

# RAPAPORT®

## UN Global Compact Communication on Progress

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5<sup>th</sup> COP

**Rapaport Group**

**June 2014**

In this document **the Rapaport Group** describes how it upholds and supports the ten principles of the United Nations Global Compact Initiative.

## Statement of Support

The Rapaport Group continues to support ethical initiatives globally and we remain committed to the UN Global Compact ideals. We have been industry leaders in our efforts to raise awareness on human rights, fair trade and sustainability across the diamond industry.

This, our fifth Communication on Progress, highlights once again the new initiatives and steps we have taken since becoming part of the UN Global Compact. Since 2006, the Rapaport Group has been offering educational opportunities for the diamond and jewelry industry around the world. At JCK Las Vegas, Baselworld and the Rapaport International Diamond Conference, the Rapaport Group hosts annual sessions on pressing human rights and ethical issues. We bring in specialized industry experts and leaders to share their views and offer room for debate between speakers and participants. Past conferences have featured speakers such as *Blood Diamond* director Ed Zwick, Special Adviser for Conflict Diamonds for the U.S. State Department Brad Brooks-Rubin, renowned ethicist Peter Singer, Zimbabwean activist Farai Maguwu and Jewelers of America CEO Matt Runci, among many others.

In addition to the conferences, long-term plans currently in development by the Rapaport Group are the fair trade and ethical sourcing initiatives, which aim to create and promote a sustainable supply chain for legitimate diamonds and jewelry. To this end, we aim to introduce a certification program for diamonds that will give customers a guarantee that if they buy a Rapaport Group certified diamond, it will be free from human rights abuses from mine to manufacturer to retailer.

We are also participating in the Precious Stones Multi-Stakeholder Working Group (PS-MSWG), which has brought together a diverse group of people that represent governments, industry and NGOs across the diamond and precious stones industries with the aim of trying to create chain-of-custody guidelines similar to the work done by the OECD and a group of industry participants who worked together to create the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas Supplement on Gold.

We look forward to continuing the pace of growth and development of our ethical initiatives both externally and internally. Internally, we will commence with annual sustainability management meetings to discuss how we take our company forward with our sustainability goals and with the UN Millennial Goals mandate. Externally, we will continue to look for new and innovative ways to encourage our industry to commit to eradicating human rights abuses across the world and ensure that conflict diamonds are no longer available in the marketplace.

Sincerely

A handwritten signature in black ink, appearing to be 'MR', enclosed within a hand-drawn oval shape.

Martin Rapaport

Chairman, Rapaport Group

# The Ten Principles of the United Nations Global Compact

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## Human Rights

**Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights.**

**Principle 2: Businesses should make sure they are not complicit in human rights abuses.**

*GRI indicators represented: HR1, HR2, HR3, HR4, 4.8, 4.10, 4.12, 4.13, 4.17, SO5*

### Human Rights and the Diamond Industry

The heart and soul of the Rapaport Group revolves around human rights principles. In an industry often fraught with human rights issues and undefined ethical requirements for mining and sourcing practices, we have made ethical sourcing and human rights a priority both within our own operations and in our dealings with other industry members.

Rapaport Group has led the diamond industry in the paradigm shift occurring this year in addressing the human rights issues that continue to plague our industry. In November of 2012, the Kimberley Process (“KP”) ceased its special monitoring of Zimbabwe, including the controversial Marange region with its well-documented human rights abuses, even though the U.S. and E.U. sanctions remained in place (at the time) against Zimbabwe for these same issues. In response to the KP’s decision, Rapaport Group called for action above and beyond the Kimberley Process. In his article “Business Ethics 101: Moral Clarity and the Diamond Industry” (Appendix A), Martin Rapaport, Chairman of the Rapaport Group, issued a challenge to all U.S. and E.U. buyers to require written commitments from suppliers that their diamonds do not originate from these and other regions where human rights are abused. The article issued a plea for industry leaders to meet and discuss how best to promote and support ethical diamond source certification industry-wide. We continue to support this position regardless of the actions of the U.S. and E.U. This article was followed by a specific press release, “Rapaport Group - Fair Trade and Ethical Sourcing Initiatives, 12 March 2013 (Appendix B) and open industry-wide conference call to further explain the Rapaport Group position and make sure that all members of RapNet – the Rapaport Group online diamond trading network – understood that they would be removed from the trading network for listing Marange diamonds.

Our response to the Kimberley Process announcement was only one incidence in a long history of the Rapaport Group’s calls for increased vigilance regarding human rights in the diamond industry. In August of 2011, Martin Rapaport published an article, “After Kimberley, Now What,” (Appendix C) reiterating the Rapaport Group position that the Kimberley Process definition of conflict diamonds is insufficient, and outlining a plan for the industry to move forward and address human rights issues beyond the Kimberley Process Certification Scheme.

The Rapaport Fair Trade Conference is held annually at the JCK Las Vegas Trade show. At these conferences, we bring together industry leaders, NGOs and trade associations to discuss human rights issues and ideas for creating more ethical trading practices for the entire industry. The Rapaport

International Diamond Conference, held in New York on August 29, 2012 and in Mumbai, India in August 14, 2013 is another annual conference held by Rapaport that also addresses human rights issues. Bringing together major industry leaders, we featured presentations from the Responsible Jewellery Council, the U.S. State Department, the GreenShows and more. All these shows aim to get across to the diamond and precious stones industries the importance of addressing human rights issues and concerns, as well as to focus on solutions and productive ways forward.

### **Rapaport Group Plan for Addressing Human Rights Issues**

The Rapaport Group plan for addressing human rights issues in the diamond industry is multifaceted. It consists of several different initiatives addressing a variety of constituencies, including industry and consumer populations.

Our Rapaport Fair Trade website serves as the portal for our fair trade and ethical sourcing initiatives and houses the “Rapaport Library,” which contains videos, research reports and thorough analyses of current affairs in language easily understood by members of the jewelry industry and consumers alike. We also remain accessible to all visitors through a “Contact Us” section, and our priority is to respond promptly and thoroughly to any questions, particularly those from industry members relating to human rights and ethical sourcing.

Through the Rapaport Fair Trade website and other Rapaport Group publications, the industry is alerted of news stories that affect the global diamond trade, and is warned of human rights abuse occurrences and of other concerns to the legitimacy of the industry as a whole. For example, Rapaport Group announced to members of the diamond industry when there were improper disclosures of synthetic (or lab-grown) diamonds mixed in with parcels of melee diamonds. Martin Rapaport also wrote an article published across multiple platforms called “Synthetics” (Appendix D), which alerted the trade to the issues of synthetic detection and disclosure and urged for greater reforms for disclosure from the synthetic diamond market.

Another recent initiative is our Campaign for Ethical Jewelry. This is a global effort to raise awareness among consumers and industry members regarding human rights issues and the diamond supply chain. The Campaign for Ethical Jewelry launched at the beginning of June 2012 and encourages consumers, jewelers and diamond/gold suppliers to take a pledge affirming their commitment to ethical products. The Pledge for Ethical Jewelry encourages consumers to ask their jewelers, and jewelers in turn to ask their suppliers, about the origin of the jewelry they are selling (Appendix E - [ethicalpledge.com](http://ethicalpledge.com)).

In addition to the pledge, Rapaport Group is currently developing an online Ethical Jewelry Directory, a resource for jewelry consumers, retailers, and suppliers to locate and connect with other ethically-minded industry members (Appendix F - Ethical Jewelry Directory). Rapaport Group is striving to provide consumers and jewelers with the resources they need to ask the right questions and encourage those who come before them in the supply chain to investigate their products.

The Rapaport Group fair trade and ethical sourcing initiatives aim to create and promote a sustainable supply chain for legitimate diamonds and jewelry. A large portion of our work over the past year has

been devoted to laying extensive groundwork for this initiative, which includes the development of the Rapaport Source Certification Program, the creation of a Jewelry Trade Whitelist, and the establishment of a U.S. jewelry umbrella organization.

The Rapaport Source Certification program will focus on two sourcing issues of the jewelry industry: tracking rough diamonds from the mine site through to grading and certification (Rapaport Source Certification Program), and tracking recycled products from post-consumer sources to resale (Rapaport Recycled Diamond Certification Program). These programs will be underpinned by the Rapaport Ethical Standards (“RES”), the programs utilize standards set by several independent third party certifiers, including the Organisation for Economic Co-operation and Development (“OECD”), and the Responsible Jewellery Council (“RJC”) to ensure the legitimacy of the system.

The Jewelry Trade Whitelist, the second aspect of the initiative, will identify and publicize companies that meet standards set by the U.S. Patriot Act, the Office of Foreign Asset Control (OFAC) and Rapaport Ethical Standards. Finally, the as-yet-unnamed U.S. jewelry umbrella organization will proactively promote the financial, legal and ethical interests and values of the United States jewelry industry, with a focus on correcting misrepresentations and improving the U.S. reputation in the international jewelry market. Though this will require a significant investment of our time and resources, we firmly believe that the comprehensive Rapaport Group fair trade and ethical sourcing initiatives are the way forward for the diamond and jewelry industry.

## Labor

### **Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.**

Rapaport Group is committed to adhering to its previously-stated position of going beyond all legal requirements to provide fair, flexible and appropriately remunerated employment to its entire permanently employed and freelance workforce across all of its global offices. We remain steadfast and committed to providing transparent remuneration, flexible working practices and day-to-day working conditions with appropriate benefits for all our staff and personnel, which are on the whole in excess of industry standards and minimum legal requirements.

### **Principle 4: Businesses should uphold the elimination of all forms of forced and compulsory labor.**

*GRI Indicators Represented: HR7*

Rapaport Group continues to advocate for increased transparency and vigilance to ensure proper labor conditions at mining and manufacturing sites. We firmly disallow the sale of any and all goods on RapNet, our online diamond trading network, which we believe may be associated with forced and compulsory labor, or any other unethical practices defined as human rights violations, significant environmental damage, illegal activities or violations of sanctions by U.S. or E.U. governments (Appendix G – *RapNet Trading Rules*).

### **Principle 5: Businesses should uphold the effective abolition of child labor.**

*GRI indicators represented: HR6*

Rapaport Group continues to adhere to all local laws in relation to child labor and we do not use any forms of child labor.

The reduction and elimination of child labor continues to be addressed through the advancement of our fair trade and ethical sourcing initiatives and our Campaign for Ethical Jewelry.

### **Principle 6: Businesses should uphold the elimination of discrimination in respect of employment and occupation.**

*GRI indicators represented: LA10*

There continues to be no discrimination in the company's employment practices on the grounds of race, color, creed, religion, national origin, gender, age or sexual orientation. Rapaport Group is an equal-opportunity employer and the sole criteria for hiring and promotion is based on employee qualifications, performance, abilities and competencies required to do the job. We also remain committed to being an advocate for fair employment practices throughout the industry through our role as global service providers.

## Environment

### **Principle 7: Businesses are asked to support precautionary approach to environment.**

*GRI indicators represented: 3.13*

Rapaport Group has played and continues to play a significant role in encouraging a new concept in the diamond industry: recycled precious gems and metals. Through our Rapaport Auctions division, we encourage the resale of large quantities of loose diamonds to companies that operate around the globe. As the trend of resale grows, the need for newly mined diamonds is diminished. This precautionary approach is being developed further by our team as we work toward the creation of a Rapaport Recycled Diamond Certification Program.

### **Principle 8: Businesses are asked to undertake initiatives to promote greater environmental responsibility.**

*GRI indicators represented: EN3, EN4, EN5, EN6, EN7, EN14, 1.1*

As Rapaport Group works toward the creation of our Rapaport Recycled Diamond Certification Program, we are taking into account the transformative process that any potential recycled diamonds undergo. We are striving to ensure that this process is conducted in an environmentally responsible manner and that any recycled diamonds bearing our certification will be environmentally responsible both in their post-consumer status and throughout their transformative process.

### **Principle 9: Businesses are asked to encourage the development and diffusion of environmentally friendly technologies.**

*GRI indicators represented: EN17*

The key environmental goals within Rapaport Group's own business structure continue to focus on environmentally-friendly best practice protocols, with emphasis on conservation of energy and material resources, striving to reduce our global carbon footprint in Rapaport Group offices worldwide.

Rapaport Group continues to work on improving the way it does business in a changing environment. The initiatives introduced to promote greater environmental responsibility by using renewable energy sources and to increasing energy efficiency (for example, using energy efficient lighting, and powering down all electronic office equipment overnight) have resulted in substantial energy savings. We are beginning to see positive benefits resulting from the adoption of these measures in the form of reduced utility bills. Conserving paper by utilizing duplex printing and printing on recycled paper whenever possible has become the norm in our organization. These endeavors have led to substantial recycling benefits and have significantly reduced indirect energy consumption.

As we evolve with the changing world and its increasing awareness of environmental issues – and as environmentally-friendly technologies are developed as solutions to these issues – Rapaport Group will continue to improve our contribution to global sustainability by adopting increasingly environmentally-

friendly, renewable initiatives while also encouraging the same initiatives among our business partners, peers and clients within the jewelry industry.

## Anti-Corruption Principles

**Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.**

*GRI indicators represented: HR1, HR2, HR3, 4.8, 4.9, 4.10, 4.12, 4.13, 4.17, SO2, SO3, SO4, SO5*

The Rapaport Group firmly believes that all businesses should work against corruption in all its forms.

The Rapaport Group remains committed to maintaining the highest legal and ethical standards in the diamond industry, requiring diamond suppliers and participants of Rapaport Auctions and traders on RapNet online trading network to meet legal and ethical standards, as well as the Rapaport Minimum Human Rights Standards.

The Rapaport Group is steadfast in its commitment to an honest, fair, secure, transparent, efficient and competitive market for the trading of diamonds, gems and jewelry. This commitment extends to its policy of conducting business with the highest moral and ethical standards and to maintaining its business practices in full compliance with all applicable laws and regulations including, but not limited to, the Kimberley Process, the U.S. Patriot Act and U.S. Federal Trade Commission Guidelines. Rapaport Group seeks to do business only with those who share and support its commitment to these values and has instituted a compliance review procedure for all potential business partners seeking to enter into a strategic business relationship with our organization.

Rapaport Group strictly prohibits business partners or recipients of its services from dishonest, illegal, or unethical behavior, such as bribery, fraud, corruption, money-laundering, or trade in conflict or “blood diamonds.” This is clearly shown in every aspect of Rapaport Group’s business and demonstrated in the strict user policies, e.g. Rapaport Auctions *Buyer/Supplier Agreement* and the RapNet *Trading Rules and Code of Conduct* (Appendices G and H). All Rapaport Group departments require customers and users to subscribe to these policies. All anti-corruption policies are subject to regular review and our Anti-Money Laundering program was audited in August 2012 by the Jewelers Vigilance Committee for compliance with the U.S. Patriot Act.

We recognize the need within the diamond and jewelry industry to establish realistic sourcing standards based on sustainable legal and ethical principles. These principles are defined as our Rapaport Minimum Human Rights Standard, which is encapsulated in the following statement:

A Rapaport Certified Diamond will provide assurance that this diamond has not been involved in the funding of: terrorism and terrorist organizations, armed aggression, violence, Human Rights violations and / or Money Laundering.

