

### 1) DETAILS OF CREDIT PROVIDER

**Registered Name:**

Troy Gold Consolidated (Pty) Ltd

**Reg. No.:**

2019/027841/07

**NCR Credit Provider No.:**

NCRCP 12342

**Physical Address:**

5 Elektron Rd,  
Techno Park,  
Stellenbosch,  
7600

**Contact Number:**

+27 (21) 569 3400

[www.troygold.app](http://www.troygold.app)

### 2) DETAILS OF BORROWER

**Full Names:****Identity/Passport Number:****Physical Address:****Email Address:**

Contact Number:

### 3) DISCLOSURES

In the event of the National Credit Act, 2005 (Act No. 34 of 2005) ("NCA") being applicable to this agreement, the below disclosures are made (in addition to those contained in the Terms and Conditions below), and information required. It is recorded that this agreement constitutes a pawn transaction in terms of the NCA and that no affordability assessment is accordingly required in terms of the NCA.

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| Credit Bureau             | <b>Consumer Profile Bureau (Pty) Ltd.</b><br>Reg: 1981/007624/07 - NCR: NCRCB2<br>Turnberry Office Park, 48 Grosvenor Rd,<br>Bryanston, Sandton, 2191<br>+27 10 590 9505      |
| National Credit Regulator | Tel: (011) 554 2600   |
| Loan Type                 | Secured Loan Facility   |
| Loan Term                 | 1 month as extended by the Renewal Period (if applicable)   |
| Loan Commencement Date    | The date of approval of the Loan Facility in terms of clause 3 of the Terms and Conditions. The Borrower will be notified on the Troygold App when approval has been granted. |
| Loan Expiry Date          | 1 month after the Loan Commencement Date  |
| Renewal Period            | After the Loan Expiry Date the Loan Term will automatically be extended on a calendar month-by-calendar month basis until either party has given 1                            |

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|  | calendar month's written notice to the other that it wishes to terminate this.  |
| Renewal Period Expiry Date                                 | The date of expiry of the Renewal Period, which will be at the end of 1 calendar month after either party has given written notice to the other that it wishes to terminate this Agreement. |
| Cost of credit   | Refer to clause 10  |
| Credit limit   | As determined by the Product Rules which are available on <a href="http://www.troygold.app">www.troygold.app</a>  |
| Initiation fee (inclusive of VAT) ("the initiation fee")   | R 0.00  |
| Monthly service fee (inclusive of VAT) ("the service fee") | R 0.00  |

### Product Rules

The Product Rules and the Tropygold Account set out the information relating to the credit extended and must be read as part of this Agreement.

### Security

The security provided by the Borrower, the value thereof, as well as the circumstances under which the security will be utilised by Troygold, are set out in clauses 5, 6, 7 and 13 of the Agreement.

### Payments

The frequency of payments, the number of payments, and the date of the first and last payment are set out above, read together with the Product Rules and clause 4 of the Agreement.

### Insurance

No credit insurance is required to be provided by the Borrower.

### Default administration costs

The circumstances under which default administration costs will be charged, as well the amounts charged are set out in clause 19.

### Complaints

The Borrower may:

- Resolve a complaint by submitting the complaint in writing to Troygold at [support@troygold.app](mailto:support@troygold.app);
- Resolve a complaint arising from the conclusion of the Agreement by way of alternative dispute resolution as set out in section 134 of the NCA; or
- File a complaint with the National Credit Regulator as set out in section 136 of the NCA and make an application to the Tribunal in terms of section 137 of the NCA.

### Termination

- The Borrower may terminate this Agreement at any time in terms of section 122 of the NCA by paying the Loan Amount to Troygold (calculated in accordance with section 125 of the NCA) which will comprise the unpaid balance of the capital at such time, the unpaid interest charges and any other fees or charges payable to Troygold up to the final discharge date and any other charges or interest which become due and payable in terms of the Agreement. No penalty is charged in the event that the Borrower terminates the Agreement and pays the Loan Amount.

**Prepayment**

- The Borrower may prepay any Loan Amount under the Agreement in terms of section 126 of the NCA, which payment Troygold will accept, even if it is tendered prior to the date on which payment is due. In the event that such early payment is made, it is allocated as set out in clause 4.4 of the Agreement.

**Addresses for receiving of documents**

The addresses listed at the top of this document will be the addresses where the parties will accept documents, pleadings and notices relating to the Agreement, as more fully described in clause 14 of the Agreement. The parties may change their address by delivering to the other party a written notice of the new address by hand, registered mail, or electronic mail, if that other party has provided an email address.

**Penalty interest on arrear amounts**

Penalty interest on amounts in arrear will be the same as the interest rate charged in respect of the Agreement.

**Marketing option**

The Borrower must select "Yes" or "No" in respect of the following questions:

- Do you decline the option of pre-approved annual Loan Facility increases as provided for in section 119(4) of the NCA?
- Do you wish to be excluded from any:
  - telemarketing campaign that may be conducted by or on behalf of Troygold;
  - marketing or customer list that may be sold or distributed by Troygold, other than as required by the NCA; or
  - any mass distribution of email or sms messages.

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**Reduction of Loan Facility**

The Borrower has the right, in terms of section 118 of the NCA, to reduce the Loan Facility as provided for in clause 2.6 of the Agreement.

