

# **MyBroker.diamonds – Terms and Conditions**

Last updated: October 19, 2022

## **About MyBroker.diamonds App**

MyBroker.diamonds (the “**Platform**”) is a platform for connecting businesses within the diamond industry, especially between diamond brokers and diamond traders. MyBroker.diamonds is a platform for connecting and exchanging information regarding diamonds and transactions between users, and MyBroker.diamonds is not a part of any information uploaded by users and/or to transactions taking place between users, even if such users contacted each other through the platform.

PLEASE READ THE TERMS OF USE CAREFULLY BEFORE YOU START TO USE THE PLATFORM. BY USING THE PLATFORM, YOU REPRESENT YOU ARE AT LEAST 18 YEARS OF AGE, THE OWNER AND/OR LEGAL REPRESENTATIVE OF AN ACTIVE BUSINESS IN THE DIAMOND INDUSTRY, AND THAT THE MAIN PURPOSE OF YOUR USE OF THE PLATFORM IS NOT PERSONAL, DOMESTIC OR FAMILY USE. FURTHER, YOU ACCEPT AND AGREE TO BE BOUND AND ABIDE BY THESE TERMS OF USE. IF YOU ARE NOT 18 YEARS OLD OR DO NOT WANT TO AGREE TO THESE TERMS OF USE, YOU MUST NOT ACCESS OR USE THE PLATFORM.

## **1. Introduction**

- 1.1. The introduction to this agreement is an integral part of it.
- 1.2. Titles are for convenience only and shall not be used for interpretation.
- 1.3. Definitions:
  - 1.3.1. "**Company**" – GEMPAIR Ltd.
  - 1.3.2. "**Agreement**" – this Terms and Conditions document.
  - 1.3.3. "**Platform**" – An online platform, operated by the Company, as a mobile application, which is used to connect diamond traders and diamond brokers, and allows the exchange of information regarding potential transactions and goods.
  - 1.3.4. "**Users**" – anyone who uses the Platform by accessing the Platform.
- 1.4. It is hereby clarified that the Terms and Conditions set herein shall act in addition and in parallel to any other terms and conditions set by any other third party, as may be the case.

## **2. Acceptance Of Terms**

### **2.1. Overview**

This Terms and Conditions (this "**Terms**") govern all use by you as a user of the Platform (all, the "**Services**"). The Services are owned and operated by the Company. The Services are offered subject to your acceptance without modification of all of the Terms contained herein and all other operating rules,

policies and procedures that may be published from time to time on the Platform or at any other place by the Company.

BY USING OR ACCESSING ANY PART OF THE PLATFORM, YOU AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN AND ALL OTHER OPERATING RULES, POLICIES AND PROCEDURES THAT MAY BE PUBLISHED FROM TIME TO TIME ON THE SERVICES OR AT ANY OTHER PLACE BY THE COMPANY. IF YOU DO NOT AGREE TO ANY OF SUCH TERMS, CONDITIONS, RULES, POLICIES OR PROCEDURES, DO NOT USE OR ACCESS THE SERVICES.

## 2.2. Modification

The Company reserves the right, at its sole discretion, to modify or replace any of the terms or conditions of this Terms at any time. It is your responsibility to check this Terms periodically for changes. Your continued use of the Services following the posting of any changes to these Terms constitutes acceptance of those changes. If any change to these Terms is not acceptable to you, your sole remedy is to cease accessing and otherwise using the Services.

## 3. Terms and Conditions

3.1. The User hereby undertakes to avoid the following actions, regarding the Platform:

- 3.1.1. Using the Platform through any software intended to collect data, or otherwise performing actions imitating a normal user, including but not limited to Bots or Crawlers etc.
- 3.1.2. Uploading or transferring of content, or performing actions, that may be considered illegal in Israel or any other jurisdiction; uploading, transfer or advertisement of any content which may infringe copyrights, trademarks, or trade secret of others; avoiding advertise of libel, abomination, or infringing privacy of others.
- 3.1.3. Performing any action regarding the design of the Platform, source code, elements or content on the Platform, which the only right of performing such actions is set to the owner of such rights, according to the Israeli Copyright Law, 2007.
- 3.1.4. Any violent, crude, criminal or otherwise offending behavior, towards the Company, other Users or any service providers, which provide any kind of services through the Platform.