Our position on ethical standards in the diamond trade is that members of the diamond and jewelry industry must take full responsibility for their choices and actions and must not delegate their ethical values to trade organizations or others. Rapaport Group recognizes that having a standard of ethics

means applying a system of universal moral values to the decision-making process – a morality that transcends the law. Being ethical means internalizing values and making choices based on individual conscience. Businesses are entities without souls and without conscience; they are motivated by profits and make decisions based on maximizing this profit. Fortunately, companies within ethical societies are forced to adopt ethical principles based on the morality of their constituents. Rapaport Group believes that society needs to create demand for ethical products and destroy demand for unethical products by motivating consumers to invest in these proposed ethical values. The application of ethical standards that transcends law is a business matter driven by consumer demand. Society receives the exact level of ethical value it is willing to purchase. Rapaport Group espouses the view that from a company and consumer perspective, ethics must be considered as another added-value service or product. Ethical products, like ethical diamonds and jewelry, must be treated as a sustainable business opportunity that requires real demand. Business ethics is not another form of ethics; ethics is another form of business.

Rapaport Group does not tolerate fraudulent activity on its website or trading platforms and condemns all fraudulent diamond trading, including the trading of fraudulent grading certificates. Such trading is a clear violation of the *RapNet Trading Rules and Code of Conduct*. Violators are swiftly and decisively removed from the RapNet trading network. Rapaport Group remains committed to taking immediate necessary action to sanction RapNet Members where fraudulent or illegal activity, of whatever nature, has been identified, or there has been a substantial breach of *RapNet Trading Rules and Code of Conduct*, and/or conduct unbecoming of a RapNet Member.

Rapaport Group does not hesitate to take immediate necessary steps to eradicate the trading of fraudulent grading certificates. When illegal activity was identified on its network, an immediate warning notice was issued to other RapNet users, alerting them of the illegal activity and urging their vigilance for such future illegal practice.

We are also participating in the Precious Stones Multi-Stakeholder Working Group (“PS-MSWG”), which has brought together a diverse group of people that represent governments, industry and NGOs across the diamond and precious stones industries with the aim of trying to create chain-of-custody guidelines similar to the work done by the OECD and a group of industry participants who worked together to create the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas Supplement on Gold.

**The actions and activities taken to achieve the above:**

1. Rapaport Group’s continued commitment to legal compliance and ethical business dealings and practices enshrined in our *RapNet Trading Rules and Code of Conduct* and other core documentation details the terms of service and use applicable for trading on our RapNet service to which all customers and users of our RapNet diamond trading network (“RapNet Members”) must adhere. These rules and regulations ensure that diamond trading takes place on our trading platforms in full compliance with all applicable laws, legal and ethical business practices,

and that all aspects of the Kimberley Process and anti-money laundering regulations relating to the diamond industry are followed.

2. The audit by the Jewelers Vigilance Committee of Rapaport Group's Anti-Money Laundering program in August 2012 for U.S. Patriot Act compliance.
3. Continued regular monitoring and auditing of group activities and business dealings to ensure proper and strict compliance and adherence to laws and to serve to promote sound and ethical business practices. Ongoing monitoring and scrutinization takes place of all participants in Rapaport Group Auctions and other Rapaport Group trading activities, and of prospective members of the RapNet Trading Network with strict internal controls, criteria and guidelines for acceptance as a Rapaport Group auction participant and /or RapNet Member, and the following of strict policies and procedures to ensure trading partner verification and full compliance with Rapaport Group's anti-money laundering program under the anti-money laundering provisions of the US Patriot Act, the Office of Foreign Asset Control (OFAC), and E.U. and other country specific regulations and controls applicable to the diamond industry for detecting money laundering and terrorist financing.
4. Conducting of ongoing employee educational programs to re-enforce and strengthen employee knowledge and methodology for carrying out of employee functions for customer identity verifications, checks and procedures for detection of money laundering activities, fictitious and fraudulent transactions.
5. Announcement and ongoing preparation of the Rapaport Group fair trade and ethical sourcing initiatives, aimed at legitimizing and making available diamonds that are not involved in human rights abuses or other unethical activity.
6. The publication of articles, press releases and speeches on ethical issues in the diamond industry.
7. Holding conferences to promote discussion and dialogue on the application of ethics to the diamonds trade. We held Rapaport Fair Trade Conferences at the JCK Las Vegas Trade Show in 2011, 2012, 2013 and 2014. We also held a session on fair trade issues at the annual Rapaport International Diamond Conferences in New York and Mumbai. Additionally, a Rapaport Fair Trade Conference was held at the Baselworld trade show in March 2011.

## Index of GRI Performance Indicators Relevant to the Implementation of the Global Compact Principles

GRI Indicator	Description	Reported Under	Pages
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HR2	Evidence of consideration of human rights impacts as part of investment and procurement decisions, including selection of suppliers/contractors and customers	Principles 1, 2, 10	1-3 7-10
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<b>GRI Indicator</b>	<b>Description</b>	<b>Reported Under</b>	<b>Pages</b>
4.8	Internally developed statements of mission or values, codes of conduct, and principles relevant to economic, environmental, and social performance and the status of their implementation	Principles 1, 10	1-3 7-10
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4.17	Key topics and concerns that have been raised through stakeholder engagement and how the organization has responded to those key topics and concerns, including through its reporting	Principles 1, 10	1-3 7-10
SO2	Description of the policy, procedures/management systems, and compliance mechanisms for organizations and employees addressing bribery and corruption	Principle 10	7-10
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## Appendix

- Appendix A: “Business Ethics 101: Moral Clarity and the Diamond Industry,” Martin Rapaport, Rapaport Magazine, December 2012.
- Appendix B: Press release: Rapaport Group Fair Trade and Ethical Sourcing Initiative, March 12, 2013
- Appendix C: “After Kimberley...Now What?” Martin Rapaport, Rapaport Magazine, August 2011.
- Appendix D: “Synthetics,” Martin Rapaport, Rapaport Magazine, December 2013.
- Appendix E: Homepage, The Campaign for Ethical Jewelry, [www.ethicalpledge.com](http://www.ethicalpledge.com), accessed May 28, 2013.
- Appendix F: Ethical Jewelry Directory, [www.rapaportfairtrade.com](http://www.rapaportfairtrade.com), accessed May 28, 2013.
- Appendix G: RapNet Rules and Code of Conduct, [www.rapnet.com](http://www.rapnet.com), accessed May 28, 2013.
- Appendix H: Rapaport Auctions Buyer/Supplier Agreements.

# Business ETHICS 101

Moral clarity and the diamond industry.

BY MARTIN RAPAPORT

Sometimes it's hard to tell right from wrong. And sometimes it's not. Some people don't want us to tell right from wrong. They prefer that the diamond industry avoid ethical issues and concentrate on "business only." Often this is because they and their friends make windfall profits selling questionable products. When serious ethical matters such as severe human rights violations get in the way of their profits, they manipulate the truth through misrepresentation, denial, half-truths and confusion to protect their business interests. "Don't ask, don't tell, don't know" is their credo.

The purpose of this article is to promote moral clarity within the diamond industry. We will analyze complicated issues and present ethical perspectives that encourage you to establish your own ethical standards and an independent sense of moral clarity. Finally, we will recommend specific actions that should be taken by individuals and industry organizations.

## A THEORETICAL MODEL

Let's start our search for moral clarity with a theoretical model designed to establish a consensus baseline for right and wrong.

Gangs of Colombian thieves operating in the U.S. are attacking traveling diamond salesmen and jewelry stores. Sometimes they even take jewelers hostage in their homes. Occasionally a jeweler or salesman is murdered. A market for stolen diamonds develops. Initially the prices of the stolen diamonds are very low; however, as the market becomes more efficient and diamonds are sold to unknowing or "un-asking" third parties, higher prices are achieved. Some dealers mix stolen diamonds with legitimate diamonds, masking their identity and lowering average prices.

Decent people consider it highly unethical to buy

stolen diamonds. However, some buyers eyeing large windfall profits claim that if they don't buy the stolen diamonds, others will. After all, they say, "diamonds are neutral," it's not the diamonds' fault they were stolen. Furthermore, if they buy the diamonds from a "third party," they could claim they did not know they were stolen and avoid legal responsibility. Since the thieves and their dealers make windfall profits and don't have ethical concerns, the market for stolen diamonds develops, expands and becomes more efficient.

The creation of an efficient "quick cash" market for stolen diamonds at "good prices" encourages robbers to expand operations. New players enter "the business." More jewelers get robbed, murder rates go up and there is a significant increase in robberies at the homes of wealthy consumers. Salesmen no longer travel with diamonds, insurance rates skyrocket and consumers start questioning the safety of owning diamond jewelry.

As the market for stolen diamonds expands, some legitimate diamond dealers and jewelers find it hard to compete against the lower-priced stolen goods. Some stop buying and selling diamonds. The perception that diamonds are dangerous continues to develop as more people suffer robberies and assault. There is a significant decline in market and consumer demand. Diamonds now have a dangerous reputation. Demand and prices fall.

Consider the six components of our model: ethical considerations, legal issues, financial incentives, reputational risk and long-term economic impact and social consequences.

Obviously, different players have different perspectives. The robbers and their buyers are highly motivated by short-term profits. They have no ethical or long-term concerns. The legitimate dealers and jewelers suffer financial loss and physical threat. At first glance there does not seem to be much they can do.

The solution, of course, is to shut down the market for stolen diamonds, arrest the robbers and their buyers and place severe fines and prison sentences on anyone caught dealing in stolen diamonds. By differentiating stolen diamonds from legitimate diamonds, denying them access to legitimate markets and then raising the risk and cost of dealing in stolen diamonds, windfall profits and liquidity disappear, robbers and their buyers lose their lucrative financial incentive and markets return to normal, safe and profitable conditions.

Unless you are a robber or one of their buyers, the above scenario offers clear options. Trade or don't trade in stolen diamonds. There is no gray area and that is what we mean by "moral clarity." Clearly, supporting the market for stolen diamonds, encouraging the mixing of stolen and legitimate diamonds and supporting the "right" of thieves to steal and their buyers to sell into the market is highly unethical.

## THE REAL WORLD

While the real world is more complicated, our theoretical model repeats itself in many ways. Consider the situation regarding Marange diamonds from Zimbabwe.

Zimbabwean government security forces controlled by President Robert Mugabe and his ZANU-PF political party have killed and tortured hundreds of Zimbabweans to steal diamond wealth and keep their political party in power. In 2003 U.S. President George W. Bush placed economic sanctions on Mugabe and his ZANU-PF gang, including the current Minister of Mines Obert Mpofu. The president cited their actions "to undermine Zimbabwe's democratic processes or institutions, contributing to the deliberate breakdown of the rule of law in Zimbabwe and politically motivated violence and intimidation in that country." These sanctions have been continuously renewed by President Obama.

Detailed reports by nongovernmental organizations (NGOs) Partnership Africa Canada, Global Witness, Human Rights Watch and others have documented the 2008 murder of over 200 artisanal diamond diggers and the torture of thousands by military forces aligned with the government's ZANU-PF party, the murder of hundreds of opposition Movement for Democratic Change (MDC) political party activists and the torture of hundreds more during and after 2008 elections, the seizure by the military of the Marange diamond fields, the establishment of mining companies owned by secret partnerships that include the military, ZANU-PF and unknown others, the failure of government-owned diamond companies to inform the treasury of their revenue and earnings and their failure to pay taxes, royalties and dividends owed to the government, the personal

enrichment of Minister Mpofu and other members of the ZANU-PF clique.

The current situation is highly problematic with two MDC activists murdered in February, dozens of MDC activists jailed under false pretenses and the recent physical attacks by ZANU-PF on the MDC Home Secretary and Treasurer. There is great fear that the diamond revenue currently being hijacked by ZANU-PF will be used by their security forces to fund attacks on members of the MDC opposition during the upcoming campaign for elections in early 2013. **Anyone buying Marange diamonds should be concerned that their money will be used to fund violence.**

Tendai Biti, MDC Minister of Finance in the unity government, had this to say about the situation: "As Ministry of Finance, we fear that there might be a parallel government in respect of where the revenue is going and not coming to Treasury.... I think the people that are stealing our diamonds are so sophisticated that stealing will continue."

## LEGITIMIZING THE ILLEGITIMATE

So here you have it, a gang of thieves disguised as politicians stealing diamonds from their own people in one of the poorest countries in the world. Suppliers so evil that the U.S. government has slapped Office of Foreign Assets Control (OFAC) sanctions on them and you can't legally import their diamonds into the U.S. You might think the diamond trade would be ethical enough to not buy these diamonds. Well, think again.

At the recent Zimbabwe diamond conference designed to legitimize Mugabe, Mpofu and their gang of thieves, leaders of the diamond industry fell all over themselves, toadying up to the bad guys. Eli Izhakoff, chairman of the World Diamond Council (WDC) went so far as to say he would petition the U.S. and EU governments to drop sanctions against the Zimbabweans.

What about the Kimberley Process (KP)? Isn't the KP supposed to certify that diamonds are free of human rights abuses and violence? If the KP is certifying Marange diamonds, doesn't that mean they are legitimate? No and no again.

Here is what Ambassador Gillian Milovanovic, U.S. chair of the KP had to say at the Zimbabwe conference: "KP certification is not designed to address human rights, financial transparency, economic development or other important issues." She failed to add that the KP does not address armed conflict and violence when the governments are perpetrating the violence against their own people, as is the case in Zimbabwe. From the KP's perspective, it's perfectly all right for Mpofu and his ZANU-PF gangsters to kill as many people as they like

# Conditions for Legitimizing Zimbabwe Diamonds:

1. No government-sponsored violence or intimidation.
2. Ongoing independent monitoring ensuring that mining areas are free of all human rights abuses and that fair/safe working conditions exist for workers at mines.
3. Mining, manufacturing and sale of diamonds through entities that are not subject to U.S. or EU sanctions.
4. Transparency regarding all government agreements and diamond activity.
5. Diamond expenses and revenue distributed legally with full disclosure of all income and expenses.
6. All taxes, dividends and other required payment made to government.
7. Diamond revenue reasonably and fairly benefits the people of Zimbabwe.

or steal as much money as they like. The KP is only interested in cases where rebel forces use diamonds to attack a government and the UN Security Council approves an embargo. The KP turns a blind eye to everything else.

Please note that Milovanovic is a diplomat from the U.S. State Department. Her job is to talk, persuade and advise but she has no real power. Don't be confused, just because the State Department approves Zimbabwean KP certificates, does not mean that the U.S. Department of Treasury's OFAC won't fine you up to \$500,000 or throw you in jail for up to ten years if you are caught importing KP certified Marange diamonds into the U.S.

What about the World Diamond Council System of Warranties (SoW)? Aren't they supposed to ensure that diamonds are legitimate? Doesn't the SoW guarantee that diamonds are free of human rights abuses? No and no again.

The WDC is the puppet of the KP as indicated by their mission statement. "The primary objective of the WDC is to represent the diamond industry in the development and implementation of regulatory and voluntary systems to control the trade in diamonds embargoed by the United Nations or covered by the Kimberley Process Certification Scheme. ... Conflict diamonds are rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant resolutions by the UN Security Council and UN General Assembly." Let's be clear, if the KP does not "address human rights, financial

transparency, economic development or other important issues," neither does the WDC or its SoW.

## LIES

The WDC has been misleading the trade for many years by implying that KP certification and the WDC-SoW assures the legitimacy of diamonds. They have been using phrases like conflict free and nonconflict diamonds to imply that these diamonds are legitimate and free of human rights abuses. That's an outright lie.