**Application to Debt Counsellor**

- The Borrower may apply to a debt counsellor in terms of section 86 of the NCA for a review of indebtedness. Such application is hearing the matter may order that the debt review resume on any conditions the court considers to be just in the circumstances. Such application is made to a debt counsellor using Form 16. The Borrower may not make application for debt review if Troygold has commenced proceedings in terms of section 129 of the NCA, whereby Troygold has drawn the Borrower's attention to the default, and proposed that the Borrower refer the Agreement to the counsellor, alternatively a dispute resolution agent, consumer court or ombudsman with jurisdiction, with the intention of resolving any dispute under the Agreement and/or has taken further steps and has approached the court for an order to enforce the Agreement after complying with its statutory obligations.
- The Borrower may be required to pay to the debt counsellor an application fee.
- The debt counsellor will provide the Borrower with proof of the receipt of the application and notify every registered credit bureau as well as any credit providers (including Troygold) that the Borrower may list in the application.
- The Borrower must comply with reasonable requests by the debt counsellor to facilitate the evaluation of the state of indebtedness and participate in good faith in the review and any negotiations designed to result in a responsible debt rearrangement. The debt counsellor will determine whether the Borrower appears to be over-indebted and if the Borrower seeks a declaration of reckless credit, whether the Agreement appears to be reckless.
- The debt counsellor will make an assessment and will take one or more of the following steps:
  - i. If the Borrower is not over-indebted, the debt counsellor must reject the application;
  - ii. If the Borrower is not over-indebted, but experiencing or likely to experience difficulty in satisfying all of the Borrower's obligations under credit agreements

- iii. in a timely manner, the debt counsellor may recommend that the Borrower and each credit provider to whom the Borrower may owe any Loan Amount voluntarily consider and agree on a plan of debt rearrangement; or
- iv. If the Borrower over-indebted, the counsellor may issue a proposal recommending that the Magistrate's Court make one or both of the following orders:
  - That one or more of the Borrower's credit agreements be declared reckless credit if the debt counsellor has concluded that those agreements appear to be reckless; and
  - That one or more of the Borrower's obligations be rearranged by: Extending the period of the agreement and reducing the Loan Amount accordingly;
- If the Borrower is in default under the Agreement, Troygold may give notice in respect of the Agreement to terminate the review in the prescribed manner to the Borrower, the debt counsellor; and the National Credit Regulator, at any time at least 60 (sixty) days after the date on which the Borrower applied for the debt review. If Troygold proceeds to enforce the loan under Part C of Chapter 6 of the NCA, the Magistrate's Court hearing the matter may order that the debt review resume on any conditions the court considers to be just in the circumstances.

### Right of the lender to terminate the agreement

- Troygold has the right, in terms of section 123, read with sections 129, 130 and 133 of the NCA, to terminate the Agreement. The steps which Troygold must take include, amongst others, drawing a default under the Agreement to the Borrower's attention, and proposing that the Borrower refers the credit agreement to a debt counsellor, alternative dispute resolution agent, consumer court or ombud with jurisdiction, and thereafter, should the Borrower not respond to Troygold's proposal within 10 (ten) Business Days or reject Troygold's proposal, Troygold may approach the court for an order to enforce the Agreement, once the Borrower has been in default of the credit agreement for at least 20 (twenty) Business Days, and notice in terms of section 129 has been served on the Borrower for a period of 10 (ten) Business Days or longer.

## 4) TERMS AND CONDITIONS

### 1. Introduction and Interpretation

1.1 Troy Gold Consolidated (Pty) Ltd, Registration number 2000/014937/07 ("**Troygold**") and the Borrower want to enter into this Agreement. This Agreement will regulate the Loan Facility, unless specifically agreed otherwise. The parties also want to secure the obligations of the Borrower to Troygold arising from the Loan Facility by the cession and pledge contained herein.

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|-----------------------------|---|
| <b>Agreement</b>            | means this document read together with the Product Rules;   |
| <b>Approved Assets</b>      | means KR Fractions, Krugerrands or any other gold asset types of the Borrower that appears on the Approved Assets List and which forms part of the Security Assets that are ceded and pledged to Troygold in terms of this Agreement.   |
| <b>Approved Assets List</b> | means the list of gold-based products, as determined by Troygold in its discretion, describing the assets against which Troygold is prepared to grant a Loan Facility. This list is available on the Troygold Website and may be amended from time to time. . If the Troygold Website is for some reason not accessible, the document list be obtained from Troygold on reasonable request. |
| <b>Borrower</b>             | means the person described in the section 2 above.  |
| <b>Business Days</b>        | means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa.   |
| <b>Fractions</b>            | means the definition as ascribed thereto in the Troygold User Agreement.  |
| <b>Loan Amount</b>          | means the actual amount owing on the Loan Facility.   |
| <b>Loan Facility</b>        | means the facility granted by Troygold to the Borrower as described in clause 2.  |
| <b>Loan Term</b>            | means the loan term described in section 3 above, which will commence and expire on the dates mentioned in section 3.   |

