

TRUST DEED

for

THE MOROKOTSO TRUST

made and entered into between

IMPALA PLATINUM HOLDINGS LIMITED

(Registration Number 1957/001979/06)

(in its capacity as Founder)

and

MICHAEL TEKE

(Identity Number 640815 5713 083)

(in his capacity as the initial Trustee)

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ANNEXES

Annex 1 Instruction to Sell

1. INTERPRETATION

1.1 The following expressions shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and cognate expressions shall bear corresponding meanings:

"Act"	Companies Act No. 61 of 1973, as amended;
"Approval Period"	the period of ten Business Days prior to the Approval Date;
"Approval Date"	the date on which the Scheme is approved by the shareholders of the Company as envisaged in clause 7.1, being 04 July 2006;
"Auditors"	the auditors for the time being of the Trust;
"Beneficiaries"	the beneficiaries for the time being of the Trust as set out in clause 8;
"Board"	board of directors of the Company;
"Business Day"	means a day on which the JSE is open for the transaction of business;
"Capital Contribution"	the capital contribution made by a Capital Contributor to the Trust in terms of the Capital Contribution Agreement;
"Capital Contribution Agreement"	the agreement to be concluded between the Trust, the Capital Contributors and the Company, as contemplated in terms of clause 5;

"Capital Contributor"	an entity which is a member of the Group (i) whose Employees are Participants in the Scheme (ii) which has made, or has undertaken to make, a Capital Contribution in terms of the Capital Contribution Agreement;
"Closed Periods"	means any of the following periods namely (i) the periods commencing on the day following the date of the Company's financial year end and ending on the date of the announcement of the Company's results for the financial year in question; and (ii) the periods commencing on the day following the date of the Company's interim (half year) end and ending on the date of the announcement of the Company's interim results for the 6 month period in question;
"Company"	Impala Platinum Holdings Limited, registration number 1957/001979/06, a public company registered and incorporated in accordance with the laws of the Republic of South Africa;

Charter"	the Broad Based Socio-Economic Empowerment Charter for the South African Mining Industry published under General Notice Number 1639 of 2004 in Government Gazette Number 26661 of 13 August 2004;
"Deed"	this trust deed including all and any annexures, schedules or attachments to it, as may be amended from time to time;
"Employee"	means any Patterson grade A, B or C employee of a member of the Group, who is either so employed on the Implementation Date or who becomes so employed at any time on or before 3 July 2008;
"Extraordinary Distribution"	means any distribution (whether by way of dividend, distribution in terms of section 90 of the Act, repurchase of shares or any other means) made by the Company to its shareholders that falls outside the dividend cover policy approved by the Board of the Company, as amended from time to time, and which dividend cover policy is 1.8 to 2.2 times headline earnings (as calculated in accordance with the South African Standards of Generally Accepted Accounting Practice and International Financial Reporting Standards) as at the Signature Date (excluding the financial effects of accounting for this Transaction in accordance with South African Statements of Generally Accepted

Accounting Practice and International Financial Reporting Standards);

- "Founder" the Company, in its capacity as the founder of the Trust;
- "Group" means the Company, Impala and Marula;
- "HDSA " any person, category of persons or community, disadvantaged by unfair discrimination before the Constitution of South Africa, 1993 (Act 200 Of 1993) came into operation, as set out in the Charter;
- "Impala" means Impala Platinum Limited registration number 1952/071942/06, a company incorporated in accordance with the laws of the Republic of South Africa;

"Implementation Date"	the day on which the Trust subscribes for the Shares in terms of clause 6, being 4 July 2006;
"Incapacity"	means a state of incapacity, whether due to illness, disability or infirmity, as determined by the Group employer of the Participant concerned, in accordance with the Group's policies and procedures;
"Initial Employees"	means those Employees who were employed by the Group on the Implementation Date;
"Initial Vesting Date"	the fifth anniversary of the Implementation Date;
"JSE"	the JSE Limited (Registration No. 2005/022939/06), a public company duly incorporated according to the company laws of South Africa;
"Marula"	means Marula Platinum (Proprietary) Limited, registration number 1990/004775/07, a company incorporated in accordance with the laws of the Republic of South Africa;
"Participant"	an Employee who is participating in the Scheme in terms of this Deed;
"Principal Objects"	the Principal Objects of the Trust as detailed in clause 4.1;