3.2. The Company shall have the right, at any time and according to its discretion:

- 3.2.1. To approve or decline the registration of any User.
- 3.2.2. To stop or prevent the Services, or any part of it, from any User who violated any part of this Terms and Conditions; all subject to the sole discretion of the Company and without providing any notice. No claim of the User shall be heard regarding this right of the Company.
- 3.2.3. To remove any content or to undo any action made by any User who violated any part of this Agreement.

- 3.2.4. To prevent access to the Platform – from any addresses or websites (including IP address and mobile ID), not previously approved by the Company, or which may harm the Company or the Platform – all subject to the sole discretion of the Company and without providing any notice. No claim of the User shall be heard regarding this right of the Company.

#### **4. User Account**

- 4.1. The Company shall have the right, at any time, to determine that access to all or some of the Services, shall be granted only to Users who have registered to the Platform, approved by the Company and provided some required information, to be determined by the Company ("**User Account**" or the "**Account**").
- 4.2. The following shall apply to the registration of an Account:
  - 4.2.1. You may not register an Account with information which is not your own valid information.
  - 4.2.2. You may not register an Account for any other person, who is not present in front of the Platform at the time of registration, or who did not approve the Terms and Conditions of this Agreement.
  - 4.2.3. It is hereby clarified, that although the Company performs actions to keep Account information secured, the Company can make no promise that no breach may occur, due to unauthorized access to the information. The User shall have no claim against the Company in any case of damage, due to unauthorized access to the information.
  - 4.2.4. In the process of registration, the Company may send the User text messages with a unique code, in order to identify the User. The User hereby approves delivery of such messages, and undertakes to keep such code in confidence and not transfer it to anyone else.
  - 4.2.5. The User hereby agrees that the Company may send to the User's email address, as provided by him to the Company, updates and notification regarding the Platform, and any other message.

#### **5. Uploading Content to the Platform**

Subject to these Terms, Users may upload Content (such as User's information, diamonds' photos, diamond prices) to the Platform (including in direct messages between Users). Content may include text, images or video, and may be uploaded for the sole purpose of using the Services ("**Content**").

Any Content uploaded by the User is at said User's sole responsibility, including any legal implications concerning the upload and publication, sharing, distribution, broadcasting, sending to others, etc., of the Content.

#### **6. Rights to Content**

By uploading Content to the Site, you declare that (i) the Content is compatible with these Terms and our Privacy Policy and does not breach any laws or third-party rights; (ii) you have full rights, authorizations and that the Content may

be shared with third parties and published in accordance with the Terms, our Privacy Policy and/or the law.

ANY CONTENT UPLOADED BY YOU IS YOUR SOLE AND EXCLUSIVE RESPONSIBILITY, AND YOU ARE RESPONSIBLE FOR ANY LEGAL IMPLICATIONS CONCERNING THE UPLOAD AND PUBLICATION, SHARING, DISTRIBUTION, BROADCASTING, SENDING TO OTHERS, ETC., OF THE CONTENT.

WITHOUT DEROGATING FROM THE GENERALITY OF THE ABOVE, WITH REGARD TO CONTENT THAT CONTAINS PERSONAL INFORMATION, YOU ARE SOLELY AND EXCLUSIVELY RESPONSIBLE TO ENSURE THAT YOU CAN PASS IT TO US FOR PROCESSING UNDER APPLICABLE LAW AND AMONGST OTHERS BY MAKING SURE THAT YOU HAVE OBTAINED EXPLICIT CONSENT FROM THE OWNER OF SUCH INFORMATION.

Upon uploading Content, you definitively and irrevocably authorize us to use, publish and share such Content in the framework of the Services, with the right to, but without any obligation to mention your name.

More information with regard to how we process your personal information can be found in our Privacy Policy.