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| <b>Product Rules</b>                 | means the document with the heading “Product Rules”, which is posted on the Troygold Website and which explains the rules of a Loan Facility. If the Troygold Website is for some reason not accessible, the document may be obtained from Troygold on reasonable request. |
| <b>Renewal Period</b>                | means the renewal period described in section 3 above, which will commence on the day after the Loan Expiry Date and expire on the Renewal Expiry Date as defined in section 3.  |
| <b>Security</b>                      | means the security assets described in clause 5 and which are subject to the cession and pledge in clause 6.   |
| <b>Security Assets</b>               | means all KR Fractions, Krugerrands or other gold asset types of which the Borrower is the beneficial owner, and that are held in a Troygold Account from time to time as security in terms of the provisions of this Agreement.   |
| <b>Troygold Account</b>              | means the Troygold App gold wallet that reflects the Loan Amount and the Security that is held in terms of this Agreement from time to time.   |
| <b>Troygold App</b>                  | means the mobile phone application made available by Troygold to customers from time to time.  |
| <b>Value of the Troygold Account</b> | means the value of the Security Assets as reflected in the Troygold Account, calculated at the bid price of the gold type on the Troygold platform (in accordance with Troygold’s Product Rules).  |
| <b>Troygold Account Currency</b>     | means the Troygold App cash wallet.  |
| <b>Troygold Website</b>              | means the website of Troygold from time to time, accessible at: <a href="http://www.troygold.app">www.troygold.app</a>   |

1.2 If there is any conflict between this Agreement and the Product Rules, the Product Rules will prevail.

## 2. Loan Facility

- 2.1 Troygold may, in its discretion, grant a Loan Facility to the Borrower on the terms and conditions set out in this Agreement and the Product Rules.
- 2.2 The Loan Facility is a variable amount as determined by the Product Rules.
- 2.3 The Loan Amount (excluding any interest and fees owing) may never exceed the Loan Facility.
- 2.4 The Loan Amount will attract interest as described in the Product Rules and clause 10.
- 2.5 Troygold, in its discretion, will at any time be entitled to reduce a Loan Facility in terms of the Product Rules. The Loan Amount on the reduced Loan Facility may not then exceed the reduced Loan Facility upon the effective date of such reduction. If the reduced Loan Facility is exceeded, the Borrower is in breach of this Agreement and the Security is exposed to a margin call in terms of clause 8.
- 2.6 If the NCA is applicable to this Agreement, the Borrower may on written notice to Troygold request Troygold to reduce (subject to the Product Rules) the Loan Facility provided that the Loan Amount is equal to or less than the reduced Loan Facility. Troygold will give written notice to the Borrower of the date on which the reduced Loan Facility will take effect, which will not be more than 30 (thirty) Business Days after the notice from the Borrower.
- 2.7 This Agreement replaces and supersedes all prior loan facility agreements between Troygold and the Borrower. Any Loan Facility granted in terms of a prior agreement is terminated simultaneously with the conclusion of this Agreement and all indebtedness of the Borrower to Troygold arising from the prior facility, is consolidated with, and settled from, the proceeds of the Loan Facility granted in terms of this Agreement.

## 3. Methodology of Contracting, Withdrawals and Payments

- 3.1 The Borrower will read and digitally accept, and agree to, this Agreement in full within the Troygold App.
- 3.2 Troygold will not make the Loan Facility available to the Borrower until it has received:
- the digital acceptance of the Agreement;
  - the documentation referred to in clause 11 (if applicable); and
  - the Borrower has furnished Troygold with all Security for the Loan Facility, and any conditions, if any, set out in this Agreement and the Product Rules have been fulfilled.

- 3.3** Once approved, the Loan Facility will be available for withdrawal within the Borrower's Troygold Currency Account. All withdrawal payments made by Troygold are made by electronic transfer to the account designated by the user within the Troygold App. The designated bank account must be in the Borrower's name.
- 3.4** Troygold will effect such transfer as soon as reasonably possible after receiving the request for withdrawal but will not be liable to the Borrower for any delay in effecting the transfer or the crediting thereof to the designated account. The Borrower agrees and acknowledges that Troygold is under no obligation whatsoever to ensure that the designated account is that of the Borrower and that the details are correct.
- 3.5** Where a Borrower has ceded KR Fractions as Security for a Loan Facility, the Borrower may purchase additional KR Fractions, as the case may be, in the Troygold App (also referred to herein as the "Troygold Account"). In such event, the Borrower hereby:
- Agrees that any additional KR Fractions or other gold asset types so purchased will form part of the Security furnished in terms hereof and are subject to the cession and pledge contained in clause 6 hereof; and
  - Irrevocably instructs Troygold, at its discretion, to cancel any such purchase of KR Fractions or other gold asset type in the event that such purchase would result in a request for payment from the Loan Facility that would, in turn, result in a breach of the provisions of clause 2.3 above.
- 3.6** Troygold will not be liable to the Borrower for any loss, damages, costs or claims of any nature whatsoever in the event of:
- a request for advance or a request for payment and the details contained therein (including the details of the designated account) being unauthorised, fraudulent, erroneous or in any other manner alleged by the Borrower to be irregular or not capable of being acted upon by Troygold; and/or
  - an instruction being given by Troygold in terms of clause 3.5, or such instruction being erroneous or Troygold, electing, at its discretion not to give such an instruction.
- 3.7** The Borrower furthermore indemnifies and holds Troygold harmless against all and any loss, damages, costs or claims of any nature whatsoever arising, whether directly or indirectly, out of:
- the Loan Facility being approved or a request for payment; and
  - Troygold cancelling or refraining from cancelling, a purchase as contemplated in clause 3.5.