"Repurchase Agreement"	a written agreement to be executed between the Trust and the Company regulating the Company's rights to buy back the Scheme Shares from the Trust as contemplated in clause 32;
"Retirement"	means retirement at the age of 62.5 years, being the normal retirement age of employees of the Group;
"Ruling Market Price"	means either the 5 (five) day volume weighted average price of the Shares as traded on the JSE ending on the date upon which any Scheme Shares are sold in terms of clauses 29.3, 30.2 and/or 31.1 of this Deed to the Company or any of its subsidiaries in terms of the Repurchase Agreement, or should the Company or any of its subsidiaries not so purchase any Scheme Shares, the price which the Trust or its broker is able to realise in terms of clauses 29.3, 30.2 and/or 31.1 via a sale on the JSE;
"Scheme"	the Morokotso Scheme constituted by this Deed;
"Scheme Shares"	Shares held by the Trust in terms of this Deed for the purposes of the Scheme;
"Shares"	ordinary shares in the issued ordinary share capital of the Company;

"Signature Date"	the date on which this Deed is signed by the last Party to sign it being 22 May 2006;
"Subsequent Employees"	means those Employees who were employed by the Group after the Implementation Date and on or before 3 July 2008;
"Termination Date"	the date of the termination of the Scheme as defined in clause 30;
"the Trust"	The Morokotso Trust constituted in terms of this Deed;
"Trustee"	a person appointed as a Trustee of the Trust, for the time being, in accordance with clause 14;
"Trust Bank Account"	the bank account to be opened by the Trustees in the name of the Trust as referred to in clause 13;
"Trust Expenses"	expenses, fees, taxes, duties and other costs of the Trust properly incurred in carrying out its Principal Objects;
"Trust Fund"	all the assets acquired and the liabilities incurred by the Trustees in their capacity as such which are administered by the Trustees as a separate fund;

"Trust Income" any monies received by the Trust; and

"Vesting Date" the Initial Vesting Date or the Termination Date, as the case may be.

1.2 In this Deed words importing the masculine gender shall include the feminine and neuter genders and *vice versa*; and words in the singular shall include the plural and *vice versa*.

1.3 If any definition imposes substantive rights and obligations on a party to this Deed, such rights and obligations shall be given effect to and shall be enforceable notwithstanding the fact that they are contained in a definition.

1.4 Where any number of days is prescribed in this Deed, those days shall be reckoned exclusively of the first and inclusively of the last, unless the last day falls on a Saturday, Sunday or public holiday in the Republic of South Africa in which event the last day shall be the preceding day which is not a Saturday, Sunday or public holiday in the Republic of South Africa.

1.5 Expressions in this Deed shall bear the same meaning in schedules or annexes to this Deed which do not themselves contain their own definitions.

1.6 The expiry or termination of this Deed shall not affect such of the provisions of this Deed which are expressly provided to operate after such expiry or termination, or which of necessity must continue to have effect after such expiry or termination, notwithstanding that the relevant clauses themselves do not provide for this.

1.7 The headings in this Deed are for convenience only and are to be ignored in construing this Deed.

- 1.8 A reference in this Deed to any person shall be a reference to such person's permitted successor, transferee, cessionary, and/or delegatee.

2. INTRODUCTION

- 2.1 The Founder is a company registered in the Republic of South Africa and is listed on the JSE.

- 2.2 The Founder wishes to establish the Scheme to empower the Employees by providing the Employees with an opportunity to participate in the capital appreciation of the Shares of the Company through a trust.

- 2.3 The Founder wishes to establish the Trust (through which it will operate the Scheme) for the purposes of achieving the Principal Objects.