Consider the WDC's [diamondfacts.org](http://diamondfacts.org) website, Employee Training Manual, page one, "We are part of an industry-wide, global effort to eradicate illegal diamonds. We will be discussing how you can speak confidently to your customers and assure them that the diamonds they are buying come from legitimate sources." Additionally on page two of the Manual: "The Kimberley Process guarantees that only diamonds from legitimate sources are used in our jewelry."

Pray tell, what is legal and legitimate about KP certified Marange diamonds that are illegal under U.S. sanctions and fund violence? The KP and WDC SoW never certifies legitimacy or lack of severe human rights violations, so why does the WDC lie to us and say that they do?

In his keynote speech at the recent KP meeting, Izhakoff had this to say about KP certification. "For the process to work effectively, the consumer needs to understand that every legitimately traded diamond can be traced to a verifiable KP certificate, by way of the

World Diamond Council's Chain of Warranties. However, if we begin to differentiate between KP certificates, implying that one may be more legitimate than the other, then we will undermine consumer confidence in general."

While Izhakoff's WDC is entitled to its opinion, it is unethical for him and his WDC to continuously mislead the trade and public regarding the efficacy of KP certificates. While it is technically true that every legitimately traded diamond can be traced to a KP certificate, it is also true that almost every illegitimate diamond can also be traced to a verifiable KP certificate. His statement is misleading because he implies to consumers and the trade that all KP certified diamonds are legitimate — which they certainly are not.

Izhakoff's carefully phrased, clever double-talk is not a slip of the tongue but rather the continuation of a consistent long-term misinformation campaign by the WDC to falsely claim that the WDC-SoW guarantees the legitimacy of a diamond.

## LEGAL ISSUES

In a letter to Rapaport, OFAC states "a U.S. person may not procure goods, services or technology, including diamonds, from a blocked person directly or indirectly (including through a third-party intermediary). . . . "A U.S. person generally cannot purchase diamonds from a foreign company if the U.S. person knows or has reason to know, that a blocked person has or has had an interest in the diamonds." This makes it clear that U.S. companies can't buy polished Marange diamonds from diamond cutters.

Given the fact that diamond manufacturers have bought, cut and sold millions of carats of Marange rough diamonds into the market, everyone in the diamond trade "has reason to know" that polished diamonds may originate from Marange.

It's not just a voluntary ethical issue anymore. Jewelers of America (JA) has advised its members that it is "illegal for U.S. owned companies or individuals to directly or indirectly buy or sell diamonds from Marange." Furthermore they have advised all JA members to obtain a written commitment from their suppliers that the diamonds being sold to them do not originate in Marange. We congratulate JA for the correct ethical and legal advice they are giving their members.

We strongly urge all U.S. diamond and diamond jewelry buyers to contact their suppliers and require them to provide the following written commitment on all invoices:

*"To the best of our knowledge, the diamonds herein invoiced do not originate from the Marange region of Zimbabwe or other sources subject to U.S. legal restrictions. Our supplier of these diamonds has provided us with a similar assurance of origin."*

Members of the trade are cautioned that in the fall of 2010, Cecilia Gardner, Esq., President and CEO of the Jeweler's Vigilance Committee (JVC) and General Counsel of the WDC, issued a guidance that falsely claimed U.S. companies can indirectly buy Marange polished diamonds from the secondary market. She writes: "If the transaction is on the secondary market, not a transaction directly between a U.S. company and a listed company (or a 50 percent-owned affiliate of a listed company) then the transaction should not be blocked nor would it violate any U.S. laws." This is a false statement that directly contradicts the written directions in the letter OFAC sent to Rapaport. We have sent our OFAC letter to Gardner and asked her to revise her guidance.

In the same advisory Gardner writes "You will note that there is one issue that JVC has not addressed in this article — the ethical calculation one might apply generally to the purchase of diamonds from Marange. This is a subject for another day. JVC's focus and expertise is legal compliance, which is the subject of this article." We note the JVC tagline at the header of their web page states "The Industry's Guardian of Ethics and Integrity." All we can say about this is "if not now, then when."

I want to make it clear that Gardner has done and continues to do countless good for our industry. I respect her, her work and her good intentions. However, I believe that here, she has crossed the line.

Let this be a warning to all of us. If the corruptive influence of the WDC can twist the JVC — how much more so, the rest of us. It's easy to make the mistake of prioritizing unification of the world diamond industry through compromise over the need to protect the interests of the U.S. industry by doing what is right. But, we must put our foot down, being inclusive cannot come at the price of turning a blind eye to unethical behavior or specifically encouraging the sale of diamonds that should not be sold in the U.S. for ethical and legal reasons. Gardner and the JVC need a break from the WDC.

I respectfully call upon JVC's board of directors to review the situation and align their position with JA's. Furthermore I respectfully request that the JVC board of directors ask Gardner to resign her position as General Counsel of the WDC so that she can devote her efforts to the ethical and compliance challenges confronting the U.S. jewelry trade. Simply put, Gardner should be working to protect the U.S. jewelry industry, not the cutters in India.

## REPUTATIONAL RISK

U.S. purchases or sales of Marange and/or other diamonds involved in human rights abuses present a grave and immediate danger to the U.S. diamond market as well

as the companies and brands selling diamonds. I cannot imagine a worse scenario than jewelers being brought up on charges for violating OFAC sanctions by selling diamonds involved in human rights abuses.

In 1996, the media publicized severe labor problems in Nike's supply chain. By the 1997-1998 fiscal year, Nike's revenue fell by 16 percent, profits plunged 49 percent and the share price fell by 57 percent. **Wake up U.S. retailers, consumers are not going to buy diamonds if they are evil.** The WDC might be able to fool consumers for a while longer but if we keep on importing dirty diamonds our industry is finished.

Needless to say, all the trends are with ethical consumerism. Dodd-Frank is forcing companies to clean up their supply chain as global warming or should I say global warning wreaks havoc with the weather. Socially responsible consumerism is not just a trend, it's a long-term lifestyle commitment. Years ago we used to light up cigarettes in airplanes; would anyone dream of doing that now? How long do you think our industry can get away with selling diamonds involved in human rights violations?

We must separate ourselves from the bad diamonds. It's not just an ethical or legal issue. It's survival.

## FINANCIAL INTERESTS

Consider the perspective of an Indian diamond cutter who does not have an ethical or legal problem dealing with Marange diamonds. If he can buy Marange rough diamonds at a 25 percent discount and then cut and mix them with diamonds from legitimate sources, he can make an extra 25 percent windfall profit. There is a huge economic incentive for diamond cutters to buy Marange goods, mix them and sell them as legitimate.

Taking this to another level you might want to ask how much more Marange diamonds would be worth if Izhakoff and his WDC gang could get the U.S. and EU to drop sanctions while continuing to convince the world that KP certs guarantee the legitimacy of diamonds. The bottom line is that there are huge profits in dirty diamonds.

When diamond manufacturers tell you they can't separate Marange diamonds, don't believe them and don't buy from them. Cutters can separate VVS1's from VVS2's, Triple X's from Triple VG's and rough diamond productions from one customer to another. Would your supplier tell you they could not separate treated or synthetic diamonds from natural diamonds? If your supplier can't guarantee a supply of diamonds free of Marange, then simply stop buying from them. Money talks when money walks.

## CONFLICTS OF INTEREST

By now it should be clear that there is a fundamental conflict of interest between international diamond manufacturers and U.S. diamond buyers.

Diamond cutters in India do not have OFAC or EU/UK legal constraints. In their market, Marange diamonds are perfectly legal. Furthermore, they do not have the same level of reputational risk that U.S. retailers and international brands have. If and when there is a consumer backlash against dirty diamonds, U.S. retailers and brands will feel the heat on the frontline, head on. The Indians will hide in India. Their horizon does not include the socially conscious U.S. consumer. They don't see or feel our risk. What they do see and feel is money. Lots of money they can make right now by selling the U.S. Marange diamonds.

From the U.S. buyer perspective Marange diamonds are poison. Not only are they unethical and illegal, they also destroy the level playing field of our markets. Retailers who cheat get lower prices in a highly competitive market environment. Legitimate diamond dealers and retailers are in danger of losing business when being forced to compete against sellers of illegal Marange diamonds.

The only solution is for the legitimate U.S. diamond trade to insist on the separation of good diamonds from bad diamonds and the exclusion of bad diamonds from our distribution system. We need to establish and support independent competitive source certification systems that support legitimate markets for legitimate diamonds. We should support efforts by the Responsible Jewelry Council (RJC) and others to create legitimate Chain of Custody (CoC) and Source Certification Systems (SCS).

There is a fundamental conflict of interest between the WDC and the legitimate U.S. diamond industry. The WDC supports the mixing of Marange diamonds with legitimate diamonds, the establishment of standards that ignore human rights and the misrepresentation of these standards to consumers. The WDC claims to represent the interests of the entire diamond trade from mining companies to retail jewelers, but it doesn't. The WDC represents the interest of Mugabe and other illegitimate and illegal miners as well as profit-seeking diamond cutters against the interests of the legitimate U.S. retail and wholesale diamond trade.

Let's make it clear. The WDC is pouring poison into the well from which we all drink. It is incomprehensible that U.S. retailers and diamond dealers are represented by an organization that advocates the mixing and legitimization of illegal and unethical diamonds and their importation into the U.S. It's bad enough that the WDC is doing evil — but it is outrageous that we are allowing it

to do so, against us, in our name. It makes no sense for U.S. companies and organizations to legitimize and support an organization that opposes our American laws and values.

**The Rapaport Group hereby calls upon all legitimate members of the diamond trade and especially all U.S. members and trade organizations to publicly resign from the World Diamond Council.** If organizations wish to be represented at the KP, they should apply for independent observer status and ensure their legitimate interests are presented and protected.

Legitimate mining companies should carefully consider the impact of Marange and other illegitimate diamond sources on the value and reputation of their production. Legitimate producers should support chain of custody and source certification systems that separate their production from diamonds of unknown or problematic origin.

### **U.S. DIAMOND BUYERS UNITE**

It's time for U.S. diamond buyers to organize themselves, stand up for their rights, assert their identity and exercise their market power. It is absurd that foreign diamond suppliers think they can force us to buy their illegitimate and illegal diamonds. "We can't separate the diamonds," they say. Poppycock, I say.

Legitimate American buyers need to come together under an organization like Jewelers of America and present a united front for an ethical supply chain. We must deal with diamond suppliers in an organized, powerful and focused manner. American diamond buyers have a responsibility to their customers and we have the economic power to back up our ethical demands.

The Rapaport Group supports the African concept of BEE – Black Economic Empowerment, which seeks a fair and equitable distribution of the benefit from diamonds and other mineral resources originating in developing African countries. We also support the concept of an American BEE – Buyer Economic Empowerment. It's time that we communicated to our African comrades that American buyers have the right not to buy their unethical and illegal diamonds. The message from diamond buyers is simple and straightforward. Meet our ethical standards or we won't buy your diamonds.

### **THE WAY FORWARD**

While it's nice to talk about ethics, nothing really gets done unless there is money behind it. If we want ethical diamonds, we must make sure they are profitable. The obvious need for separating good and bad diamonds is also an opportunity to create a differentiated diamond product category with a unique selling proposition. We can add value to legitimate generic diamonds through

ethical source certification that emphasizes and markets their goodness. A diamond with a documented legitimate supply chain is worth more than a diamond from an unknown source. We need to market this.

Ethical and source certification has the power to change markets the way that cut grade diamond grading has. Once the American Gem Society (AGS) introduced a cut grade, excellent cuts brought significant premiums as sellers used the excellent cut on the grading report to differentiate their products. So too here with ethical and source certification, competitive market forces will encourage suppliers to obtain added value through ethical sourcing.

The way forward is for the diamond industry to create a competitive market with the added value attributable to certified ethically sourced diamonds. Supply chain management should not just be about damage control, it should be about getting higher prices for ethically sourced diamonds and branded jewelry.

### **RAPAPORT RECOMMENDATIONS:**

**1.** All U.S., EU/UK diamond buyers should obtain a written commitment from their suppliers that the diamonds being sold to them do not originate from Marange or other sources subject to government sanctions.

**2.** All diamond trade associations should pass resolutions requiring their members to make full disclosure when selling Marange diamonds or other diamonds subject to sanctions. Disclosure should be in writing on the invoice and similar to requirements for treated and synthetic diamonds.

**3.** All legitimate U.S. and other trade organizations, companies, and individuals should withdraw from the World Diamond Council (WDC). The WDC should immediately issue public statements clarifying the limitations of the WDC System of Warranties. Eli Izhakoff should resign from the WDC.

**4.** The Jewelers Vigilance Committee (JVC) should issue clarifications regarding their position that U.S. companies can buy Office of Foreign Assets Control (OFAC) sanctioned diamonds indirectly in secondary markets. JVC should withdraw from the WDC.

**5.** A meeting of U.S. diamond industry stakeholders should take place to discuss how to support, promote and source ethical diamond certification as well as the Responsible Jewelry Council's (RJC) Chain of Custody (CoC) certification for diamonds. Discussion about how the U.S. industry should be represented in international forums should also take place with consideration given to expanding the role of Jewelers of America (JA). Consideration should be given to holding a meeting in Washington to encourage the continuation of sanctions against Zimbabwe. ♦

## Rapaport Group – Fair Trade and Ethical Sourcing Initiatives

March 12, 2013

### Rapaport Background:

The Rapaport Group has four primary areas of activity: Information Services (the primary source of diamond price and market information); RapNet® – Diamond Trading Network (with 13,000 members in 80 countries and daily listings of 950,000 diamonds valued at \$6.4 Billion); Rapaport Laboratories (handling \$2.1 billion of diamonds per year) and Rapaport Trading and Auctions (annual sales of approximately 700,000 carats of recycled polished diamonds). The Group employs 180 people with offices in New York, Las Vegas, Antwerp, Ramat Gan, Mumbai, Surat, Hong Kong, and Shanghai.

### Objective:

Create and promote a sustainable supply chain for legitimate diamonds.

### Fair Trade and Ethical Sourcing Initiatives:

1. **Source Certification** – Product-based certification with implementation of OECD, RJC Code of Practice (CoP), RJC Chain of Custody (CoC) and Rapaport Ethical Sourcing (RES) standards.
  - a. Certify the legitimacy of laboratory graded diamonds from rough to polished: Certification limited to uniquely identifiable, laboratory-graded, polished diamonds that were mined and processed by entities that maintain CoP and CoC standards. Rapaport will provide online confirmation of diamond source and production cycle with certificates linked to specific diamond grading reports.
  - b. Certify the legitimacy of recycled diamonds and gold: Certification limited to polished diamonds and gold pre-owned by consumers and processed by entities maintaining CoP and CoC standards. Diamonds and/or gold will be securely sealed in bags containing the diamonds or gold and uniquely identified source certificates. Online confirmation of certificate authenticity and product details will be available.
2. **Jewelry Trade Whitelist** – Identify and publicize the names of companies that (1) make available sufficient documentation and information to meet Rapaport U.S. Patriot Act “know your customer” and anti-money laundering policy requirements, (2) have been verified as not appearing on the Office of Foreign Asset Control (OFAC) SDN list and have confirmed that they are in compliance with OFAC sanctions, and (3) meet additional Rapaport disclosure and operational requirements regarding the sourcing of their products. Companies may be assigned an ethical grade based on their application of ethical supply chain standards.