#### **4. Terms and repayment**

- 4.1** Interest, as set out in clause 10, will be payable, by the Borrower to the Lender, monthly in arrears or at such other intervals as the Lender advises in the Product Rules from time to time.
- 4.2** Subject to clause 8, the Loan Facility will terminate on the earlier of the date:
- prior to the expiry of the Loan Term, that the Borrower at its option notifies Troygold of its intention to terminate the Loan Facility in writing, provided that the Loan Amount in terms of the Loan Facility, inclusive of interest and fees, must then be settled in full by the Borrower upon such termination; or
  - prior to the expiry of the Loan Term, that Troygold at its option notifies the Borrower in writing of the termination of the Loan Facility (which notification will have immediate effect if the NCA is not applicable, or will be regarded as 10 (ten) Business Days' notice if the NCA is applicable), provided that the Loan Amount in terms of the Loan Facility, inclusive of interest and fees, must be settled in full by the Borrower on such termination;
  - on expiry of the Loan Term; or
  - on the Renewal Period Expiry Date (if applicable).
- 4.3** The Borrower may at any time repay a portion or the full Loan Amount, without notice or penalty.
- 4.4** Repayments are made to Troygold Currency Account in reduction of the Loan Amount.
- 4.5** All payments made by the Borrower in respect of a Loan Facility are allocated: if the NCA is applicable to this Agreement, firstly to satisfy any due or unpaid interest charges, and secondly the Loan Amount.
- 4.6** The amount payable by the Borrower upon settlement of the Loan Facility is the sum of:
- the Loan Amount; and
  - any interest and fees as set out in clause 10.

#### **5. Security**

- 5.1** The Borrower agrees that his indebtedness in terms of this agreement will be secured by a cession and pledge of the rights of the Borrower in and to the Security in terms of the cession and pledge contained in clause 6, and that it will constitute continuing covering security for all the Borrower's obligations to Troygold in terms of this Agreement.
- 5.2** The Security includes:
- the Security Assets; and
  - any other gold product type that the Borrower has elected, in the Borrower's discretion, to invest in the Troygold Account (including any additional gold product type that the Borrower may upload or invest in the Troygold Account from time to time, after accepting this Agreement, irrespective of whether or not such gold product type constitute Approved Assets).

- 5.3 The value of the Security must at all times be at least equal to the value of the Loan Facility, failing which Troygold may either require additional Security from the Borrower or terminate the Loan.
- 5.4 The Borrower will transfer possession of the Security to Troygold, and Troygold will retain possession thereof at its own risk until the expiry of the Loan Term.

## 6. Cession & Pledge

- 6.1 As continuing covering security for the obligations of the Borrower in terms of this Agreement and the Loan Facility granted, the Borrower hereby cedes, pledges, assigns and makes over to Troygold all of the Borrower's present and future rights, title and whatsoever interest in, under and to the Security as described in this Agreement.
- 6.2 For the avoidance of doubt, to the extent that any Security does not exist as at the acceptance date of this Agreement and, therefore, comprises of future rights, the Borrower hereby cedes those rights in anticipation without the need for the parties to take any further steps to give effect to the cession.
- 6.3 By making the Loan Facility available in terms of this Agreement and the Product Rules, Troygold will accept the cession and pledge of the rights of the Borrower in and to the Security on the terms set out herein.
- 6.4 The Borrower acknowledges that, should it transpire that, notwithstanding the warranties contained in clause 12.1, the Borrower has at any time prior to the signature date of this Agreement, ceded and/or pledged or otherwise disposed of or encumbered any of the rights in and to the Security, then (without limiting any other right of Troygold as a result of the breach of the warranty):
- This Agreement will operate as a cession of the Borrower's reversionary rights and of all of the Borrower's remaining right, title and interest in and to the Security, including any of the Borrower's rights of action whatsoever against any prior cessionary, pledgee or other holder of the rights in and to the Security for the time being ("Prior Cessionary").
  - For as long as any cession in favour of any Prior Cessionary remains in force, Troygold is entitled to give notice of this cession and pledge and receive payment directly from the Prior Cessionary of any amounts that the Prior Cessionary receives in excess of the Loan Amount due to it by the Borrower pursuant to a realisation of surrender of the rights in and to the Security.
  - If the cession in favour of the Prior Cessionary ceases to be of any force, then this cession and pledge will immediately operate as a first cession by the Borrower to Troygold of the particular rights in and to the Security.
- 6.5 The Borrower hereby irrevocably authorises and instructs Troygold and all relevant parties, who deal with or exercise control over the Security, to give effect to the cession and pledge contained in this clause 6 and the provisions of the Power of Attorney in clause 7.
- 6.6 Without limiting the provisions of clause 24, Troygold may at any time, without the consent of the Borrower, cede the rights of Troygold against the Borrower arising out of this cession to any third party, in which event the cession will operate in favour of that third party.
- 6.7 The security established by this cession and pledge will create a continuing covering security for all present and future obligations of the Borrower in terms of this Agreement and the Product Rules, notwithstanding any fluctuation in the amount of such indebtedness secured by this cession or the temporary extinction thereof. This means that the rights in and to the Security have been ceded and pledged to Troygold pursuant to the approval of the Loan Facility, and that such cession and pledge will constitute security for the Loan Facility granted in terms hereof and for any other obligations that the Borrower may have to Troygold from time to time.
- 6.8 This cession and pledge will remain in force and effect until the whole of the obligations of the Borrower in terms of this Agreement and Product Rules have been satisfied and paid in full.
- 6.9 If Troygold becomes entitled to enforce this cession and pledge, then without prejudice to any further rights, Troygold will have the right to:
- exercise, to the extent applicable, all voting and other rights about the Security or any part thereof, and to appoint a nominee to exercise such voting and other rights; and
  - take transfer of all or any of the Security at their fair market value, and to set-off that market value against the Loan Amount. In such event, the fair market value of the Security is determined by Troygold and, in the event of a dispute in this regard, by Troygold's auditors whose determination is final and binding on the parties; or
  - realise the Security, or any part thereof, whether by public auction or continuous trading or such other manner as may apply to the particular type of Security; and
  - apply all monies received by virtue of this cession and pledge toward the reduction or settlement as the case may be, of the Loan Facility granted in terms of this Agreement and the Product Rules; and
  - convey valid and lawful title in respect of the Security realised by Troygold in terms hereof, provided that if the amount received after Troygold has exercised its rights in terms hereof, exceeds the Loan Amount, whether then due or not (together with, to the extent permitted by the NCA if the NCA is applicable to this Agreement, all costs expenses, commissions, charges and other amounts which Troygold may incur in exercising its rights in terms hereof), Troygold will pay over such excess to the Borrower, without affecting the continuity of this Agreement as security for the Borrower's existing and future obligations in terms hereof.



