.1 Each shipment and delivery shall be identified by the contract reference codes

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8.2 The Seller will also provide the following documents to the Buyer upon arrival of the delivery of the Commodity to the Buyer:

1. For original Commercial Invoices issued to the Buyer
2. Certificate of Origin
3. Certificate of Assay (not older than five years)
4. Certificate of Ownership
5. Export documents from country exported from
6. UAE Customs clearance documents
7. Commercial invoice
8. One color copy of Seller's Export Permit (If Applicable)
9. One color copy of Airway bill marked "Airfreight collect" & "VAL". The Goods have to be declared in the AWB as "Alluvial Concentrated (Gold)" only.
10. Packing List with Gross weight and Net weight.
11. Certificate of deposit of the carrier

9. Title

The title and ownership of the goods shall only be transferred from the Seller to the Buyer after full cash payment has been transferred, received and cleared in the Seller's designated bank account

10. Applicable Law and Jurisdiction

10.1 This Agreement shall be governed by the Uniform Commercial Code under the interpretation of the International Chamber of Commerce (ICC) Arbitration Court in Paris.

10.2 Any disputes arising out of, or in context with this Agreement or related to any agreement concluded as a result of this Agreement shall be settled by Arbitration. The seat of the arbitration tribunal shall be under the rule of conciliation and arbitration of the International Chamber of Commerce Court of Arbitration, and the English language shall be the language of the contract and proceedings

11. Joint Declaration

Both Seller and Buyer declare one to another that the commodity offered herein is for sale and the origin of the funds to be used for purchasing the commodity do not offend any of the following Laws and are not connected to any illegal or criminal activity:

- a) The drug trafficking act of 1986;
- b) The criminal act of 1988;

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- c) The prevention of terrorism (temporary provisions) act of 1989;
- d) The criminal justice international cooperation act of 1990;
- e) The criminal justice act of 1993; and Money Laundering Regulations
- f) Trade secret of 1979; Economic Espionage act of 1993 (18 U.S.C. 1983 (3))
- g) The anti-terrorism act and patriot act I and II

And accordingly each Party to this Agreement indemnifies each other against any such allegations which may or may not be made in the future

12. Email, Copies and Communication

This Agreement shall be legally binding the Parties if executed and sent by email to the email addresses contains within this Agreement

13. Non-Circumvention & Non – Disclosure

The Parties agree to abide by the Customary International rules of non-circumvention and nondisclosure as established by the International Chamber of Commerce in Paris, France for a period of the (10) years from the date hereof. Said non – circumvention and non – disclosure shall include, but not be limited to communicating with each other's banks, representatives of the Buyer dealing with Customs, brokers or Seller mandate. The understanding and accord of this subparagraph shall survive the termination of this Agreement. The Parties hereto shall not be liable for any failure to perform under the Force Majeure clauses as defined in the standards/publications of the International Chamber of Commerce

(ICC) Paris, France, latest revision and addition, which clause is deemed to be incorporated in this agreement

14. Transaction Code is required to be contained in all written communication between the Buyer, Seller and their respective Banks. The transaction code shall not be changed or altered during the entire course of the transaction. All communication not containing the Transaction Code shall be deemed as null and void with no liability to Buyer

15. Taxes and Liabilities

The parties hereto shall not make, or rely upon, any representation regarding the tax consequences (if any) of the transaction contemplated by this contract. Each party individually and separately, shall accept their own liabilities for any taxes, imposts levies,

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duties or charges and institutional costs which may arise or are applicable in the performance and execution of their respective duties under this contract

16. Force Majeure

The Parties hereto shall not be held liable for any failure to perform under the “Force Majeure” clause as regulated by the International Chamber of Commerce, Paris, France which clauses are deemed to be incorporated herein

17. Force and Effect

Should any of the provisions of this Agreement be or become invalid by virtue of applicable law/s, or become invalid, illegal or unenforceable, the remainder of this Agreement shall remain in full force and effect

This Agreement shall be deemed binding upon the parties hereto, their assigns and successors and is executed with full authority to act and delivered by fax (with proof of receipt) and/or email direct to the parties concerned to the phone numbers and email addresses contained within this Agreement

Should either party fail to perform within the precise terms and conditions of this Agreement, the other party will give notice regarding the non-performance, whereupon the non-performing party must comply with their obligations within seven (7) working days or this Agreement may be cancelled without further notice by either party

18. Total Agreement

This Agreement supersedes any and all prior agreements and represents the entire Agreement between the Parties. No changes, alternations or substitutions shall be permitted unless the same shall be notified in writing and signed by both Parties

19. Confidentiality

Both the Buyer and Seller shall not (except under compulsion of law or pursuant to a request from any regulatory authority to the jurisdiction of which the disclosing party is subject) either before, during or after the termination of this Agreement disclose any confidential information relating to business dealings which shall have become possessed during the period of this Agreement and both the BUYER and SELLER shall use all reasonable endeavors to prevent any such disclosure by its officers, employees

20. Signatories

Each of the Parties hereby confirms, under penalty of perjury, that each has full legal authority to execute this Agreement and therefore all Term and Conditions within this Agreement shall be fully binding upon the Parties. The Parties have entered into this

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Agreement in good faith and each shall use its best efforts in the spirit of full co-operation to promptly achieve the purpose set forth herein

Buyer and Seller sign the Contract and via e-mail they exchange the copies. The Buyer, will send n. 4 hard copies undersigned by courier; after receiving the hard copies, the Seller will countersign and, will send back n. 2 copies. Within three (3) days the contracts shall be sent to Seller's and Buyer's banks respectively

The Parties hereby agree on this theof, 2016 by affixing this signature below

Buyer

Signature

Name

Place, date

Seller

Signature

Name

Place, date

SAMPLE