## **7. Removal of Content Uploaded and Blocking Users by the Platform**

- 7.1. It is hereby clarified that we do not have the means to filter any Content uploaded by Users but shall have the right (but not the obligation) to do so, or to refuse to publish any Content uploaded by Users to the Platform.
- 7.2. Should it come to our attention that any Content published on the Platform breaches any third party's rights, we reserve the right to act against any User for such Content upload and is entitled to remove any Content uploaded to the Platform, at any time, at our sole discretion, for any reason or for no reason and without the obligation to explain its decision. We may act in such manner including (and without derogating from the generality of the foregoing) in light of concerns on our part, for any reason whatsoever, that the Content uploaded to the Platform might breach any third-party rights or might constitute violation of the law or be deemed inappropriate.
- 7.3. YOU HEREBY WAIVE ANY CLAIM CONCERNING THE REMOVAL OF CONTENT FROM THE PLATFORM FOR ANY REASON WHATSOEVER, AND ALSO RELINQUISH ANY CLAIM REGARDING DELAY IN REMOVING ANY CONTENT FOR ANY REASON WHATSOEVER, INCLUDING (WITHOUT DEROGATING FROM THE GENERALITY OF THE FOREGOING) ANY DIRECT AND/OR INDIRECT DAMAGE CAUSED TO YOU DUE TO DELAY IN REMOVING SAID CONTENT.

7.4. We will be entitled to block users at any time, for whatsoever reason, and at our sole discretion.

## **8. Commercial Messages**

8.1. The Company is authorized and the User hereby agrees, that the Company send the User commercial messages, from time to time, via text messages, email messages or any other way. By providing its email address or phone number, the User expressly approves such messages.

8.2. The User may inform the Company, at any time, its demand to cease delivery of such messages – by an email message to the Company or by using the removal option, displayed in any message, as may be the case.

## **9. Third Party Links**

The Platform may provide, or third parties may provide, links to other websites or resources. Because the Company has no control over such websites and resources, you acknowledge and agree that the Company is not responsible for the availability of such websites or resources, does not endorse and is not responsible or liable for any content, advertising, products, services or other materials on or available from such websites or resources. You further acknowledge and agree that the Company shall not be responsible or liable for any damage or loss caused or alleged to be caused by or in connection with any use of or reliance on any such content, advertising, products, services or other materials available on or through any such website or resource.

## **10. Disputes Between Users**

10.1. The Company shall not be liable or responsible in any way, to any dispute and/or disagreement between users of the Platform.

10.2. If you have a dispute with one or more users, you agree to release and indemnify the Company and its officers, directors, employees, agents, affiliates, and subsidiaries from all claims, demands, actions, proceedings, costs, expenses and damages, including without limitation any actual, special, incidental or consequential damages of every kind and nature, known and unknown, arising out of or in any way connected with such dispute. In entering into this release, you expressly waive any protections (whether statutory or otherwise) that would otherwise limit the coverage of this release to include only those claims that you may know or suspect to exist in your favor at the time of agreeing to this release.

## **11. Disclaimer Of Warranties**

THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE COMPANY HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-

INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. THE COMPANY MAKES NO WARRANTY THAT: (I) THE SERVICES WILL MEET YOUR REQUIREMENTS, (II) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, OR (IV) ANY ERRORS IN THE SERVICES WILL BE CORRECTED. THE FOREGOING DISCLAIMERS SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

## **12. Limitation of Liability**

- 12.1. It is hereby clarified that the Platform and Services provided through the Platform, shall be provided on an as-is basis only. The Company shall not be liable under any circumstances, whether in tort, contract or otherwise, with respect to the Platform or services provided through the Platform. The Company shall also not be liable with respect to use of any third party's products or services, whether provided digitally or otherwise.
- 12.2. It is hereby clarified that the Service may not be available at all times; from time to time the Company may update and upgrade the Platform's systems – which may result in temporary breaks in the Services; the Company has no control on availability of services provided by third parties.
- 12.3. It is the User's responsibility to examine, prior to using the Platform, if the Platform is suitable for the User's needs, and the User shall have no claim regarding that.
- 12.4. The User is responsible for its internet connection – the Company shall bare no liability in any aspect regarding issues of internet connection.
- 12.5. The Company shall bare no liability, in any case, for any content or information uploaded, transferred or published via the Platform. The User shall bare all liabilities and shall have no claim against the Company.