**7. Power of Attorney**

7.1 In the event that Troygold exercises the cession and pledge contained herein, the Borrower hereby appoints Troygold to be the Borrower's lawful attorney and agent, with the power of substitution, and in its name to:

- act on and deal with the Security in the manner contemplated herein;
- sign any document for the purpose above; and generally for such purposes, to do everything necessary in connection with the cession and pledge.

**8. Margin Calls**

8.1 If the Loan Amount exceeds the Loan Facility (as determined by the Product Rules), a margin call is made to the Borrower. This can happen for a number of reasons, including:

- if the value of Security Assets reduces due to negative market conditions; or
- if over time the Borrower does not make repayments as contemplated in clause 4.3 above and the interest and fees accrued cause the Loan Amount to exceed the Loan Facility; or
- any gold product type previously included in the Approved Assets List becomes disqualified by Troygold.

8.2 If the Loan Facility is breached, Troygold will inform the Borrower that the Loan Amount must be reduced to an amount equal to or less than the Loan Facility within 1 Business Day by the Borrower carrying out one or more of the following:

- payment of an appropriate amount in reduction of the Loan Amount;
- sell so much of the Security Assets as may be required and using the proceeds to reduce the Loan Amount;

8.3 Notice as aforesaid is referred to as a margin call or margin call notice, as the case maybe.

8.4 If the Borrower does not respond timeously and fully to a margin call, the Borrower is in breach of its obligations and Troygold is entitled, in addition to any other remedies it may have in terms of this Agreement, to exercise its rights in terms of the cession and pledge and to act upon the Power of Attorney and sell any or all of the Security.

8.5 The Borrower acknowledges and agrees that in the event of a sale of Security in terms of this clause 8, such sale, and all matters related thereto, are in the discretion of Troygold. Troygold will not be liable to the Borrower for any loss, damages, costs or claims of any nature whatsoever arising from the sale of such Security.

8.6 The amount needed to remedy the Borrower's breach is divided by the prevailing gold price on the Troygold platform less an administrative fee percentage as outlined in the Product Rules to calculate the quantity of Security to be sold.

**9. Interest Calls**

9.1 If payment of interest, as set out in clause 4, is not made timeously by the Borrower to the Lender, an interest call will be made to the Borrower.

9.2 If the payment of interest requirement is breached, Troygold will inform the Borrower that the interest payment due must be made within 1 Business Day by the Borrower carrying out one or more of the following:

- payment of the appropriate amount in interest to the Lender;
- sell so much of the Security as may be required and using the proceeds to pay the interest due to the Lender;

9.3 Notice as aforesaid is referred to as an interest call or an interest call notice, as the case may be.

9.4 If the Borrower does not respond timeously and fully to an interest call, the Borrower is in breach of its obligations and Troygold is entitled, in addition to any other remedies it may have in terms of this Agreement, to exercise its rights in terms of the cession and pledge and to act upon the Power of Attorney and sell any or all of the Security.

9.5 The Borrower acknowledges and agrees that in the event of a sale of Security in terms of this clause 9, such sale, and all matters related thereto, are in the discretion of Troygold. Troygold will not be liable to the Borrower for any loss, damages, costs or claims of any nature whatsoever arising from the sale of such Security.

9.6 The amount needed to remedy the Borrower's breach is divided by the prevailing gold price on the Troygold platform less an administrative fee percentage as outlined in the Product Rules to calculate the quantity of Security to be sold.

**10. Interest and Fees**

10.1 The interest rate is linked to the prime interest rate and may be reviewed at Troygold's discretion from time to time. Should the value of the Security deteriorate, the Borrower may be charged a higher interest rate with immediate effect. The increased rate is confirmed in writing within 30 (thirty) Business Days after the day on which the change takes effect. Interest is calculated on the daily balance of the Loan Amount after the close of business on each day and compounded monthly in arrears on the first Business Day after the last Friday of each month. Such interest will be payable by the Borrower to Troygold monthly in arrears or at such other intervals as Troygold advises in the Product Rules from time to time.

10.2 The Borrower is liable, in respect of the Loan Facility (if applicable), for payment of:



- the initiation fee;
- the service fee; and
- any other fees to the extent permitted by the NCA, if applicable.