- a. Rapaport will maintain a secure online jewelry trade company database. Subject to company approval, Rapaport will share information with designated clients to assist them in their compliance process and obligations.
  - b. A list of companies that have made the Rapaport Ethical Pledge will be promoted and communicated over the internet and through social media networks, encouraging companies and consumers to do business with companies that have made the pledge.
3. **U.S. Jewelry Umbrella Organization** – The Rapaport Group will participate in the establishments of an organization that will promote the financial, legal and ethical interests and values of the U.S. jewelry industry.
- a. The U.S. is the largest, most important and consistent buyer of diamonds, gems and jewelry in the world. U.S. companies have tremendous purchasing and market power.
  - b. The combined marketing power of U.S. companies is not fairly represented in the international trade arena. While other countries have national government-funded organizations such as India’s GJEPC, Belgium’s AWDC, and Israel’s IDI, the U.S. trade does not have fair representation of its interests. These organizations represent their parochial national interest at the expense of the U.S. jewelry trade.
  - c. The failure of the U.S. jewelry trade to represent their legitimate interests in the international arena has resulted in the contamination of the legitimate supply chain with diamonds that are illegal for import into the United States. The U.S. jewelry trade is absorbing unacceptable levels of legal and reputational risk.
  - d. The legitimate business interests of U.S. companies are not only deprecated by foreign entities but misrepresented by international organizations claiming to represent the U.S. jewelry trade. For example, in spite of the fact that the U.S. has greater purchasing and market power than any other country, India imposes import taxes on our polished diamonds while we allow India free access to our markets. We must ask: who represents the interests of the U.S. diamond, gem and jewelry trade?

**Conclusion:**

The Rapaport Group is in the process of implementing our Fair Trade and Ethical Sourcing Initiatives. We are available to discuss these initiatives and collaborate with other U.S. companies and trade organizations. Please contact Shira Topiol at: [shira@rapaport.com](mailto:shira@rapaport.com) +1-702-425-9088 if you would like more information about our initiatives. Martin Rapaport can be reached at [martin@rapaport.com](mailto:martin@rapaport.com).

We suggest that you read our recent article “Moral Clarity and the Diamond Trade” for additional in-depth analysis and visit our [www.Diamonds.net/FairTrade](http://www.Diamonds.net/FairTrade) and [EthicalPledge.com](http://EthicalPledge.com) websites.

## AFTER KIMBERLEY... NOW WHAT?

BY MARTIN RAPAPORT

**B**y now it should be clear that a Kimberley Process (KP) certificate does not ensure a diamond is free of human rights violations or other serious ethical problems. In fact, a KP certificate does not even ensure that a diamond is legal for trade in the United States or European Union.

The recent release of over \$200 million dollars of KP-certified Marange diamonds opens a Pandora's Box of complex ethical, legal and financial issues that the diamond industry is struggling to address.

Questions abound. How does one deal with the fact that KP certificates are being issued for diamonds that violate U.S. sanction regulations and cannot be legally sold to U.S. companies? How do you know that the diamonds you are buying were not involved in severe human rights violations? What if diamonds are "only" involved in funding repressive regimes that murder and torture political opponents? What about "unknown" diamonds from Angola, the Congo and Cote d'Ivoire? Are they okay? If you don't buy "bad" diamonds – won't someone else buy them for low prices and then compete with you? If others are buying — why should you miss out?

One fundamental question is: Who is responsible for ensuring that the diamond industry is not promoting human rights violations through the purchase of diamonds?

Over the past few years, industry trade organizations have taken the position that it is the role of governments through the KP to ensure the legitimacy of the diamond trade. Millions of dollars have been spent promoting and proclaiming that KP certification and the "System of Warranties" guarantee that "diamonds have been obtained from legitimate sources." However, as evidenced by the recent KP certification of U.S.-banned Marange diamonds, that is a false and dishonest position.

The diamond trade can no longer get away with telling consumers and each other that having a KP certificate ensures diamonds are legitimate. Even a child can see that the KP emperor has no clothes.

### GOVERNMENT LIMITATIONS

While governments are very powerful on a national level, their power is severely limited on an international level. This is particularly true when governments interfere with internal human rights issues of another nation. No government wants another government to tell it how to deal with its own people and their human rights. Absent a United Nations Security Council (UNSC) resolution or an act of war, no government has the legal right to force another government to do or not do anything.

It is important to understand that the KP is run by governments for governments and its purpose is to protect the self-interest of those governments, not the interests of the diamond trade. The governments running the KP have a broad range of competing interests, obligations and priorities. A solid majority of member governments, including China, Russia, South Africa and the other African producer nations never wanted and do not now want human rights to be part of the KP. Consider things from the African perspective. If you represented an African diamond-producing country, would you agree to a system whereby white people in America and Europe decide if you can sell your diamonds based on their human rights values? Would America agree to let Africans control their right to export products? If the KP voted, there is no question that a majority would support the immediate export of all Zimbabwean diamonds irrespective of any human rights violations. To most governments, the issue is not human rights; it is sovereignty — the right of governments to independently control their exports.

It's not the fault of governments or the KP that they are unable to solve the problem of human rights in the diamond industry. The KP was designed to respond to United Nations Security Council (UNSC) resolutions that embargo diamonds to stop wars — as was the case in Sierra Leone in the late 1990s. It was not designed and never had a consensus for the elimination of human rights violations.

So let's make it clear. The problem isn't the KP and the solution isn't the KP. The real problem is the fact that the diamond and jewelry industry refuses to take responsibility for the human rights violations that are taking place in the artisanal mining sectors. The dishonest attempt by trade organizations to lay human rights problems at the feet of the KP, which is incapable of dealing with them, is shameful, wrong and evil.

Perhaps it wouldn't be so bad if the political wrangling was just about money or jobs. But it isn't. Artisanal diggers and innocent civilians were murdered, raped and enslaved. We must be able to differentiate between business as usual and terrible unacceptable things happening in our supply chain. The diamond industry bought, sold and profited from the Marange blood diamonds of October 2008 as if nothing was wrong, as if people had not died. You have to wonder — where are these blood diamonds today? Are they in your safe? Is your customer wearing them? Consider the fact that no trade organization stopped the trade in these blood diamonds in 2009 because the diamonds were legitimized with KP certificates.

## RESPONSIBILITY

So let's answer our first fundamental question: Who is responsible for ensuring that the diamond industry is not promoting human rights violations through the purchase of diamonds?

You are. Every single rough dealer, cutter, polished dealer, jewelry manufacturer, wholesaler, retailer and consumer is individually and personally responsible for what they buy. You can't rely on governments or trade organizations. You have to make a fair and honest effort to ensure your supplier is not selling you bad diamonds. And it's not just Marange diamonds. It's about Congo, Angola and other problematic artisanal diamond sources. And what about gold? What about colored gemstones?

Now it might seem irresponsible and unrealistic for us to place the responsibility for an ethical jewelry industry on hundreds of thousands of individual members of the jewelry trade scattered across the globe. After all, individuals do not have law enforcement powers. They do not control customs. How can we as individuals stop evil? How can we stop smuggling and bribing and governments in Africa that use their soldiers against their own people?

Let's get realistic and accept the fact that we can't stop evil. But let us also accept the fact that we can no longer go on supporting evil. Let's accept and support the fact that we have the ability and obligation to control who we give our money to. Let's recognize that sometimes our decision about what we buy and where we buy is a life-and-death decision for someone else.

## U.S. POSITION

Consider the position taken by the U.S. government. President Bush banned U.S. entities from trading with the Zimbabwe Mining Development Corporation (ZMDC) on July 25, 2008. Since then, U.S. entities have not been allowed to buy ZMDC's diamonds, including diamonds from the Mbada and Canadile mines, even if they have KP certificates.

Now, why would the President do this? Didn't he know that Indian companies buy these diamonds and mix them with other diamonds making it difficult for

## Excerpt: Letter from U.S. Office of Foreign Asset Control to Martin Rapaport

“You also seek guidance on whether a U.S. person may purchase diamonds from other foreign companies which have purchased diamonds from Mbada or Canadile. Please be advised that a U.S. person may not procure goods, services or technology, including diamonds, from a blocked person directly or indirectly (including

through a third-party intermediary). Please also be advised that the prohibitions on transactions involving blocked property apply to transactions by a U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has reason to know, a person whose property and interests in property

are blocked has or has had an interest since the effective date of the blocking. See ZSR, §541.406. Therefore, a U.S. person generally cannot purchase diamonds from a foreign company if the U.S. person knows, or has reason to know, that a blocked person has or has had an interest in the diamonds since the effective date of the blocking.”

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A list of OFAC blocked entities is available at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>

U.S. retailers to know if they are buying Marange diamonds? Why was the President putting the responsibility and threat of jail sentences on company directors and individuals buying these diamonds?

The message here is that governments hold the private sector responsible for how they spend their money. It's the law. Whether your company buys goods that fund terrorism, supports governments that kill diggers or pays bribes, you are responsible. You can't get off the hook by claiming that other people do it. Your money is your responsibility, period.

It's interesting to note that the letter from the U.S. Office of Foreign Assets Control (OFAC) to Martin Rapaport (see page 31) clearly prohibits "indirect purchases of diamonds" if a person knows or "has reason to know" the diamonds are from ZMDC's Mbada or Canadile mines. Given the fact that well over \$300 million of these diamonds have been exported recently from the UAE and South African with KP certificates, buyers undoubtedly have "reason to know" that the diamonds they buy may originate from sanctioned ZMDC sources. It looks like the U.S. and probably EU diamond trade can't simply make believe that the diamonds they buy are okay because they have been mixed. The "if you can't beat the law, confuse the law" approach isn't going to work.

## ETHICAL CERTIFICATION

So what do we do about this? It's obviously time to separate the good diamonds from the bad and unknown diamonds. We can no longer assume that a diamond purchased from an unknown source is good. We have to ask questions and get assurances from suppliers that are well beyond the "KP System of Warranties" statement on the invoice (see box this page).

## Invoices

Rapaport suggests that the following text be required on all supplier diamond invoices in addition to the standard Kimberley Process notification.

Note bracketed items to be included as appropriate. We do not know or suggest that such notification is sufficient due diligence on the part of U.S. entities buying diamonds. Consult your attorney to ensure you are meeting your compliance requirements.

*"The supplier hereby warrants that reasonable due diligence has taken place to ensure that the [natural, untreated] diamonds hereby invoiced [provided on memorandum] have not been sourced from entities blocked by the U.S. Office of Foreign Asset Control or other government agencies."*

The fundamental solution to the ethical and legal problem of buying diamonds that are involved in or fund human rights violations is the establishment and support of Ethical Certification Systems. Such systems would address a broad range of social issues and offer a grading system (see page 33) that enables suppliers and their customers to price and trade a range of ethical products.

A Rapaport Ethical Certification (EC) system would accomplish the following:

- Identify the production process and producers from raw materials to certified product
- Rate and audit the ethical status of all the product production processes
- Confirm and audit all transformation processes and transition points to ensure product identity
- Physically identify the final certified product to enable reverse and progressive traceability
- Conduct independent third party audits of the auditing procedures and random spot checks of the production and auditing processes (without prior notification)
- Transparently communicate the certification processes and the limitations of the Ethical Certificate

It is important to recognize and support the efforts of the Responsible Jewellery Council (RJC). The RJC has established standards for the ethical certification of companies in the jewelry sector based on Organization for Economic Cooperation and Development (OECD) guidelines and a consultative process. The RJC is also in the process of establishing voluntary Chain of Custody (CoC) standards that will enable ethical certification of products. While the RJC is not perfect and has critical ethical limitations related to their reliance on KP certification and conflict diamond definitions as a basis for ethical conduct, their approach, intention and direction is improving and they are an important positive force for the development of ethical certification in the jewelry industry. Members of the trade are strongly encouraged to join and involve themselves with the RJC. At this stage it is the best way to learn about your ethical responsibilities and establish your ethical identity.

While the De Beers Forevermark and BHP Billiton's CanadaMark™ branding initiatives are primarily designed to increase the downstream value of their diamonds, they do provide a recognizable level of ethical certification based on the fact that the diamonds originate from known ethical sources and the production process is audited to conform to documented best practice principles.

The advent and intensification of additional diamond and jewelry branding initiatives will undoubtedly increase demand for ethical certification. While branding increases profits through the marketing of an added-value promise to the consumer, it also leaves a company susceptible to extreme damage in the event of ethical misbehavior.

In the late 1990's Nike experienced a branding crisis due to the discovery and disclosure by news organizations of exploitative employment practices. The negative impact on Nike was not limited to the reputation or social aspects of its brand. Profits fell by 49 percent and share prices plummeted by 57 percent. Fortunately, Nike recognized the problem and implemented strict supply chain controls. The message is clear — if you are going to brand your products, you had better get your ethical priorities in order. Efficient and transparent ethical certification is an optimal way to address this need.

### **THE ETHICAL PROCESS**

While the ethical certification solution addresses the needs of downstream manufacturers and retailers, it does not solve the terrible human rights challenges confronting the artisanal mining community. While jewelers might find safety under the protection of ethical certification for good diamonds, the diggers of Marange will likely continue to be abused and violated as Zimbabwe turns to elections and diamond revenue is used to fund violence. Make no mistake about it, no one is going to throw Marange or other problematic diamonds down the toilet because responsible jewelers refuse to buy them. China and Russia are already bidding heavily for these diamonds and they will pay a high price given the state of the market. So other than protecting our own economic self-interests and operating in compliance with U.S. and EU legal requirements what good will our ethical certification systems do for others? Will they make any difference to the diggers? Will they save any lives?

Implementation of ethical certification will create a process of unintended sustainable consequences that are not obvious. The diamond and jewelry industry is undoubtedly on the slippery slope of legitimization. In spite of the “animal instincts” of our highly price-competitive dealer markets, our downstream trade is evolving. As mining companies absorb an ever increasing percentage of available manufacturing profits, cutters and dealers are forced downstream and are evolving into sophisticated added-value, brand-conscious, luxury merchants. We are not only repositioning our products; we are repositioning ourselves.

Change will only take place if it is driven by money and profits. While it is important for this writer to shout out about the terrible injustice in the artisanal sector, I have very little illusion that corporate titans will transform

## **RAPAPORT ETHICAL PRODUCT SCALE**

**Fair Trade**



**Recycled**



**Ethical**



**Unknown**



**Problematic**



**Sanctioned**



**Human Rights  
Violence**

themselves and their companies into sensitive altruistic entities. Positive change will only take place if it is supported and justified by sustainable economic incentive.

Given the hard unfortunate fact that we cannot eliminate evil, our next best option is to incentivize good with the intention that good will drive out evil. Ethical certification can accomplish this because it enables good behavior to be turned into profit. Without ethical certification, what is the economic benefit in being good? From a purely business perspective, why increase expenses to be good, if no one knows it and you can't get more money for it? On the other hand, if you can certify your goodness and get more money for it, then it pays for you to be good. That payment is the economic justification that will drive the shift to ethical behavior.