## **13. Release**

IN CONSIDERATION OF BEING PERMITTED TO ACCESS AND USE THE PLATFORM, YOU HEREBY AGREE TO RELEASE THE COMPANY, AND ITS AFFILIATES, AND EACH OF ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, CO-BRANDERS, OTHER PARTNERS, AND EMPLOYEES FROM ALL DAMAGES (WHETHER DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHERWISE), LOSSES, LIABILITIES, COSTS AND EXPENSES OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH DISPUTES BETWEEN YOU AND THIRD PARTIES IN CONNECTION WITH THE SERVICES OR YOUR ACCESS AND USE OF THE PLATFORM.

YOU HEREBY AGREE AND UNDERTAKE, THAT ANY USE YOU WILL DO IN THE PLATFORM SHALL BE FOR LEGAL PURPOSES.

#### **14. Privacy**

All information provided by you or collected by the Company in connection with the Platform is governed by the Company's Privacy Policy, a copy of which is located at [https://mybroker.diamonds/privacy\\_policy\\_2022.pdf](https://mybroker.diamonds/privacy_policy_2022.pdf), which is hereby incorporated by reference into these Terms. The Company strongly recommends that you review the Privacy Policy closely. You should take care to protect private information or information that is important to you. The Company shall not be responsible for protecting any such information and is not liable for the protection of privacy of electronic mail or other information transferred through the internet or any other network that you may use. Please be aware that if you decide to disclose personally identifiable information on the Platform, this information may become public. The Company does not control and shall not be responsible for the acts of you or any other users of the Services.

#### **15. Trademark Information**

The trademarks, service marks, and logos of the Company (the "**Company Trademarks**") used and displayed in connection with the Platform are registered and/or unregistered trademarks or service marks of the Company. Other company, product, and service names used in connection with the Services may be trademarks or service marks owned by third parties (the "**Third Party Trademarks**", and, collectively with Company Trademarks, the "**Trademarks**"). The offering of the Services shall not be construed as granting, by implication, estoppels, or otherwise, any license or right to use any Trademark displayed in connection with the Services without the prior written consent of the Company specific for each such use. The Trademarks may not be used to disparage the Company, any third party or the Company's or third party's products or services, or in any manner (in the Company's sole judgment) that may damage any goodwill in the Trademarks. Use of any Trademarks as part of a link to or from any site is prohibited unless the Company approves the establishment of such a link by prior written consent specific for each such link. All goodwill generated from the use of any Company Trademark shall inure to the Company's benefit.

#### **16. Infringement Notice**

The Company strictly keeps the laws of the state of Israel – if you encounter any content violating the laws of Israel or any other laws, including breaches of privacy, breach of intellectual property rights or any other breach or violation of laws, we encourage you to give us a notice to [brokerdiamondapp@gmail.com](mailto:brokerdiamondapp@gmail.com)

#### **17. Intellectual Property**

17.1. The Company is the only owner of all rights, including but not limited to Intellectual Property rights trademarks, in the Platform and all services

provided by the Company, and in all tools and utilities used by the Company during the services. Any change, improvement, addition or derivative work shall also belong to the Company.

17.2. The User shall not be able to make any use of the Platform, or any part of it, in a manner that contradict the Terms and Conditions of this Agreement, and that may infringe any right of the Company or any other third party – without the previous written approval of the Company.

17.3. The Terms and Conditions set in this Section 14 shall survive the termination of this Agreement, for any reason.

## **18. Indemnification**

18.1. The User hereby undertakes to defend, indemnify and hold the Company harmless from any and all damage, loss, liability, cost and expense (including, without limitation, reasonable attorneys' and accounting fees) resulting from any claim, demand or suit made by any third party due to or arising out of the use of the Platform, by the user; all subject to a 30 days written demand notice.

18.2. Nothing in this Section 15 shall derogate from any right or relief that the Company may have, according to this Agreement or to any law.

## **19. Jurisdiction and Choice of Law**

The laws of the State of Israel shall govern this Terms. Any dispute which may arise in connection with these Terms shall be brought to the competent court in the Tel-Aviv district, Israel, which shall be granted exclusive jurisdiction.