**10.3** Troygold may, from time to time, introduce additional fees or amend its existing fees provided that in doing so it will comply with the provisions of the NCA, if applicable, and will furnish the Borrower with 5 (five) Business Days' notice of such change prior to implementing the change.

## **11. Supporting Documents**

**11.1** The Borrower will, together with this Agreement, deliver to Troygold all documents required for purposes of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) ("**FICA**") and any other documents as may be required by Troygold in its reasonable discretion.

## **12. Warranties**

**12.1** The Borrower warrants that:

- the Borrower is, and will at all relevant times be, the legal and beneficial owner of all Security provided in terms hereof;
- the Borrower is acting as principal and not as an agent on behalf of a third party. If the Borrower is acting on behalf of a third party, the Borrower has obtained the necessary consent and authorisation and submitted proof thereof to Troygold;
- this Agreement is legal, valid, binding and enforceable in all respects;
- the Borrower's details, as provided, are true and correct;
- the Security is not and will not be subject to any right of retention or other limitation or encumbrance for the duration of this Agreement and may not be ceded or transferred by the Borrower, other than in terms of this Agreement;
- the Borrower is able to cede, pledge, assign and make over the rights in and to the Security to Troygold in terms of this Agreement;
- no right or pre-emption or option exists, or will exist, in respect of the Security;
- where the Borrower is a natural person, the Borrower is older than 18 years of age and that if the Borrower is married in community of property, the due and proper consent of the Borrower's spouse has been obtained by the Borrower and provided to Troygold;
- the Borrower has read and understands the Product Rules and terms & conditions of the Troygold Website;
- the Borrower has disclosed, where applicable, all material information concerning the Security to Troygold;
- the Borrower understands the risks, costs and obligations under this Agreement;
- the Borrower has fully and truthfully answered any requests for information from Troygold in order for Troygold to assess and approve the Loan Facility granted to the Borrower in terms of this Agreement;
- the conclusion of this Agreement will not have the effect that the Borrower is over-indebted;
- the Borrower understands the contents of this Agreement.

**12.2** Should it become known that any of the warranties are incorrect, this will constitute a breach of this Agreement in terms of clause 13 below.

**12.3** The Borrower acknowledges that Troygold may amend the Product Rules from time to time, at Troygold's sole discretion. If Troygold elects to amend the Product Rules, the revised version is posted on the Troygold Website. The Borrower undertakes to check this website regularly for any changes Troygold may have made since the Borrower's last visit to this site since any such changes are binding on the Borrower. By using the Troygold Website after Troygold has changed or amended the Product Rules, the Borrower acknowledges that he/she will accept those changes or amendments.

## **13. Breach**

**13.1** Should:

- the Borrower fail to pay the Loan Amount to Troygold in terms of this Agreement; or
- the Borrower fails to respond fully and timeously to a margin call as set out in clause 8 above; or
- the Borrower fails to respond fully and timeously to an interest call as set out in clause 9 above; or
- the Borrower breaches any of the warranties or any of the other terms of this Agreement and, if such breach is reasonably capable of being remedied, fail to remedy that breach within 5 (five) Business Days after receipt of a written notice calling upon the Borrower to do so; or
- an event or circumstance occur which, with the passage of time or the giving of notice, or both be an event which, in the reasonable opinion of Troygold adversely affects or may affect the Borrower's ability to meet the Borrower's obligations in terms of this Agreement; or

- the Borrower be provisionally or finally sequestrated or liquidated, as the case may be; or
- the Borrower enters into or attempts to enter into a general compromise with any of the Borrowers creditors; or
- a judgement be handed down against the Borrower, which is not satisfied within 14 (fourteen) Business Days or against which an appeal or application for rescission is not noted or made within that period (provided that such appeal or application is properly prosecuted); or
- any of the Borrower's property be attached pursuant to a writ of execution; or
- the Borrower commits an act of insolvency (or an act which, if it were a natural person, would have constituted an act of insolvency) in terms of the Insolvency Act 24 of 1936, as amended from time to time;
- the Borrower, if a natural person, passes away; or
- the Borrower having failed to disclose all material information regarding this Agreement or have misrepresented any information, or it transpires that the financial statements and/or other financial information furnished by or on behalf of the Borrower to Troygold is or was incorrect;

then in any such event the Loan Amount in terms of this Agreement will immediately become due and payable without further notice and Troygold is entitled, without prejudice to any other rights which it may have in terms of this Agreement or in law, to realise the Security in terms of the cession and pledge as contained in this Agreement.