#### **TRIPLE X ETHICAL CERTS**

Consider what happened with excellent cut diamonds. The American Gem Society (AGS) came out with triple zero's and then Gemological Institute of America (GIA) came out with triple X's. Before the excellent cut certification game began, cutters didn't cut to such excellent standards. Only after excellent certification was established and communicated through certification did the quality of cutting levels significantly increase. That is because triple X certs brought a higher price, not because cutters altruistically enjoyed looking at their sparkly well cut diamonds. The certificate justified the higher price. Creating excellent cut diamonds not only became a legitimate way to add value, it became an integral part of the marketing and branding proposition of many companies. Tens of millions of dollars have been spent promoting it.

There is no reason we cannot accomplish the same thing with ethical certification. By separating good diamonds from "bad" or "unknown" diamonds through certification we are creating added-value product differentiation. If cutters naturally learned to compete with excellent cuts there is no reason they should not learn to compete with triple X certified fair trade diamonds that give artisanal diggers an excellent deal. When governments or companies that control diamond resources come to realize that they can get a better price for their diamonds if they observe human rights standards, they will be incentivized to do so.

The main idea is to recognize that the way to eliminate bad is to pay more for good. We must also appreciate the fact that innovators in the diamond and jewelry industry are constantly looking for ways to add value to their products. And here is a great opportunity to market and commercialize ethical behavior through certification. You can add value and increase your sales and profits by securing and certifying your ethical supply chain. You can add even more value by recycling gold and diamonds. And still more by trading fair trade gold and diamonds that empower impoverished artisanal diggers.

Best of all, it's not charity and it need not be altruistic. It's economically sustainable because with proper marketing consumers are willing to pay more for ethical jewelry. Free competitive market forces will ensure that suppliers and jewelers develop a correct cost-benefit ratio for ethical jewelry, and society will get the exact level of social and ethical responsibility that it is willing to pay for. In the end, business is about making money, and so is doing the right thing. ♦

## **RAPAPORT FAIR TRADE PRINCIPLES**

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- **Pay Fair Wages**
- **Community Benefit**
- **Do No Harm**
- **Independent Auditing**

# SYNTHETICS

The sale of synthetic diamonds as natural is challenging the integrity of our diamond industry – what should we do about it?

BY MARTIN RAPAPORT

**N**ew technology is a blessing and so are synthetic diamonds. New ways of doing things and new products are opportunities. They force change and growth, which is a good thing.

The real story isn't just about the direct impact of new products such as synthetic diamonds but rather the consequences of how new affects old. If new products or technologies are more profitable or efficient, they dominate. Markets are Darwinian. They are about survival of the fittest and by the fittest we mean the most capable of adapting to a new environment.

Consider the impact of a forest fire. It burns down large, old trees whose shade has blocked sunlight and stunted the growth of small, new trees. The heat from the fire pops the acorns from the big trees and scatters their seeds. The ashes from the large burnt trees fertilize and stimulate the growth of new seedlings. So are forest fires good or bad? Whatever your perspective, they are inevitable and they are nature's method for achieving growth and development.

In the case of synthetics, new technology challenges our values. It's not just about how flexible, adaptable and forward thinking we are. It's about how honest we are. Synthetics are G-D's way of testing our integrity as individuals and as a community.

And it's not just synthetics. Consider the internet and the direct access it provides us to tens of thousands

of B2B customers and millions of new consumers. The internet benefit comes at the cost of significantly greater price and availability transparency, which can reduce profit margins. So what do we do? Do we use technology to find new ways to add value to our products and ourselves? Or do we use the internet to sell diamonds with grading reports that overstate the quality of our diamonds and enable us to mislead consumers?

Technology brings out the best and worst in us. It can be used for good or evil. There is no free lunch.

## **SYNTHETICS**

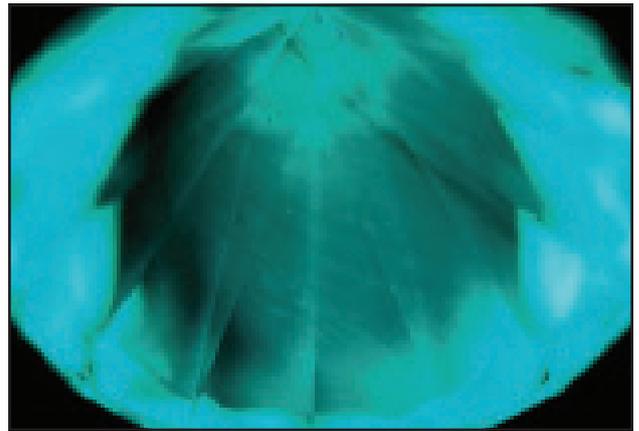
Our ability to create synthetic diamonds is driven by a world of technological innovation that is well beyond the scope of the jewelry industry. Growing diamond crystals enables new, sophisticated lasers that can be used for everything from surgical tools to "Star Wars" warfare. There is also the opportunity for super cyber computers that store information at the atomic level, as well as a cornucopia of other technological advancements based on the unique properties of diamond. Synthetic diamonds and the rapidly developing technology to create and perfect them are here to stay.

But what about the jewelry industry? Will the availability of synthetic diamonds destroy the market for natural diamonds? Will diamond suppliers misrepresent synthetic diamonds as natural diamonds and thereby



*As grown Chemical Vapor Deposition (CVD) synthetics will often exhibit orange fluorescence. Striations — a series of linear marks — are normally present and zoning — concentrated areas of fluorescence — is sometimes observed as a result of the growth events when producing the synthetic stone.*

*For treated CVD synthetics, this orange luminescence is replaced by green or greenish blue fluorescence. Phosphorescence is generated and the striations and zoning remain.*



Photos courtesy De Beers

destroy the added value created by the authenticity and scarcity of natural diamonds? Will prices for natural diamonds fall to the cost of synthetic diamonds?

There are persistent and credible reports that synthetic diamonds are being sold as natural diamonds. The misrepresentation and fraud of synthetics takes many disguises. In India, synthetic diamonds are mixed into parcels of natural diamonds and sold by diamond manufacturers, brokers and dealers as natural diamonds to unsuspecting buyers who then export the mixed parcels overseas. In China, there are reports that jewelry manufacturers are selling jewelry set with synthetic diamonds as 100 percent natural.

An even more insidious approach is being taken by companies that are reportedly buying original Gemological Institute of America (GIA) grading reports and then creating synthetic diamonds to match the reports. In some instances, they are even laser-inscribing synthetic diamonds with the GIA logo and grading report number.

So how can the diamond industry protect itself against fraud and misrepresentation? How must we change the way we trade diamonds? And what about our customers' customers — the consumers? Who is protecting them?

### **THE 4DS**

Differentiation, Detection, Disclosure and Documentation.

The key to resolving the challenges presented by

synthetic diamonds is our ability to differentiate natural diamonds from synthetic diamonds. While treated diamonds present similar issues, they are beyond the scope of this article due to their extreme complexity. As first presented in our article "Trust," published on May 6, 2002 (online at [Diamonds.Net/Synthetics](http://Diamonds.Net/Synthetics)), differentiation is reliant on detection, disclosure and documentation.

The 4Ds are synergistically reliant on each other. If we can't detect synthetic diamonds, then the price of natural diamonds will fall to the price of synthetics. Furthermore, detection cannot help us without disclosure. If our trade lies to consumers and sells synthetics as natural, no one will ever believe they are getting the real thing. Finally, without testing and supply-chain documentation, we can't be certain that the diamonds we are selling are natural.

Simply put, without the 4Ds, you don't have the 4Cs.

### **DETECTION**

A prerequisite for ensuring the added value of natural diamonds is our ability to authenticate them. Fortunately, the De Beers DiamondSure® and DiamondView® instruments can currently identify individual diamonds over 0.01 carat as natural with a 100 percent confidence level. Members of the trade are encouraged to read the November 8 letter from Philippe Mellier, chief executive

officer (CEO) of the De Beers Group and the highly informative booklet from De Beers entitled “Undisclosed Synthetics – What you Need to Know,” available online at [Diamonds.Net/Synthetics](http://Diamonds.Net/Synthetics).

While the technology of detecting synthetic diamonds has so far kept up with their creation, it is prohibitively expensive to test every diamond in a parcel of small melee diamonds or in set jewelry. The obvious solution is statistical sampling of melee parcels and jewelry with a zero tolerance level for any synthetics in a parcel sold as natural.

The De Beers planned introduction of an Automated Melee Screening (AMS) instrument by the second quarter of 2014 is an important positive development. The AMS instrument will test diamonds from 0.01 carat to 0.20 carat at the rate of 360 stones per hour and will be available to sightholders on a three-year lease for \$25,000 per year. We commend De Beers for taking the initiative on synthetic testing and strongly urge them to make the AMS instrument available to nonsightholders, particularly laboratories, as soon as possible.

The GIA has also announced that it will be providing members of the World Federation of Diamond Bourses (WFDB) with instruments that are able to test individual diamonds at high speed. Expected delivery of the GIA instruments is February 2014.

When it comes to synthetics, detection is not the problem. In fact, it’s a solution, because our ability to detect synthetics is a deterrent. It lets us catch the bad guys. Dishonest diamantaires and their companies are less likely to pepper their parcels with synthetic diamonds if there is a reasonable chance they will get caught.

## **DISCLOSURE**

The need for full disclosure regarding the sale of synthetic diamonds is an obvious and legal requirement. Given recent reports about the illegal sale of mixed parcels of synthetic and natural diamonds without disclosure, the WFDB has taken the position that disclosing synthetics is not enough. There is a new requirement that all natural diamond sales now require an affirmative statement that the diamonds are natural. In other words, when buying diamonds, you can no longer assume they are natural.

The WFDB Required Invoice Statement: “The diamonds being invoiced are natural diamonds and not synthetic unless otherwise stated in writing. This statement is based on personal knowledge and/or written

assurances provided to us by the suppliers of the diamonds and does not exclude any required disclosure regarding treated diamonds.”

The problem with the WFDB’s natural diamond disclosure statement is that it is “based on personal knowledge and/or written assurances provided to us by the suppliers of the diamonds.” This language, partially lifted from the Kimberley Process statement, allows diamond suppliers to make claims that diamonds are natural based on statements by other suppliers who in turn base their statements on statements by yet other suppliers. In the case of mixed parcels, these statements are misleading since no one knows who sold what to whom.

Such chicanery might work in the case of the Kimberley Process, where you can get away with selling blood diamonds because there are no instruments for testing them. But that is not the case with synthetics. You can test synthetics. So what happens when the WFDB statement is duly rubber-stamped on the invoice, a retailer relies on the invoice statement and then a consumer sends the diamond to an appraiser and finds out it is synthetic?

Consider an order for 300 tennis bracelets, each containing 20 round, 5-point (2.4 mm) J,VS1 diamonds. That’s 6,000 individual diamonds of a very specific size/quality. Very few suppliers have that many specific diamonds. The way the current market works is that the company handling the order has its broker locate stones from other suppliers. A chain reaction of transactions then takes place as the market tries to fill the order. Some of the goods may come from other dealers who have collected such stones over time from numerous small cutters. Diamonds change hands rapidly, with the same stones being transacted many times. Furthermore, the stones are moved from parcel to parcel, mixed and remixed as inventories are adjusted.

With over 350,000 cutters and 2,500 factories in Surat, India, where about 90 percent of the world’s diamonds are cut, does anyone think that every 5-pointer will be tested every time it changes hands? There is no way a dealer can track the source of every melee stone in his parcels.

If we want legitimacy in our diamond markets, we have to stop faking it with statements on invoices that indicate everything is okay, even when things are not okay. We must realistically accept the limitations of our open markets and the needs of our smaller diamond traders.

We must accept the fact that in the open markets for diamond parcels, dealers often have no idea where their diamonds come from, who sold them each stone and if the diamonds are natural or synthetic.

Requiring everyone to rubber-stamp their invoices that diamonds are natural based on statements made by untraceable people for untraceable goods is not the way to go.

### **JUST TELL THE TRUTH**

To honestly solve the problem, we must accept and recognize that different situations require different types of disclosure. Statements on the invoice or memo should be straightforward, informative and honest. For example: 1) "Synthetic Diamonds"; 2) "Parcel includes mixture of synthetic and natural diamonds"; 3) "Sold AS-IS" or "Diamonds of unknown origin, Not tested. May contain synthetic (or treated) diamonds"; 4) "Natural Diamonds. Tested and sealed by (Name of Company that did the test), (list of equipment used to test)." And if it has only been sampled, state "Sample Tested" and indicate percent tolerance and confidence level.

The solution is really very simple.  
Everyone should just tell

the truth. If you don't know if synthetic diamonds are in your parcel, then write on your invoice: "Sold AS-IS. Not tested." The market will adjust prices for tested and untested parcels and traders will decide when they should test to add the most value.

Testing procedures can take place at any point in the supply chain. However, if diamonds are being sold as natural to consumers, proactive disclosure based on testing should be made before such sales, with the chain of custody documented from the testing to the retail counter. It should be clear that while B2B dealers might try and play the "I didn't know" game, there is no way a retailer can tell a consumer that he didn't know the diamonds being sold as natural were in fact synthetic.

We must recognize the fact that the buck stops with the retailer. No excuses. No stories. In order to maintain the credibility of our industry, our trade, our diamonds and ourselves, we must ensure that retailers and their customers are 100 percent protected. We must ensure that jewelers can honestly sell natural diamonds.



Photo courtesy De Beers

*De Beers Automated Melee Screening (AMS) instrument.*

## **DIFFERENTIATION**

There is a lot of talk about disclosure requirements for synthetic diamonds, as if the synthetic diamond is to be blamed for being dishonest. In fact, it's not just the diamonds that need to be tested and disclosed, it's us — the diamond trade. If we want to separate natural diamonds from synthetic diamonds, we must also separate honest diamond people from dishonest "synthetic" diamond people.

A culture of "It's okay to lie, cheat and not play by the rules" has been allowed to develop. While I am a great believer and supporter of free markets, I strongly condemn *laissez-faire* ethics.

The diamond trade has been greatly damaged by the destruction of our level playing field. Companies that buy diamonds significantly below market prices because they bribe a foreign government official, deal in blood diamonds, ignore money-laundering and tax regulations or even pepper their parcels with synthetics are allowed to prosper. How can an honest company compete with companies that don't play by the rules?

In a freely competitive market, if one company bribes, do we all have to bribe to stay competitive? If one mixes synthetics with natural, don't we all have to mix synthetics? Can normal companies afford to be honest? By now it should be clear that evil is not just evil. Evil forces other people to be evil. Evil is contagious.

It's unfortunate that the diamond trade has gotten used to "getting away with it" when it comes to human rights abuses and the Kimberley Process. Now some think they can "get away with it" when it comes to synthetics as well. Since we did not establish a secure ethical industrywide supply chain when we should have, the leadership is now being forced to deal with supply chain issues in crisis mode.

It is also unfortunate that after all these years, in spite of the fact that thousands of innocent people have suffered due to human rights abuses linked to diamonds, not one person was expelled from the trade. This raises serious questions about whether the diamond industry is capable of policing itself. Are we capable of expelling companies and trade members who sell undisclosed synthetic diamonds?

While naming, shaming and blaming fraudulent firms may be a gratifying reactionary approach, I don't think we can clean up our entire industry. I also don't think it is efficient and cost-effective for the good people in our trade to spend their time and energy chasing all the bad people all over the world.

What we can, should and must do is take the high road. We must create a new, higher level playing field that promotes and supports those that have honest ethical values. We must create markets that empower the good people.