3. NAME AND CONSTITUTION

- 3.1 There is hereby constituted The Morokotso Trust which shall be a body corporate capable in its own right and name of suing and being sued.

- 3.2 The Founder hereby establishes the Trust by donating R100 (One Hundred Rand) to the Trustees in their capacity as such. Such donation is irrevocable.

4. OBJECTS OF THE TRUST

- 4.1 The Principal Objects of the Trust are to:

- 4.1.1 accept the donation referred to in clause 3.2;

- 4.1.2 enter into the Capital Contribution Agreement and to exercise its rights and obligations thereunder;

- 4.1.3 subscribe for, hold and transfer the Shares in accordance with the terms and conditions of this Deed; and

4.1.4 enter into any agreements with such persons, and upon such terms and subject to such conditions, as may be approved by the Founder in writing, and to do all such things as may be necessary and incidental so as to give effect to the Principal Objects in this clause 4.1.

4.2 In order to fulfil the Principal Objects, the Trust shall have the powers (including, without limitation, any ancillary and plenary powers), capacity and ability reasonably required to fulfil the Principal Objects only, including without limitation the powers, capacity and ability to comply with the provisions of, and to exercise and enforce its rights and fulfil its obligations in terms of, any agreements or documents required to be entered into in order to acquire and hold the Shares, but shall have no other power, capacity and/or authority.

5. CAPITAL CONTRIBUTION

5.1 The Trust and the Capital Contributors shall enter into an agreement in terms of which the Capital Contributors will make Capital Contributions to the Trust in an aggregate amount equal to the number of Shares referred to in clause 6 multiplied by the volume weighted average price of Shares traded on the JSE during the Approval Period. The Capital Contributors will contribute proportionately to the number of Initial Employees which each employs.

5.2 The Capital Contributions shall be used by the Trust to subscribe for Shares to be acquired by the Trust for the purposes of the Scheme, and to meet any other costs incurred by the Trust in the said subscription.

5.3 The Trustees shall maintain a capital account in the books of the Trust recording the amount of the Capital Contributions made by each Capital Contributor to the Trust and the capital, if any, returned by the Trust to each Capital Contributor.

- 5.4 Amounts held to the credit of the Capital Contributors:
- 5.4.1 may not be withdrawn by or be repaid to the Capital Contributors other than in terms of this Deed and the Capital Contribution Agreement; and
- 5.4.2 shall not bear interest even if contributed in cash.
- 5.5 The Capital Contribution shall constitute the Capital Contributors as income Beneficiaries entitled to share in the income of the Trust in the manner set out in clause 8.4. The payment of income to the Capital Contributors (other than Extraordinary Distributions) shall not constitute a repayment of the Capital Contributions.

6. ACQUISITION OF SCHEME SHARES

- 6.1 The Trustees shall use their best endeavours to, within a period of 5 (five) Business Days from, and including, the Approval Date, subscribe for 2 054 072 (two million fifty four thousand and seventy two) Shares of the Company constituting approximately 3% (three percent) of the issued share capital of the Company as at the Signature Date.
- 6.2 The Trustees and the Founder record that pursuant to the subdivision of the share capital of the Company in November 2006 (share split), the Shares referred to in clause 6.1 were subdivided into 16 432 576 Shares in the capital of the Company and Scheme Shares were allotted at a price of R159.175 per Scheme Share..

7. IMPLEMENTATION OF, AND PARTICIPATION IN THE SCHEME

- 7.1 The implementation of the Scheme and the rights and obligations of the Capital Contributors, the Trustees and the Beneficiaries shall be subject to the approval of the Scheme by the shareholders of the Company and registration of the relevant special resolutions.

7.2 Each Capital Contributor shall inform its Employees of the establishment of the Scheme and their participation therein.