- 13.2** For the avoidance of doubt, it is recorded that where the Borrower has furnished KR Fractions, Krugerrands or other gold product type as Security and should Troygold exercise its rights in terms of 12.1 above, Troygold is entitled to procure the sale of any or all of the Security Assets and to apply the proceeds thereof in settlement or partial settlement, as the case may be, of the obligations of the Borrower to Troygold in terms of this Agreement and the Loan Facility granted in terms thereof.
- 13.3** Should Troygold exercise its rights in terms of 12.1 and 12.2 above:
- Troygold retains its rights to recover; and
  - The Borrower will, on receipt of a written demand, pay to Troygold, the Loan Amount by which the whole or any part of the obligations of the Borrower exceeds the proceeds referred to in 12.2 above, subject to 12.4 below.
- 13.4** Should the Borrower fail to pay the Loan Amount due to Troygold upon written demand as contemplated in 12.3 above and should the NCA be applicable to this Agreement, Troygold will not be entitled to commence legal proceedings to enforce payment of such Loan Amount, unless:
- Troygold has given notice to the Borrower of such default and proposed that the Borrower referred this Agreement to a debt counsellor (in the case of an individual), alternative dispute resolution agent, consumer court or ombud with jurisdiction (if any) with the intent that Troygold and the Borrower resolve a dispute under this Agreement or develop and agree to bring the payments under this Agreement up to date; and
  - 10 (ten) Business Days have lapsed since such notice, and the Borrower has either not responded to the notice or has responded by rejecting such proposal; and
  - The Borrower has been in default for at least 20 (twenty) Business Days.
- 13.5** If the NCA is applicable to this Agreement and should the Borrower allege at any time or in any proceedings that this Agreement was recklessly concluded or that the Borrower is over-indebted, the Loan Amount is deemed due and payable.

#### **14. Communications, Notices and Address**

- 14.1** Troygold and the Borrower choose as their chosen address their respective addresses as set out on page 1 (sections 1 and 2 respectively) for all purposes arising out of or in connection with this Agreement, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may be validly served upon or delivered to the parties (but subject to 14.3 below).
- 14.2** Any notice given in terms of this Agreement is in writing and is regarded as having been received by the addressee:
- if sent by pre-paid registered post, on the 5th Business Day following the date of posting;
  - If delivered by hand, on the day of delivery;
  - If sent by e-mail, on the Business Day following the date of transmission by e-mail unless the contrary is proved.
- 14.3** For the avoidance of doubt, it is recorded that Troygold may, at its election, send all notices, statements and documents required in terms of this Agreement, to the Borrower by way of e-mail.

#### **15. Certificate of Indebtedness**

A certificate signed by any manager or director of Troygold (whose, appointment, authority or qualification need not be proved) is prima facie proof of the Loan Amount of the Borrower and the interest rate payable by the Borrower in terms of this Agreement for all purposes, including proof of claims against insolvent and deceased estate. The certificate is valid as a liquid document in any court proceedings for purposes of obtaining provisional sentence or default judgement or summary judgement against the Borrower.

**16. Renunciation of Benefits**

The Borrower renounces the benefits of the exceptions of the division of debt, multiple debtors, excussion, review of accounts and furthermore (only if the NCA is not applicable), no cause of action, no value or benefit received, errors in calculation, the prohibition on duplum interest (i.e. the prohibition that arrear interest may not exceed the capital amount on which such interest is calculated) and the right to claim that a debt has become prescribed.

**17. Information sharing practices**

Troygold discloses to the Borrower that:

- 17.1** Should the NCA apply to this Agreement:
- Troygold is obliged to report the conclusion, amendment and termination of this Agreement to the National Credit Regulator;
  - If the Borrower does not comply with the terms and conditions of this Agreement, Troygold may transfer information regarding such non-compliance to the credit bureau, provided that Troygold is obliged to give 20 (twenty) Business' Days prior notice to the Borrower before doing so;
  - the Borrower is entitled to resolve any complaint regarding this Agreement by way of alternative dispute resolution or to file a complaint with the National Credit Regulator or to make an application to the National Credit Tribunal;
- 17.2** In any event:
- if the Borrower does not comply with the terms and conditions of this Agreement, Troygold may transfer information regarding such non-compliance to the credit bureau;
  - the credit bureau provides a credit profile and possible a credit score on the creditworthiness of the Borrower;
  - the Borrower is entitled to contact the credit bureau, to have this credit record disclosed and to correct inaccurate information;
  - if the Borrower is a natural person, the Borrower may apply to a debt counsellor to be declared over-indebted in terms of section 86 of the NCA- details of the process to be followed may be obtained from the National Credit Regulator.
- 17.3** Any reference to Troygold in this clause 17 will include a reference to an agent or company within Troygold's group of companies who acts on Troygold's behalf in reporting and transferring information as set out in this clause 17.

**18. Disclosure of information**

- 18.1** The Borrower hereby consents and agrees that Troygold, or any agent appointed by Troygold, is entitled to:
- perform a credit search on the Borrower's credit record at any registered credit bureau;
  - monitor the Borrower's payment behaviour by researching records at any registered credit bureau;
  - use information and data obtained from any registered credit bureau;
  - record and transmit details (including personal information) in respect of the Borrower's conduct and performance in respect of the Borrower's obligations in terms of this Agreement and the Loan Facility granted in terms thereof;
  - obtain and disclose any of the Borrower's information, conduct and performance, if necessary or if it may be of benefit to the Borrower or where Troygold is legally compelled to do so or where it is in the public interest to disclose such information, or where the interests of Troygold require the obtaining and/or disclosure of such information.
- 18.2** The Borrower hereby consents and agrees that the information provided to any registered credit bureau may be used by such bureau in the normal course of its business and accessed by other credit providers and registered credit bureau.
- 18.3** The Borrower waives any claim against Troygold or its agents in respect of any disclosure and indemnifies Troygold and its agents against any loss or liability as a result of Troygold or its agents acting in terms of any authorisation granted in terms hereof.