## **DOCUMENTATION**

Given the fact that we can no longer assume that a diamond is natural, you must have a properly documented basis for affirmatively stating "Natural Diamond" on an invoice. Documentation need not be difficult or burdensome. Proof that a diamond is natural can be established by a document from the manufacturer or tester. If the seller is doing the manufacturing or testing, an internal document will suffice. In any case, the document should sufficiently identify the specific diamond or parcel of diamonds, as well as who tested it and when it was tested.

In the event that the diamonds were manufactured, or tested by a third party, reasonable chain-of-custody standards should be applied to ensure that the diamonds have not been switched. Direct delivery or tamper-proof sealing is recommended. While gemological descriptions are helpful, beware of absolute reliance on grading reports. In some instances, synthetic diamonds have been cut to exactly match original GIA reports. Unsuspecting buyers were tricked into thinking the diamonds were natural due to the grading reports.

## **MARKET IMPACT**

The sale of synthetic diamonds as natural diamonds creates significant disclosure problems for retailers. Retailers are held to a higher standard of responsibility because their customers are consumers who have less knowledge of diamonds than B2B buyers and sellers. Furthermore, misrepresentation of diamond authenticity by retailers incurs significant liabilities and will destroy their brand credibility if allowed to persist.

While the extent of synthetic diamond infiltration into the natural diamond supply chain is not yet known, retailers are advised to investigate their sources and confirm the authenticity of the diamonds they buy and sell. Sample testing of diamond parcels and jewelry, particularly if they originated from China or India, is a good idea. In the event that specific jewelry styles have been found to contain synthetic diamonds, consumers who purchased such jewelry in the past need to be informed and new disclosure statements should be implemented.

A key point is that retailers can no longer assume that diamonds are natural. Responsible retailers should confirm the authenticity of their diamonds through sample testing and written authentication from their diamond or jewelry manufacturer. Retailers with questions about the integrity of their supply chain should ask questions and get reliable answers.

The challenge created by the undisclosed sale of synthetic diamonds has the potential to upend the market for smaller natural diamonds. Should the level of undisclosed synthetic sales reach a critical mass and/or the cost of testing every stone become too high, many retailers will not be able to ensure that their diamonds are natural. This will require public disclosure by retailers that the diamond they are selling may be a natural or synthetic.

When it comes to inexpensive diamond jewelry, the marketing of synthetic diamonds in combination with or instead of natural diamonds may become acceptable if

trade to be more honest. They will force us to control our supply chain and finally take responsibility for the products we buy and sell. They are good because they are a new product category that will increase industry profits.

Synthetic diamonds are also good for the natural diamond mining sector. Diamond miners will now be forced to aggressively differentiate natural diamonds from synthetics through innovative marketing, promotion and advertising campaigns. They are going to have to explain to consumers why they should pay more for natural diamonds. Instead of telling everyone else to add value, miners who want to obtain a premium price over synthetics will now be forced to add value to natural diamonds.

Synthetic diamonds will give new meaning to the phrase “Supplier of Choice.” The issue before us is not whether synthetics are “Up To Diamonds,” it’s whether

## “Real Love = Real Diamonds™”

authentication is difficult and synthetic diamonds are much less expensive. Retailers will question why they should not avoid reputational risk and increase profits by selling synthetics.

The infiltration of synthetic diamonds into the natural diamond pipeline is creating new realities and new opportunities for synthetic diamonds. Legitimately or illegitimately, synthetic diamonds are sneaking their way into retailer showcases. Synthetic diamonds are on their way to the slippery slope of legitimacy.

Considering the long-term implications, the sale of synthetic diamonds does not represent an economic threat to retailers, diamond dealers or even diamond cutters who can switch to cutting synthetics. These entities can make profits by selling synthetics. In fact, they may make more profits since synthetic diamonds open up more merchandising and product category opportunities at much more affordable price points.

### **SYNTHETICS OR NATURALS**

Synthetic diamonds are a good thing. They are good for the diamond industry because they will force our

the marketing and value differentiation of natural diamonds will be “Up To Diamonds.”

And now for the really good news. Natural diamonds are hot. While synthetic diamonds can try to get a free ride on the real thing, they will never be the real thing. Make no mistake about it, natural diamonds are better than synthetic diamonds and easier to sell. All we have to do is stop taking our natural diamonds for granted and start setting them against synthetics.

The idea that natural diamonds are special, unique and naturally scarce is fundamental to their value and the values they communicate. That flies in the face of the idea that diamonds are a manufactured product with unlimited supply.

Consumers subconsciously empower diamonds with symbolic values that they then project onto themselves and each other. “You are special, unique and rare,” communicates the diamond to the woman. The gift of commitment is the expensive diamond, because she is worth more than money.

Real Love = Real Diamonds™ says it all. ♦

# RapNet Trading Rules & Code of Conduct

## RapNet Trading Rules & Code of Conduct

-Updated July 29, 2013

Members should carefully review our RapNet Trading Rules & Code of Conduct and RapNet Member License Agreement to ensure they are in full compliance with our agreement, policies and rules, as violations can result in suspension or termination of membership.

### 1 Introduction

- 1.1 RAPNET® – The Rapaport Diamond Trading Network welcomes legitimate members of the international diamond and jewelry trade. Firms or individuals seeking membership are invited to complete our membership application.
- 1.2 RapNet membership is subject to approval. RapNet reserves the right to restrict, deny, suspend, or terminate membership at any time for any reason. RapNet may post the name of members in our directories and post notification with or without explanation when memberships are suspended or terminated.
- 1.3 All RapNet Members must accept, agree and comply with the RapNet Trading Rules & Code of Conduct as well as the [RapNet Member License Agreement](#). Members are encouraged to contact RapNet with questions, comments, and suggestions via email [support@rapnet.com](mailto:support@rapnet.com).
- 1.4 The RapNet Trading Rules & Code of Conduct and RapNet Member License Agreement are subject to change and may be updated. Notice of updates will be posted on the RapNet website. Such updates are binding on RapNet Members.
- 1.5 RapNet is fully owned and operated by the Rapaport Group.

### 2 Legal and Ethical Business Practices

- 2.1 RapNet is a value based organization which strives to provide an honest, fair, secure, transparent, efficient and competitive market for the trading of diamonds, gems and jewelry. RapNet members should accept and support these values.
- 2.2 RapNet Members must fully comply with all applicable local, state, national and international laws and regulations. RapNet is a U.S. entity, it is subject to U.S. law and operates in compliance with all applicable U.S. Patriot Act, OFAC and other regulations. Such regulations restrict the trading of diamonds sourced from U.S. sanctioned entities in all markets, including non-U.S. markets.
- 2.3 Members may not list, buy or sell products on RapNet which they know or have reason to know are sourced from entities involved in human rights abuses, terrorist financing, money laundering or are subject to U.S. sanctions. Such restrictions apply whether or not it is legally permissible to trade these products or if diamonds originate from Kimberley Process certified sources.
- 2.4 Members may not sell U.S. buyers diamonds that they know or should have reason to know are illegal for trade in the U.S. even if such sale does not place on or through RapNet.
- 2.5 RapNet members are held to a high ethical standard which may transcend legal obligations. Members must conduct themselves with integrity and at all times comply with the highest legal and ethical standards. RapNet may from time to time require members to comply with specific trade restrictions based on ethical considerations. Such trade restrictions will be posted on our website.
- 2.6 Members may be held accountable for all actions taken that violate RapNet Trading Rules & Code of Conduct even if such actions take place outside the RapNet network.
- 2.7 Enforcement of RapNet Trading Rules & Code of Conduct is at the sole discretion of RapNet management.

### 3 RapNet Access and Confidentiality

- 3.1 RapNet Members may not disclose or share their password with any third party. Password use is strictly limited to specific individuals. Members may request additional passwords from RapNet customer service ([service@diamonds.net](mailto:service@diamonds.net)) in the event multiple users require access to RapNet. Additional charges may apply.
- 3.2 RapNet Members may not disclose proprietary RapNet or Rapaport information to third parties. The Rapaport Price List and RapNet Price Lists are examples of such proprietary information.
- 3.3 RapNet Members may not download and/or store RapNet diamond listings, buy requests, or any other RapNet data without the permission of RapNet and the company posting the listings.
- 3.4 RapNet Members may not share names or contact information of other RapNet Members with third parties. They may not send email broadcasts to other members.
- 3.5 RapNet Members may use automatic electronic data transfer programs through our Application Program Interface (API) as documented at [technet.rapaport.com](http://technet.rapaport.com) website. Members may not use automated computer programs to access RapNet.com under any circumstances. Members may perform automatic downloads and data exchange via [technet.rapaport.com](http://technet.rapaport.com) if they have been given permission to do so.

3.6 RapNet Members may not access, use, store, share or distribute Rapaport, RapNet or RapNet Member information without the permission of RapNet and/or Rapaport.

#### **4 Trading**

- 4.1 RapNet Members must trade honestly, in good faith and do business in a way that ensures RapNet is a safe, secure and trusted trading environment. RapNet members must provide full disclosure to buyers in the event that the products being offered for sale are subject to legal restrictions in the buyer's home country. RapNet allows the listing of natural diamonds only. Simulants and lab grown diamonds are not permitted on RapNet listings.
- 4.2 Sellers must fully disclose all information about the products they sell if such information is likely to affect the value of the product upon resale. This includes but is not limited to treated, synthetic, enhanced or simulated products. Misrepresentation is not allowed and full written disclosure is required.
- 4.3 All diamond sales are assumed to be for natural untreated diamonds legal for sale in the United States unless otherwise indicated on the invoice. In the event of non-disclosure and upon buyer's request a full cash refund must be made to the buyer within 2 business days.
- 4.4 All agreements and transactions between RapNet Members are binding. This includes oral, telephone, email, fax, online or written agreements. If the phrase "Mazal" is used and agreed to by both parties, the deal is concluded. Members cannot go back on their "Mazal" commitments. In the event of a gross or obvious error, members should agree to void the transaction.
- 4.5 Terms and conditions of sale or memo should be specified in full and in writing. This includes product description, price, date of payment, date of delivery, return of product, shipping, insurance, taxes, custom fees and any other factors important to the transaction. Members should not trade in a manner that leaves room for misrepresentation, misunderstanding or confusion.
- 4.6 RapNet may publish on its website default transaction terms and conditions that are to be applied in instances where the terms and conditions of sale are not specified by the trading members.
- 4.7 Bait and switch listings and false advertising are not allowed. Members may not list diamonds or other products for sale at low prices and tell buyers the product is unavailable and then offer alternative products at higher prices. Sellers should ensure that diamond listings contain all relevant availability information. All diamonds listed for sale must exist and the seller must have the right to sell the diamond. Fictitious listings or buy requests are not allowed.
- 4.8 Diamond listings must be accurate and up to date. All details must be correctly provided in the RapNet format. Treatments, fluorescence, and other details that significantly impact value must be disclosed in the listing. Location and shipping terms must be fully and accurately provided. Members must update the pricing and availability of their RapNet stock at a minimum of every 8 days (daily or more frequently updates are recommended). Users must provide the correct grading report or certificate number for all laboratory graded diamonds, without which RapNet will list the diamond as an uncertified diamond.
- 4.9 Diamonds may be listed and advertised for sale on RapNet as Guaranteed Available. Diamonds listed and advertised for sale as Guaranteed Available must be retained in the physical possession of the RapNet Member throughout the time of their listing, from the time of their listing and at all times thereafter whilst listed and advertised. RapNet Members undertake to keep all details relating to or associated with the listing of their diamonds fully updated at all times whilst listed or advertised on RapNet, and in particular, to take immediate steps to disable or amend the Guaranteed Available status to "none" within 1 (one) hour should there be any change in their Guaranteed Available status. By listing a diamond as Guaranteed Available, RapNet Members agree to these listing rules and conditions and agree to abide by the terms of listing thereof. Should any RapNet Member be found, following investigation, to have listed or advertised a diamond as a Guaranteed Available Diamond contrary to the provisions hereof, he /she may be barred and prevented from listing and advertising for sale Guaranteed Available status diamonds on RapNet, alternatively, their access to RapNet may in the case of flagrant and repeated offences be either suspended or permanently terminated, at the sole and absolute discretion of Rapaport, upon due notice.
- 4.10 All prices quoted for diamond listings must be for the specific item and location being listed. The price must not include additional hidden or "bundled" conditions such as purchase of additional items, additional shipping fees or other conditions requiring additional payments.
- 4.11 Unsolicited email marketing, telemarketing and email broadcast to RapNet members are not allowed. Members must not contact other members who have requested they stop contacting them.
- 4.12 RapNet Members must return all products provided to them on memorandum in a timely manner.
- 4.13 Members may use the RapNet rating service to share information about other members. Rating must be honest, fair and factual based on direct business between the parties. RapNet reserves the right to delete ratings at any time for any reason and take action against members making false ratings.
- 4.14 Members may file complaints about other members by contacting support@rapnet.com. Written complaints may be reviewed by RapNet management who may consider suspending or terminating membership or other sanctions.

#### **5 Trade Alerts, Notices and Announcements**

5.1 From time to time RapNet may communicate Trade Alerts, Trade Rules, and other announcements which govern trading activity on the network or advise members of changing market conditions. These communications are part of these RapNet rules.

## **6 Financial**

6.1 RapNet Members must fully honor all their financial obligations.

6.2 RapNet members must notify RapNet management in the event they are unable to meet their financial obligations or if they are seeking protection under bankruptcy laws.

## **7 Disclosure**

7.1 RapNet reserves the right to publicly disclose the identity of any RapNet Member that violates the RapNet Trading Rules & Code of Conduct Member License Agreement .

## **8 Communication**

8.1 RapNet members are encouraged to share their views with us concerning the RapNet Trading Rules & Code of Conduct and RapNet Member License Agreement and other aspects of our service. Whenever and wherever possible we will try to incorporate the recommendations of our Members. Your comments and suggestions are welcome and appreciated.

# Rapaport Buyer Agreement

This Rapaport Buyer Agreement (the “Agreement”) which includes the Rapaport Buyer Agreement Terms and Conditions (the “Terms and Conditions”) and any applicable country or jurisdictional specific terms referenced below, shall govern and control all contractual relationships between the parties under and in terms of which diamonds and/or jewelry are bought from, or through Rapaport either by way of auction, tender or immediate sale (“Buy-Now”) (hereinafter referred to collectively or individually as “Sale”).

In the event of a conflict between the Terms and Conditions and any applicable country or jurisdictional specific terms referenced below, the country or jurisdictional specific terms will apply and control.

This Agreement is entered into by the undersigned Buyer, and **Rapaport International, LLC** (hereinafter "Rapaport") of 1212 Avenue of the Americas, Suite 1103, New York 10036, USA, except if a Sale takes place outside New York in any of the following countries or jurisdictions hereinafter mentioned below on this Cover Page, in which event the provisions herein below expressly provided shall regulate and control the relationship between the parties together with the Terms and Conditions set forth overleaf, save to the extent such Terms and Conditions may be in conflict therewith.