8. **BENEFICIARIES**

8.1 Subject to clause 8.2, the Participants shall be entitled to benefit from the income of the Trust (subject to clause 8.4) and on or after each Vesting Date from the capital of the Trust (subject to clauses 29, 30 and 31) in the following proportions:

8.1.1 Each of the Initial Employees are notionally allocated and will each receive an amount (income or capital) attributable to 568 (five hundred and sixty eight) Scheme Shares;

8.1.2 the Subsequent Employees will each receive an amount (income or capital) attributable to the number of Scheme Shares which are notionally allocated to them in terms of clause 8.2;

8.2 As of each anniversary of the Implementation Date all Scheme Shares which are notionally allocated to Participants whose rights under the Scheme have been forfeited in terms of clauses 31.2 and 31.3., together with any Scheme Shares acquired by the Trust in terms of clause 9.3.1.2. ("Allocable Shares"), shall be notionally allocated by the Trustees equally to Subsequent Employees until the Scheme Shares which are notionally allocated to each of the Subsequent Employees reaches 568. Thereafter all Allocable Shares will be notionally allocated by the Trustees equally to all Participants so that the Participants will benefit in equal proportions from the income of the Trust (subject to clause 8.4) and on or after each Vesting Date, from the capital of the Trust (subject to clauses 29, 30 and 31). In notionally allocating Scheme Shares to Participants in terms hereof, the Trustees will be entitled to allocate fractions of Scheme Shares to Participants.

8.3 The Capital Contributors shall be entitled to benefit from the income of the Trust in the manner set out hereunder.

8.4 The income of the Trust, which may be in the form of dividends received on Scheme Shares, interest earned on investments or otherwise, shall be applied by the Trustees in the following order of priority:

8.4.1 firstly any interest earned by the Trust on investments shall be used in settlement of and/or provision for the Trust Expenses and liabilities; thereafter

8.4.2 in the event that the interest referred to in clause 8.4.1 is not sufficient to cover the Trust Expenses, the Trust may utilise the dividends earned on Scheme Shares to meet the Trust Expenses and liabilities as set out in 8.4.1; thereafter

8.4.3 subject to clause 8.4.2 and 8.5, the dividends shall be distributed to the income Beneficiaries in the following proportions:

8.4.3.1 100% (one hundred percent) to the Capital Contributors proportionately to their Capital Contributions, provided that if the Capital Contributions have been repaid in full then the Capital Contributors shall cease to constitute income Beneficiaries and shall not be entitled to receive any further income distributions from the Trust; and

8.4.3.2 the balance to the Participants in the proportions referred to in clauses 8.1 and 8.2, as applicable;

provided that the Trustees shall be entitled to retain in the Trust Bank Account an amount agreed with the Company to cover the ongoing operating expenses of the Trust from time to time.

- 8.5 If the Company makes an Extraordinary Distribution, then such Extraordinary Distribution shall be utilised to repay the Capital Contributions, in whole or in part, proportionately to the various Capital Contributions. If the amount of the Extraordinary Distribution exceeds the amount of the Capital Contributions then outstanding, then the balance of the Extraordinary Distribution shall be distributed to the Participants in the proportions referred to in clauses 8.1 and 8.2, as applicable.
- 8.6 The proportion in which each of the Beneficiaries will share in the economic interests of the Trust shall be as set out in this Deed.
- 8.7 The Trust shall maintain at its offices an updated register of all current Beneficiaries and such register shall be accessible to any Beneficiary or verification agency upon reasonable request and shall be open to inspection by Beneficiaries at such office during office hours.

9. **RIGHTS ATTACHING TO SCHEME SHARES**

Voting

- 9.1 The Trustees shall have the right and power to exercise any voting rights or to abstain from exercising any voting rights, as the case may be, attaching to the Scheme Shares in such manner as the Trustees determine, in their discretion to be in the best interests of the Beneficiaries.

Transfer of Shares

- 9.2 It shall not be competent for the Scheme Shares or any rights therein or thereto to be sold, pledged, disposed of, transferred or otherwise alienated or encumbered, save for disposal on or after a Vesting Date as contemplated in terms of clauses 29 and 30 or on termination of employment in terms of clause 31.1.

