

SECOND AMENDMENT  
TO STANDARD VENDOR AGREEMENT FOR MERCHANDISE (PRODUCTS)

This Second Amendment to Standard Vendor Agreement For Merchandise (Products) (“Amendment”) is by and between **FRED MEYER JEWELERS, INC.** dba Fred Meyer Jewelers and Littman Jewelers (“FMJ”) and \_\_\_\_\_ (“Vendor”) and amends and supplements the terms and conditions of the Standard Vendor Agreement For Merchandise (Products) between the parties dated \_\_\_\_\_, as amended by the Amendment to Standard Vendor Agreement for Merchandise (Products) dated \_\_\_\_\_ (the “First Amendment” and collectively, the “SVA”). This Amendment amends and restates the First Amendment effective as of July 30, 2018. It is the intent of the parties that this Amendment replace the First Amendment. Capitalized terms not otherwise defined herein will have the meanings assigned to them in the SVA.

The parties agree as follows:

As per the SVA, under no circumstances shall FMJ accept diamonds that are synthetic, lab created, treated, laser drilled, or enhanced (collectively, “Synthetic”) without prior written authorization by FMJ’s Vice President of Merchandising. Effective on July 30, 2018, the following new testing procedures to ensure Synthetic diamonds do not wind up in the FMJ supply chain shall apply:

1. Lab Graded.
  - a. Vendor, at its sole cost, shall send all lab graded diamond merchandise (“GDM”) to either Gemological Science International (GSI) or Diamond Services USA, Inc. (each a “Grading Service”) prior to delivery of the GDM to FMJ. No other diamond grading service shall be acceptable.
  - b. The Grading Service shall, at Vendor’s sole cost, test the GDM to determine if it is earth mined. If it is, the Grading Service shall grade it, laser inscribe it, and return the GDM to Vendor.
  - c. If, after the GDM is returned to Vendor, the GDM is to be set by Vendor in a mounting with non-lab graded diamonds, then the finished piece shall be sent to the Grading Service for testing, at Vendor’s sole cost, to ensure that all diamonds in the finished piece are earth mined.
  - d. The Grading Service shall conduct the required testing and place all GDM with non-lab graded diamonds that passes all relevant tests in a tamper-proof bag and return the GDM to Vendor.
  - e. The Grading Service shall provide a written notice to Vendor of any GDM that does not pass earth mined testing.
  - f. Any GDM that fails testing shall not be accepted by FMJ and shall be returned to Vendor by the Grading Service.
  - g. All GDM with non-lab graded diamonds that does pass testing and therefore is in a tamper-proof bag shall be delivered to FMJ in the same tamper-proof bag. FMJ shall not accept and shall reject any GDM with non-lab graded diamonds that is not in a tamper-proof bag or in a tamper-proof bag that has been tampered with. If the rejection rate on any shipment of GDM with non-lab graded diamonds is more than 10%, FMJ shall have the right to return the entire order to Vendor and may charge a 10% late purchase order fee or a flat fee of \$500.00, as per the SVA.

h. Loose or single diamond stone merchandise GDM will not be required to be in a tamper-proof bag.

2. Non-Lab Graded.

a. Vendor, at its sole cost, shall send all non-lab graded diamond merchandise that is not tested as described above (“NGDM”) to the Grading Service prior to delivery of the NGDM to FMJ.

b. The Grading Service shall, at Vendor’s sole cost, test the NGDM to determine if it is earth mined.

c. The Grading Service shall place all NGDM that passes all relevant tests in a tamper-proof bag and return the NGDM to Vendor.

d. The Grading Service shall provide a written notice to Vendor of any NGDM that does not pass earth mined testing.

e. Any NGDM that fails testing shall not be accepted by FMJ and shall be returned to Vendor by the Grading Service.

f. All NGDM that does pass testing and therefore is in a tamper-proof bag shall be delivered to FMJ in the same tamper-proof bag. FMJ shall not accept and shall reject any NGDM that is not in a tamper-proof bag or in a tamper-proof bag that has been tampered with. In addition to being rejected, any NGDM that is not in a tamper-proof bag or in a tamper-proof bag that has been tampered with will be subject to a noncompliance fee of 10% of the total cost of the items that are noncompliant or a flat fee of \$500.00.

3. Direct Ship to Store. Sections 1 and 2 of this Amendment apply to delivery of GDM and NGDM by Vendor to FMJ’s distribution center and to individual FMJ stores. If Vendor fails to comply with Sections 1 and 2 of this Amendment when shipping directly to an individual FMJ store, Vendor shall be subject to a noncompliance fee of \$5,000.00 per item shipped to the FMJ store in addition to other fees as described in this Amendment. FMJ shall notify Vendor of any noncompliance fees and reserves the right to offset the fees against any monies owed Vendor by FMJ. Vendor agrees that the noncompliance fees are reasonable liquidated damages and do not constitute a penalty.

4. Invoices. All future invoicing or memo from Vendor that includes GDM or NGDM shall include the following Warranty Statement:

Invoices: “Vendor hereby warrants that the diamonds invoiced are exclusively earth mined and untreated based on personal knowledge and/or written guaranties provided by the supplier of the diamonds.”

Memo: “Vendor hereby warrants that the diamonds herein on memo or consignment are exclusively earth mined and untreated based on personal knowledge and/or written guaranties provided by the supplier of the diamonds.”

5. Vendor Testing Protocol. If requested by FMJ, Vendor shall provide to FMJ Vendor’s diamond testing protocol or procedures including, without limitation, a description of Vendor’s diamond testing equipment and evidence of Vendor’s industry certifications (i.e. Responsible Jewelry Council or ISO). FMJ shall keep confidential any information provided by Vendor in this Section

5. FMJ expects Vendor to comply with the DeBeers Standard Guidance – Undisclosed Synthetic Diamonds (2016) and any revisions or updates thereto as well as any related documents.

6. Miscellaneous. The parties intend that the SVA be modified to effectuate the intent of this Amendment. Except as provided herein, all other terms and conditions of the SVA shall remain in full force and effect. This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment. Electronic or facsimile signatures shall be accepted as originals.

VENDOR:

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

FMJ:

**FRED MEYER JEWELERS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_