In the event that the Sale takes place outside New York in any of the following countries or jurisdictions, then the foregoing country or jurisdictional specific terms shall apply, as provided below:

## A. INDIA

If the Sale takes place in Mumbai, or any other location in India, the following terms shall apply and form an integral part of the Agreement:

- Parties.** This Agreement shall be between Buyer and **Rapaport India Private Limited** of Mumbai Capital, 101 The Capital, Plot No. C-70, Bandra Kurla Complex, Bandra (East) Mumbai 400 051, India for all intents and purposes in respect of the Sale and the provision of goods and services provided in terms hereof, and the term “Rapaport” shall mean and be limited to **Rapaport India Private Limited** for purposes of this Agreement with respect to the provision of said goods and services. For the avoidance of doubt, these India country specific terms will only apply to the Sale of diamonds and/or jewelry which takes place in Mumbai, or any other location in India, and if this Agreement is between Buyer and **Rapaport India Private Limited**.
- Governing Law and Jurisdiction.** This Agreement shall be construed and governed in accordance with the substantive laws of India, without reference to its conflict of laws principles, and the appropriate courts of law in Mumbai alone shall be the courts of competent jurisdiction.

## B. HONG KONG

If the Sale takes place in Hong Kong, the following terms shall apply and form an integral part of the Agreement:

- Parties.** This Agreement shall be between Buyer and **Rapaport Hong Kong Limited** of Unit 2206 Kinwick Centre, 32 Hollywood Road, Central, Hong Kong for all intents and purposes in respect of the Sale and the provision of goods and services provided in terms hereof, and the term “Rapaport” shall mean and be limited to **Rapaport Hong Kong Limited** for purposes of this Agreement with respect to the provision of said goods and services. For the avoidance of doubt, these Hong Kong

country specific terms will only apply to the Sale of diamonds and/or jewelry which takes place in Hong Kong, and if this Agreement is between Buyer and **Rapaport Hong Kong Limited**.

2. **Governing Law and Jurisdiction.** This Agreement shall be construed and governed in accordance with the substantive laws of Hong Kong, without reference to its conflict of laws principles, the appropriate courts of law in Hong Kong alone shall be the courts of competent jurisdiction.

#### C. ISRAEL

If the Sale takes place in Israel, the following terms shall apply and form an integral part of the Agreement:

1. **Parties.** This Agreement shall be between Buyer and **Rapaport Diamond Trading Limited** of 1362 Diamond Tower, 54 Betzalel Street, Ramat Gan, Israel for all intents and purposes in respect of the Sale and the provision of goods and services provided in terms hereof, and the term "Rapaport" shall mean and be limited to **Rapaport Diamond Trading Limited** for purposes of this Agreement with respect to the provision of said goods and services. For the avoidance of doubt, these Israel country specific terms will only apply to the Sale of diamonds and/or jewelry which takes place in Israel, and if this Agreement is between Buyer and **Rapaport Diamond Trading Limited**.
2. **Governing Law and Jurisdiction.** This Agreement shall be construed and governed in accordance with the substantive laws of the State of Israel, without reference to its conflict of laws principles, and the appropriate courts of law in Ramat Gan, Israel alone shall be the courts of competent jurisdiction.

#### D. BELGIUM

If the Sale takes place in Belgium, the following terms shall apply and form an integral part of the Agreement:

1. **Parties.** This Agreement shall be between Buyer and **Rapaport Belgium b.v.b.a**, of Diamond Exchange Building, Hoveniersstraat 53, B-2018 Antwerp, Belgium for all intents and purposes in respect of the Sale and the provision of goods and services provided in terms hereof, and the term "Rapaport" shall mean and be limited to **Rapaport Belgium b.v.b.a** for purposes of this Agreement with respect to the provision of said goods and services. For the avoidance of doubt, these Belgium country specific terms will only apply to the Sale of diamonds and/or jewelry which takes place in Belgium, and if this Agreement is between Buyer and **Rapaport Belgium b.v.b.a**
2. **Governing Law and Jurisdiction.** This Agreement shall be construed and governed in accordance with the substantive laws of Belgium, without reference to its conflict of laws principles, and the appropriate courts of law in Antwerp, Belgium alone shall be the courts of competent jurisdiction.
3. **UBO form.** All Buyers agree and undertake to complete a UBO form as required by law.

#### E. LAS VEGAS

If the Sale takes place in Las Vegas, Nevada, USA the following terms shall apply and form an integral part of the Agreement:

1. **Parties.** This Agreement shall be between Buyer and **US Diamond LLC** of 133 E. Warm Springs Road, Suite 100, Las Vegas, NV 89119, USA for all intents and purposes in respect of the Sale and the provision of goods and services provided in terms hereof, and the term "Rapaport" shall mean and be limited to **US Diamond LLC** for purposes of this Agreement with respect to the provision of said goods and services. For the avoidance of doubt, these Nevada jurisdictional specific terms will only apply to the Sale of diamonds and/or jewelry which takes place in Las Vegas, Nevada, and if this Agreement is between Buyer and **US Diamond LLC**.

2. **Governing Law and Jurisdiction.** This Agreement shall be construed and governed in accordance with the substantive laws of the State of Nevada, USA without reference to its conflict of laws principles, and the appropriate courts of law in Las Vegas, Nevada alone shall be the courts of competent jurisdiction.

**F. DUBAI (UAE)**

If the Sale takes place in Dubai, the following terms shall apply and form an integral part of the Agreement:

3. **Parties.** This Agreement shall be between Buyer and **IDCO Diamonds DMCC** of Dubai Diamond Exchange, Level 2, Office D06 Almas Tower, Jumeirah Lakes Towers, Dubai, UAE for all intents and purposes in respect of the Sale and the provision of goods and services provided in terms hereof, and the term "Rapaport" shall mean and be limited to **IDCO Diamonds DMCC** for purposes of this Agreement with respect to the provision of said goods and services. For the avoidance of doubt, these Dubai (UAE) country specific terms will only apply to the Sale of diamonds and/or jewelry which takes place in Dubai (UAE), and if this Agreement is between Buyer and **IDCO Diamonds DMCC**.
4. **Governing Law and Jurisdiction.** This Agreement shall be construed and governed in accordance with the substantive laws of the United Arab Emirates as applicable in the Emirate of Dubai, without reference to its conflict of laws principles, the appropriate courts of law in the Emirate of Dubai alone shall be the courts of competent jurisdiction.

# Rapaport Buyer Agreement

## Terms and Conditions

For the purposes of these Terms and Conditions:

“**Sale**” shall include the sale of diamonds and /or jewelry either by way of auction, tender or immediate sale (“Buy-Now”), whether collectively or individually;

“**Buyer**” shall include a bidder who agrees to participate in a Rapaport Auction or Sale in accordance with these terms and conditions.

1. **Confidentiality.** The identity of all Buyers buying merchandise will not be disclosed to any third parties. Buyers who participate in a Rapaport Auction agree not to disclose their bids to third parties or coordinate their bids with any other bidders or third parties.
2. **Warranties.** All merchandise is sold AS-IS. No guarantees or warranties are made as to the quality, origin, physical characteristics or any other aspect of the merchandise. In respect of a Rapaport Auction, while many of the lots have been sieved and sorted and marked as such by the Seller(s), Buyers and bidders are specifically put on notice that the merchandise offered for sale may have been delivered directly to pawnshops by the public and that treated, enhanced, laser drilled or simulant stones might be mixed in with lots. Lots have been sorted and described by numerous suppliers. Although lots may be described similarly, qualities may vary in range based on difference of opinion. Any descriptions of merchandise made by the Seller(s) or Rapaport staff are merely general and not a guarantee of the nature, size or quality of the goods. It is the responsibility of the Buyer to adequately examine all lots before making any bids. Buyers should make a full and detailed inspection of all merchandise before bidding. Buyer agrees not to hold Rapaport or any of its staff liable or responsible for any description or information provided about any merchandise.
3. **Viewing.** Viewing is by appointment only. Unless otherwise approved viewing is limited to one (1) visit by two (2) representatives per Buyer. All parties viewing merchandise will be required to register and have valid identification. Rapaport reserves the right to monitor viewing with video surveillance cameras, limit viewing to select pre-qualified parties, and reasonably restrict viewing. No party shall have any merchandise on their person or in their possession when entering, exiting, or in the viewing rooms.
4. **Bidding.** Permission to bid is granted at the sole discretion of Rapaport and subject to approval by Rapaport. All bids are in total US dollars per lot. Winning bids are considered a final sale and the Buyer is required to pay according to auction terms without an option to deny purchase. Rapaport at its sole discretion reserves the right to limit viewing of the goods and refuse to accept bids from any party for any reason. In addition, Rapaport reserves the right to refuse to sell any particular lot if the highest bid received is deemed by Rapaport and/or the seller, at their sole discretion, to be insufficient
5. **Bid Deposit.** Rapaport reserves the right to require Buyers to pay a deposit equal to 10% of their total bid with a maximum of \$25,000 to cover a \$1,000,000.00 bid limit. This deposit will be refunded to unsuccessful bidders within three business days after the Auction Close. All bids must be in writing using the official Auction Bid Form, by email or submitted online via the Online Bid Form. If bids are submitted by email they must originate from an authorized email address and be sent to bids@rapaport.com. It is the responsibility of the Buyer to confirm that the email has been received. Rapaport is not responsible for any bids sent by email that have not been confirmed as received by Rapaport.
6. **Identification.** All Buyers may be requested to provide identification.
7. **Taxes.** For auctions conducted in New York, a copy of Buyer’s Sales Tax Registration and Reseller certificate may be requested.
8. **Successful bids.** Rapaport will inform the successful Buyers of their purchase no later than three business days after Auction Close.
9. **Total Bid Limit.** Buyers wishing to limit their total purchases may specify a maximum they wish to spend on the auction. Once this maximum has been reached, all additional bids from this Buyer will be voided. Application of funds will be in the order of priority specified by the Buyer.
10. **Notification and Invoicing.** Rapaport will notify successful Buyers via fax, telephone or email and issue an invoice no later than three business days after Auction Close. Cash or wired deposits will automatically be

allocated to invoices issued to successful Buyers. Buyers must provide names of contact persons and telephone and cell phone numbers where they can be reached on the days following the Auction Close.

11. **Payment.** Terms are Certified Bank Check or Bank Wire. The merchandise will be delivered at the specified Rapaport Office. The risk of loss or damage to the merchandise will pass to the Buyer upon delivery. Full payment (including bank charges) must be made within two business days of notification of successful bid, or the date stated on the invoice, whichever is the earlier. Buyers are responsible for paying all wire charges in full. No merchandise will be delivered to Buyers unless Rapaport bank confirms full payment has been received, and all wire charges paid. Buyer shall be invoiced for any shortfall of wire charges once such charge is known, which shall be payable by Buyer immediately upon invoice. If payment is not made, Rapaport reserves the right to cancel the bid and/or sale. All sales are final and no returns are accepted after delivery.
12. **Default.** In the event a successful Buyer defaults on purchase by not making payment on or before two business days after notification of successful bids, Buyer will forfeit all rights to any merchandise, lose any bid deposit and be required to pay a 10% Bid Default penalty fee. In the event of default, Rapaport at its sole discretion reserves the right to cancel the sale, and/or take legal action against the default Buyer and/or offer the parcel to the second highest bidder who is under no obligation to accept the merchandise.
13. **Dispute or Error.** In the event of any dispute, error or any other reason deemed sufficient by Rapaport, Rapaport at its sole discretion reserves the right to provide a full refund to Buyer, withdraw any lot from auction and/or refuse any bid or cancel any sale. If Rapaport withdraws any lot or cancels any sale, Buyer agrees to waive, and Buyer's signature hereto shall constitute a waiver of, any claims and undertaking not to institute any legal action against Rapaport and/or against each other. All decisions by Rapaport will be final and binding on bidders and Buyer.
14. **Insurance.** All merchandise in the possession of Rapaport will be insured at all times up to 7 days after Auction Close. Buyers must take delivery of merchandise purchased within 7 days of Auction Close after which Buyer will be charged reasonable insurance and storage fees. Once the merchandise has been delivered to the Buyer, the goods will cease to be insured by Rapaport and it shall be the responsibility of Buyer to arrange his own insurance in respect thereof.
15. **Shipping Fees.** Terms of sale are cash. The merchandise will be delivered to the Buyer at the specified Rapaport office. If Buyer requests shipment of merchandise after auction and Rapaport agrees to make shipment, Buyer shall pay in advance all shipping, insurance and reasonable handling fees for shipment to Buyer's specified delivery location. Rapaport is not liable for goods once they leave Rapaport office and insurance is responsibility of Buyers.
16. **Liability.** By participating in the auction, bidders and Buyers hereby agree; a) Any and all claims by bidders or Buyers against Rapaport or each other shall be limited to the return of any money paid by the bidder or Buyer for the lot in question; b) Rapaport and all third parties shall not be liable to any bidder or Buyer for any direct, secondary or incidental damages resulting from the withdrawal of any lot or refusal to accept any bid; and c) Rapaport will have no obligation of any nature whatsoever to Buyers/bidders other than to deliver the merchandise to successful Buyers after all conditions, including full payment, have been met.
17. **Delivery, Title and Ownership.** Title and ownership of the merchandise will only pass to Buyer after full unrestricted payment is received and confirmed in Rapaport's bank account. Within one working day after confirmed receipt of funds, Rapaport will deliver merchandise to Buyers at the specified Rapaport office for each auction. Buyers must take delivery of merchandise purchased within 7 days of Auction Close.
18. **Conflict of Interest.** Rapaport will not bid on any parcel or lot offered for sale.
19. **Conduct.** All parties agree to conduct themselves in a business-like manner; to maintain the privacy and security of other bidder and Buyers; to follow all instructions of Rapaport staff regarding the handling of merchandise and to respect and honor the strong traditions of honesty and integrity in the diamond industry.
20. **Terrorism, Money Laundering and Illegal Activity Disclosure.** Bidders and Buyers confirm and agree that their participation in all Rapaport Sales is not connected in any way to terrorism, money laundering or any other illegal act. Bidders and Buyers agree to provide Rapaport with any requests in connection with any country specific anti-terrorism, anti-money laundering and illegal activity compliance disclosure requirements, including but not limited to, the USA Patriot Act. Such disclosure shall include the provision of all required documents and full disclosure of relevant particulars in accordance with the USA Patriot Act, and any country or jurisdictional specific applicable legislation, laws, rules and regulations.