**19. Costs of Legal Proceedings**

- 19.1** If Troygold institutes action against the Borrower in terms of this Agreement, the Borrower is liable to pay to Troygold or its attorneys, on demand, all legal fees on the scale as between attorney and own client, together with collection commission, at the rate determined or recommended by the Legal Practice Council or its successors-in-title from time to time, but limited, if the NCA is applicable to this Agreement, to:

- default administration charges in respect of each letter necessarily written which may not exceed the amount payable in respect of a registered letter of demand in an undefended action in terms of the Magistrates' Court Act, 1944, in addition to any reasonable and necessary expenses incurred to deliver such letter; and
- collection costs which may not exceed the costs incurred by Troygold in collecting the amounts owing to it to the extent limited by the NCA and in terms of the Supreme Court Act 1959, Magistrates' Court Act 1944, Attorneys' Act 1979 or the Debt Collectors' Act 1998, whichever is applicable.

**20. Statements of Account**

Troygold and the Borrower agree that the Borrower is entitled to receive statements of account in respect of the Loan Facility every month from the date upon which the Loan Facility is made available by Troygold under this Agreement.

**21. Administration**

The Loan Facility is administered by Troygold. This will include, but not be limited to, the opening of accounts, preparation of the Agreement, sending out of month-end statements and levying of interest on the outstanding balances.

**22. Whole Agreement, non-variation and divisibility**

- 22.1** This Agreement establishes the whole agreement between the parties. No agreements, representations or warranties between the parties, other than those set out therein are binding on the parties. Save for the Product Rules document no variation, amendment or cancellation of this Agreement is of any force and effect unless in writing and signed by both parties (amendment by e-mail is specifically excluded).
- 22.2** No postponement, indulgence or extension displayed or granted by Troygold in respect of the enforcement of the terms and provisions of this Agreement is a waiver by Troygold of its rights to claim due and punctual performance of the terms of this Agreement.
- 22.3** Each and every term and provision in this Agreement is severable from the other. Any term or provision of this Agreement found to be invalid, void, voidable or unenforceable for any reason whatsoever, is void or unenforceable only to the extent of that term or provision and will not affect the validity and enforcement of the remaining terms and provisions.

**23. Jurisdiction**

This Agreement is governed by the laws of the Republic of South Africa. The parties irrevocably and unconditionally agree that the High Court of the Republic of South Africa will have jurisdiction regarding all proceedings, transactions, and applications, disputes or the like which may arise out of or in connection with this Agreement. The Borrower consents to the jurisdiction of the Magistrates' Court in respect of any legal proceeding arising from or pursuant to this Agreement. Troygold may, despite such consent, still institute action in any High Court in which event the Borrower is liable for costs on the tariff prescribed for High Court matters.

**24. Assignment**

- 24.1** Troygold may, in its sole discretion, at any time, cede, assign and transfer all or any of its rights, title an interest under this Agreement, and/or delegate any obligations under the Agreement to any other party without obtaining the consent of the Borrower or advising the Borrower thereof.. To the extent that any cession, assignment, transfer or delegation constitutes or results in a splitting of claims that requires the Borrower's consent, the Borrower hereby consents thereto.
- 24.2** The Borrower will not cede, assign or transfer any of its rights, title and interest under this Agreement nor delegate any of its obligations under the Agreement without obtaining the prior written consent of Troygold.

**25. Review**

- 25.1** Troygold may review the Loan Facility periodically on the basis set out in the Product Rules.
- 25.2** If any information of any nature comes to the attention of Troygold at any time which, in Troygold's reasonable opinion, would affect the serviceability of the Loan Facility granted in terms hereof or result in a diminution of the value of the

Security held by Troygold, or which would negatively affect the financial position of the Borrower at any time, or negatively affect the profitability of the Loan Facility for Troygold, Troygold is entitled in its sole discretion to:

- invoke the provisions of clause 4.1 hereof and call for immediate repayment of the Loan Amount in terms of the Loan Facility granted in terms hereof; or
- amend the terms of the Loan Facility granted in terms hereof subject to the requirements of the NCA, if applicable, including without limitation requiring the Borrower to make such additional payments into the Loan Facility as Troygold deems necessary and/or requiring the Borrower to provide such additional security as Troygold deems fit for the obligations of the Borrower in terms of the Loan Facility.

## **26. Personal Information**

**26.1** If the Borrower ("**Disclosing Party**") provides any personal information (as defined in the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) ("**Personal Information**") relating to the Disclosing Party or any other person (including staff, members of the Disclosing Party's group, associates, suppliers or customers) to Troygold ("**Receiving Party**"), then the Disclosing Party confirms that:

- the Receiving Party (including any related and/or inter-related companies, affiliates or subcontractors of the Receiving Party) may collect, process, transmit and retain in South Africa and/or in other jurisdictions (subject to the applicable laws), such Personal Information for the purpose of: (i) giving effect to this Agreement and performing its obligations, and enforcing its rights, thereunder; (ii) complying with the applicable laws; (iii) monitoring for money laundering and criminal activity; (iv) marketing and communication; and (v) statistical analysis; and
- it is duly authorised to collect, process, transmit and retain such Personal Information on behalf of the relevant Persons (including to accept privacy notices on their behalf) and to provide such Personal Information to the Receiving Party pursuant to the provisions of this Agreement.

**26.2** The Receiving Party will, subject to the applicable laws, collect, process, transmit and retain Personal Information in connection with this Agreement pursuant to the provisions of this Agreement and its applicable privacy policy from time to time.

## **27. Signature**

This Agreement may be digitally accepted, and agreed to, as a means of signature and acceptance.