Ranking

- 9.3 Scheme Shares shall:
- 9.3.1 rank *pari passu* with the other issued Shares for participation in all rights offers of securities by the Company ("rights securities"), but shall be governed by the following provisions:
- 9.3.1.1 all letters of allocation in respect of rights securities shall be delivered to and retained by the Trust. The Capital Contributors, at their entire discretion, may decide whether they wish to make further Capital Contributions to assist the Trust to subscribe for such number of rights securities that the Trust is entitled to;
- 9.3.1.2 if the Capital Contributors resolve to make further Capital Contributions, such further Capital Contributions will be made in the same proportions referred to in clause 5.1 and the Trust shall subscribe for those rights securities. The rights securities shall then be allotted and issued by the Company to the Trust and shall become Scheme Shares;
- 9.3.1.3 if the Capital Contributors do not make any further Capital Contributions to enable the Trust to subscribe for the rights securities, the Trust shall dispose of its rights securities and the proceeds of such sale shall be distributed by the Trust in the order of priority set out in clause 8.4;
- 9.3.2 in the event that the Trust is offered an election to receive a distribution of either cash or capitalisation shares, then the Trust shall always accept cash in lieu of such capitalisation shares, unless the Founder agrees otherwise in writing. Any capitalisation shares that are obtained by the Trust shall constitute Scheme Shares;

9.3.3 in all other respects rank *pari passu* with the existing issued Shares.

10. POSSESSION AND OWNERSHIP OF THE TRUST FUND

Subject always to the provisions of clause 12;

10.1 all assets acquired and all liabilities incurred by the Trustees in their capacity as such shall vest in the Trustees in their capacity as such, and shall be administered by the Trustees as a separate fund, namely the Trust Fund;

10.2 the assets of the Trust shall be registered in the names of the Trustees for the time being, in their capacity as such, or in the name of the Trust;

10.3 the Trustees shall take into their possession and retain in their care and custody, or that of their agents, all and any instruments of title and other documents relating to or in respect of the Trust and its activities and the Trust Fund and/or the Trust Income;

10.4 the assets of the Trust and the Trust Income shall be owned by the Trustees, in their capacity as such, and the Beneficiaries shall have no rights to such assets and Trust Income, save as Beneficiaries of the Trust and in the manner set out in this Deed.

11. ADMINISTRATION

11.1 The Company will be entitled, subject to the provisions of this Scheme, to make and establish such rules and regulations, and to amend the same from time to time, as it may deem necessary or expedient for the proper implementation and administration of this Scheme.

11.2 The Company:

11.2.1 will provide all secretarial, accounting, administrative, legal and financial advice and services, office accommodation, stationery and so forth for the purposes of the Scheme;

11.2.2 will be entitled to recover from the Trust all the abovementioned costs in the event that the Trust is able to pay these costs from the resources available to the Trust as envisaged in clause 8.4.1.

12. RESTRICTED MATTERS

12.1 Notwithstanding anything to the contrary contained in this Deed, the Trustees may not acquire any assets or contributions in the name of the Trust, save for:

12.1.1 the R100 (One Hundred Rand) donated by the Founder in terms of clause 3.2;

12.1.2 Capital Contributions;

12.1.3 the Shares;

12.1.4 any distributions/assets derived from the Shares; and

12.1.5 interest earned on cash held from time to time.

13. BANK ACCOUNT

The Trustees shall procure that a Trust Bank Account is opened at such bank as the Trustees may decide, subject to the consent of the Founder, and that all Trust Income received by and all monies paid to the Trust are paid into such Trust Bank Account. The Trustees shall operate the Trust Bank Account in accordance with this Deed.

14. TRUSTEES

14.1 **number**

Save as set out otherwise in clause 14.2.1 and subject to clause 14.3.6, there shall always be nine Trustees in office.