21. **New York Auctions.** For auctions conducted in New York, the Auctioneer's Name and New York City Department of Consumer Affairs (DCA) License Number is: Penina Rapaport, License No:1439768
22. **Governing Law and Jurisdiction.** Unless otherwise provided on the Cover Page, in which case the governing law of the country or jurisdiction in which the Sale is conducted shall apply, the validity, performance and interpretation of this Agreement shall be construed and governed in all respects in accordance with the substantive laws of the State of New York, USA, without reference to its conflict of laws principles, and the appropriate district, state and federal courts of law in New York City shall be the courts of competent jurisdiction.
23. **English Language.** The parties agree that this agreement has been prepared and shall be executed in the English language and the English language shall control over any translation of this Agreement. All proceedings related to this Agreement shall be conducted in the English language.
24. **Entire Agreement.** This Agreement constitutes this entire agreement between the parties and supersedes all prior agreements and understandings, whether written or oral, relating to the subject matter of this Agreement.
25. **Amendment.** This Agreement may be amended or modified only in writing.
26. **Miscellaneous.**
- a) No delay or omission by Rapaport in exercising any right under this Agreement shall operate as a waiver of that or any other right. A waiver or consent given by Rapaport on any one occasion shall be effective only in that instance and shall not be construed as a bar or waiver of any right on any other occasion.
  - b) The captions of the clauses of this Agreement are for convenience or reference purposes only, and in no way define, limit or affect the scope or substance of any clause in this Agreement.
  - c) In the event that any provision of this Agreement shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.
27. **Electronic Signature Agreement.** The Buyer, or its duly authorized officer, principal or representative with the right to bind the Buyer ("You") hereby agrees that by selecting the "I Accept" button and completing your personal and company details below, you are signing this Agreement electronically and agree to be bound by all the terms of this Agreement, the country or jurisdictional specific terms (if applicable) and full compliance with the Patriot Act and other Rapaport compliance requirements as at the date hereof (the "Effective Date"). You agree that your electronic signature is the legal equivalent of your manual signature on this Agreement. By selecting "I Accept" you consent to be legally bound by this Agreement and the Terms and Conditions. You further agree that your use of a key pad, mouse or other device to select an item, button, icon or similar act/action, or to otherwise provide Rapaport instructions, acknowledgment, disclosures or communications electronically constitutes your signature (hereafter referred to as "E-Signature"), acceptance and agreement as if actually signed by you in writing and has the full force and effect of a signature affixed by hand to a paper document. You also agree that no certification authority or other third party verification is necessary to validate your E-Signature and that the lack of such certification or third party verification will not in any way affect the enforceability of your E-Signature or the validity of any resulting agreement between you and Rapaport arising from the terms hereof.

Company Name: \_\_\_\_\_

Signed by (print name): \_\_\_\_\_

(who warrants that he or she may sign on behalf of the company)

Title/Position: \_\_\_\_\_

Date: \_\_\_\_\_

Authorized email address from which bids may be emailed by Buyer: \_\_\_\_\_

Phone Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Fax: \_\_\_\_\_

PLEASE INDICATE YOUR CONSENT AND AGREEMENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT BY CLICKING ON THE "I ACCEPT" BUTTON.

# RAPAPORT SUPPLIER AGREEMENT

Entered into between

Rapaport International LLC (hereinafter "Rapaport")

1212 Avenue of the Americas, Suite 1103, New York 10036

AND

\_\_\_\_\_ (hereinafter "Supplier")

with address at \_\_\_\_\_

**WHEREAS** Rapaport shall provide a service for the sale of diamonds and/or jewelry belonging to Supplier either by way of auction, tender or immediate sale ("Buy-Now") (hereinafter referred to collectively or individually as "Sale").

**AND WHEREAS** Supplier shall provide Rapaport with diamonds and/or jewelry for sale from time to time in the manner set forth in this agreement.

For the purposes of this agreement, "**Supplier**" shall include "Supplier" or any undisclosed principal for whom or on whose behalf Supplier may be acting as an authorized agent.

## IT IS AGREED AS FOLLOWS:

### 1. Terms and Conditions

#### a. General

- i. The date, place and time of the Sale shall be advised to Supplier.
- ii. The names of all bidders/buyers shall remain confidential to Rapaport.
- iii. In the case of Sale by auction or tender:
  1. The amount of bids shall remain confidential to Rapaport, except that highest bids will be released to Supplier after Auction close.
  2. Unless otherwise mutually agreed, Rapaport will not release the winning bid amounts to the bidders.
- iv. The terms and conditions of this agreement will not be disclosed to any third parties.
- v. In the event of any dispute, Rapaport reserves the right at its sole discretion to cancel any sale of merchandise and return the merchandise to Supplier.
- vi. In all events, Rapaport guarantees return of merchandise or full payment of the high bid/buy-now price minus commission (Sale Fee) and agreed expenses.
- vii. Acceptance of bidders/buyers and permission to bid/buy is granted at the sole discretion of Rapaport and subject to approval by Rapaport. Rapaport, in its sole discretion, reserves the right to limit viewing of the merchandise and refuses to accept bids/offers from any party for any reason. In addition, Rapaport reserves the right to refuse to sell any particular lot if the highest bid received is deemed by Rapaport and/or Supplier, in their sole discretion, to be insufficient.

- viii. If payment is not made by a successful bidder/buyer, Rapaport reserves the right to cancel the bid and/or sale. All sales are final and no returns are accepted after delivery under any circumstances. In the event of default, Rapaport at its sole discretion reserves the right to cancel the sale, and/or take legal action against the default buyer and/or offer the goods to the second highest bidder/alternate buyer who is under no obligation to accept the merchandise.
  - ix. In the event of any dispute, error or for any other cause, deemed necessary by Rapaport, Rapaport at its sole discretion reserves the right to withdraw any lot from the Sale and/or refuse any bid/offer or cancel any sale. If Rapaport withdraws any lot or cancels any Sale, Supplier agrees to waive any claims and not to institute any legal action against Rapaport and/or against bidders so long as the entire lot is promptly returned to Supplier. Supplier agrees that all decisions by Rapaport regarding any disputes in connection with this Sale will be final and acceptable to bidders and or Supplier.
- b. In New York, Auctions and Tenders will be conducted by auctioneer Penina Rapaport (New York City Department of Consumer Affairs (DCA) license number 1439768).

## **2. Rights and Obligations of Rapaport**

- a. To completely manage the Sale, which includes:
  - i. Marketing of the Sale to relevant buyers.
  - ii. Qualifying of bidder/buyers.
  - iii. Accepting bids from present and absentee bidders/buyers, including internet/emailed bids/offers.
  - iv. Creating catalog of lots and the bidding/sale forms.
  - v. Providing a location for viewing.
  - vi. Attending to management and supervision of viewing.
  - vii. Making due disclosure to all bidders that treated, synthetic, laser drilled, or simulated items may be in the lots and that they must carefully check the merchandise. Conditions of sale will be AS-IS.
  - viii. Returning to Seller any undisclosed treated, synthetic or simulated items at Seller's cost.
  - ix. Drafting, enforcing and interpreting Sale terms and condition for participants.
  - x. Taking complete management and control over the bidding/sale procedures, bid forms and bid opening procedure.
  - xi. Sending notifications to bidders and buyers.
  - xii. Collecting of all funds, and management of delivery of diamonds and /or jewelry to buyers after money received. Funds will be collected from buyer no later than seven business days from end of the Sale.
  - xiii. Making payment of funds to Supplier.
  - xiv. Providing insurance for all Supplier's merchandise at the stated insurance value provided by Supplier from the time Rapaport receives the merchandise to the time the merchandise is shipped to the Buyer or Supplier.
- b. Rapaport guarantees that at all times Rapaport will either have Supplier merchandise on Rapaport premises, or in its possession, with full insurance at Supplier's stated insurance value, or have the funds in Rapaport bank account exclusively for the sole purpose of guaranteed payment to Supplier for the merchandise.

## **3. Rights and Obligations of Supplier**

- a. Supplier warrants that as of the date of the Sale:
  - i. It has complete and lawful right, title and interest in the diamonds and /or jewelry and has full rights to sell them. To the extent that any diamonds and/or jewelry offered for Sale are

- not owned by Supplier, Supplier warrants that he is duly authorized to sell them on behalf of their rightful owner.
- ii. The products are being fairly and honestly offered for sale.
  - iii. There will not be any willful misrepresentation of merchandise for sale.
  - iv. No treated, synthetic, laser drilled, or simulated diamonds and/or jewelry will be knowingly or unknowingly included in any Supplier merchandise.
  - v. No glass, CZ or other non-diamond products shall be offered as diamonds.
- c. Full disclosure shall be made by Suppliers if the merchandise contains any treated, synthetic, laser drilled, or simulated diamonds and, if this be the case, Suppliers must indicate at the time of submission of the goods whether they are uncertain if any merchandise contains any glass, CZ or other non-diamond products,
  - d. It shall identify the auctioneer, his or her agents, principals, employees, employers or assignees in the event of any defect in title, and that an intended beneficiary of this warranty is the ultimate purchaser at auction. Supplier will not sell or offer for sale any of the diamonds and/or jewelry submitted to Rapaport from the date of submission until the Sale is closed.
  - e. Suppliers may not remove goods from a Sale once submitted.
  - f. Legal and Ethical Compliance:  
Supplier declares that:
    - i. All diamonds and metals submitted for Sale have been purchased from legitimate sources not involved in funding conflict and in compliance with United Nations resolutions and the Kimberley Process and have been sourced in compliance with local laws having jurisdiction over Supplier.
    - ii. Based on personal knowledge and/or written guarantees from suppliers, no diamonds or metals offered for Sale have been involved in any human rights violations (i.e. the physical production of the diamonds or metals did not involve murder, rape, physical violence or forced servitude).
    - iii. No diamonds or metals offered for Sale are traded in violation of U.S sanctions or sourced from Marange, Zimbabwe or from other sources or locations banned or prohibited by Rapaport.
  - g. The above Supplier warranties, representations and declarations shall constitute a continuing binding obligation by Supplier to Rapaport in respect of all diamonds and jewelry supplied and offered either for Sale in terms of this agreement, or through any other sales channel provided by Rapaport or any of its affiliates, now or at any time in the future. In the event of any breach or violation of these Supplier warranties, representations and declarations, Rapaport shall be entitled to a full cash refund against return of any merchandise found to be in violation thereof.
  - h. Without derogating from the generality of the foregoing, it is specifically recorded that in the event after the Sale, any merchandise is found to be treated, synthetic, laser drilled or to contain simulated diamonds in breach or violation of the Supplier warranty given in clause 3 a iv above, then Rapaport and/or the buyer shall be entitled to immediately cancel the Sale, return the affected merchandise to the Supplier at the Supplier's cost and receive a full cash refund of any or all amounts which shall have paid to Supplier in respect of the Sale of said merchandise.
  - i. Supplier will pay all shipping and insurance expenses necessary to deliver the merchandise to Rapaport or return merchandise to Supplier in the event of non-sale.
  - j. Supplier will prepare parcels with proper weights, descriptions, grading certificates and insured value in a timely manner and deliver them to Rapaport's office.
  - k. Supplier will supply Rapaport with a sales tax resale certificate, and/or any other government issued licenses/registration as required by Rapaport for purposes of Patriot Act Anti-Money Laundering compliance purposes.
  - l. In the case of sale by Auction or Tender:
    - i. Supplier and Rapaport may agree on reserve prices on a lot by lot basis. For goods offered without reserve, after Auction close, Rapaport will notify Supplier of the highest bid on each lot in question and, with respect to each such lot, Supplier shall have the right to either accept the highest bid on the lot or to refuse the highest bid on the lot. If Supplier refuses the highest bid on a lot, Rapaport shall thereafter promptly return the merchandise in such lot to Supplier.

- ii. For goods offered with reserve, Supplier hereby agrees that bids in excess or equal to the reserve price are accepted and Rapaport will sell to the relevant highest bidder. Rapaport will accept bids of up to 5% below the reserve price and supplier will be notified of any high bids that are within 5% of meeting the reserve price and has the right to either accept or refuse that bid. If Supplier refuses the bid, Rapaport shall thereafter promptly return the merchandise in such lot to Supplier.
- m. For all merchandise sold, Rapaport will provide Supplier with a resale certificate, which for sales tax purposes, evidences that the merchandise was purchased for resale.
- n. Rapaport and Supplier agree that Supplier is not responsible and will not be charged any additional fees, costs, surcharges, tariffs or advertising costs; any expense or cost associated with conducting the Sale (except for the expense of insured shipping of the merchandise to Rapaport's premises and the insured return of any unsold merchandise to Supplier from Rapaport premises and agreed boiling, sorting and certification fees.)

#### 4. Payment Structure

- a. Rapaport will be paid a Sales Fee as follows:
  - i. For **Jewelry sold by Auction or Tender**: A commission equal to 10% of the total sale price (highest bids);
  - ii. For diamonds entered in **Melee Auctions**: A commission equal to 5% of the total sale price (highest bids) subject to a minimum commission of \$25.00 per lot sold at auction;
  - iii. For diamonds entered in **Single Stone Auctions and Buy Now Sales**: A commission equal to 5% of the total sale price (highest bids) subject to a minimum commission of \$25.00 per lot for single stone lots sold at auction. However, in the case of GIA graded round brilliant cut diamonds submitted which meet the following criteria: .50ct K+ color, SI2+ clarity, VG-EX cut/polish/symmetry, and none-faint fluorescence, ("K+SI2+"). The 5% commission aforementioned will be reduced to 3% commission.
  - iv. In addition, in respect of Auction or Tender sales, and without derogating from the generality of the foregoing, Rapaport will be paid a Fulfillment Fee of 0.5% on the value of highest bids received that are not accepted by Supplier (excluding reserve priced lots), provided that such Fulfillment Fee of 0.5% shall only be paid where Supplier approves for sale less than 50% of the value of the highest bids received.
- b. Sorting Costs and Other Charges
  - i. Rapaport undertakes, at Supplier`s option, to provide a sorting service of Supplier`s diamonds, prior to the sale thereof, based on size, color, and clarity, provided such service is agreed to by Supplier and Rapaport.
  - ii. If such sorting service is elected by Supplier, Supplier shall pay Rapaport a \$1.50 per carat fee for the services rendered.
    - 1. In the event that Supplier opts not to make use of such service in respect of Supplier`s diamonds offered for sale and they are not to be sorted, then Supplier agrees that the following shall be applicable:
      - a. for any parcels that are found to contain at least 2% CZ, moissanite or other non-diamond material, Supplier shall pay Rapaport a \$0.50 per carat fee.
  - iii. For all goods sent to boil on behalf of Supplier, Supplier shall pay Rapaport a \$0.50 per carat fee based on the total pre-boil weight of said parcel. Supplier shall be liable for said fee regardless if a Sale should eventuate, or if the goods are returned. Rapaport agrees not to send any goods to boil without Supplier consent;
- c. Rapaport will pay to Supplier via Fed Fund Bank Wire Transfer or check all funds that are collected less the Auction Fee and any agreed expenses within 14 (fourteen) days of date of sale.
- d. Rapaport shall be entitled to hold any merchandise not sold until both the Auction Fee, the Fulfillment Fee, where payable, and any agreed expenses have been paid in full. If not so paid by due date, Rapaport shall be entitled to sell any merchandise not sold by private brokerage up to the value of any amount then outstanding and due to it by Supplier.

#### 5. Electronic Signature Agreement.

By selecting the "I Accept" button, the Supplier, or its duly authorized officer, principal or representative with the right to bind the Supplier ("You") hereby agrees to be bound by all the terms of this Agreement, as at the date hereof (the "Effective Date"). You agree that your electronic signature is the legal equivalent of your manual signature on this Agreement. By selecting "I Accept" you consent to be legally bound by this Agreement and its terms and conditions. You further agree that your use of a key pad, mouse or other device to select an item, button, icon or similar act/action, or to otherwise provide Rapaport instructions, acknowledgment, disclosures or communications electronically constitutes your signature (hereafter referred to as "E-Signature"), acceptance and agreement as if actually signed by you in writing and has the full force and effect of a signature affixed by hand to a paper document. You also agree that no certification authority or other third party verification is necessary to validate your E-Signature and that the lack of such certification or third party verification will not in any way affect the enforceability of your E-Signature or the validity of any resulting agreement between you and Rapaport arising from the terms hereof.

PLEASE INDICATE YOUR CONSENT AND AGREEMENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT BY CLICKING ON THE "I ACCEPT" BUTTON.