14.2 **appointment of Trustees**

14.2.1 With effect from the Signature Date until the appointment of additional Trustees in terms of this clause 14, the only Trustee shall be the initial Trustee referred to below. The initial Trustee will be Michael Teke (identity number 640815 5713 083), who indicates his acceptance of his appointment as a Trustee by way of his signature of this Deed.

14.2.2 The initial Trustee shall be regarded as a Trustee appointed by the Company and may only be removed from office and be replaced by the Company. The initial Trustee may not be a Participant.

14.2.3 The initial Trustee shall solicit nominations for 8 (eight) additional Trustees to be taken from the following categories:

14.2.3.1 three of the Trustees shall be independent persons, suitably qualified to participate in the financial management of the Trust. Furthermore such independent persons must not be Participants or advisors to, or employees of the Group;

14.2.3.2 two of the Trustees shall be employees of the Group at the Group's Rustenburg operations;

14.2.3.3 one of the Trustees shall be an employee of the Group at the Group's Springs operations;

14.2.3.4 one of the Trustees shall be an employee of the Group at the Group's Marula operations;

14.2.3.5 one of the Trustees shall be any person who is nominated by the trade union of which the most of the Participants are members, from time to time ("majority union"), provided that such person is not a Participant.

14.3 **appointment of successors**

14.3.1 If a Trustee resigns, or is disqualified or vacates or is removed from office in terms of clauses 14.6, 14.7 or 14.8, another Trustee shall be appointed in accordance with the provisions of and on the terms and conditions prescribed in clauses 14.3.2, 14.3.3 and 14.3.4 below, as applicable.

14.3.2 If the Trustee ceasing to hold office was the initial Trustee referred to in clause 14.2.1, or any successor to such Trustee appointed by the Company, then the Company shall nominate and appoint by written notice to the remaining Trustees a replacement Trustee who shall be an employee of the Group but who is not a Participant. The Company shall be entitled to remove and replace any Trustee nominated by it at any time on written notice to the Trust.

14.3.3 If the Trustee ceasing to hold office was an independent Trustee referred to in clause 14.2.3.1, or any successor to such Trustee appointed in terms of this clause 14.3.3, the remaining Trustees, by majority vote, shall nominate the replacement Trustee and provided that he is suitably qualified and is not a Participant as per clause 14.2.3.1 and his identity is reasonably acceptable to the Company, such person will be appointed in the place of the Trustee ceasing to hold office. If the identity of the nominated replacement Trustee is not so acceptable, the remaining Trustees, by majority vote, shall make further nominations until the requisite acceptance is obtained.

- 14.3.4 If the Trustee ceasing to hold office was a Trustee appointed in terms of clauses 14.2.3.2, 14.2.3.3, 14.2.3.4 or 14.2.3.5, or any successor to such Trustee appointed in terms of this clause 14.3.4, the Group's Rustenburg, Springs or Marula operations, or the majority union, as applicable, which nominated the Trustee in question, shall nominate the replacement Trustee and provided that (i) (other than in the case of the majority union's nomination who must not be a Participant) such nominee must be an employee of the Group at the applicable operations; and (ii) (in the case of all nominations) his identity must be acceptable to at least 75% of the remaining Trustees, such person will be appointed in place of the Trustee ceasing to hold office. If the identity of the nominated replacement Trustee is not so acceptable, the applicable Group's operations or majority union shall make further nominations until the requisite acceptance is obtained.
- 14.3.5 The Trustees shall not have the power of assumption.
- 14.3.6 During any period that the number of Trustees is less than 9 (nine), all the rights, powers and discretions of Trustees shall continue unabated, provided that the number of Trustees does not drop below 5 (five). If the number of Trustees drops below 5 (five), the rights, powers and discretions of Trustees (except those powers which may be required by the Trustees, to appoint Trustees), shall be suspended until at least 5 (five) Trustees are appointed to office.
- 14.3.7 Each successor appointed in terms of clauses 14.3.2, 14.3.3 and 14.3.4 as a Trustee shall, upon his written acceptance of appointment, be vested with and bound by all the powers and duties of a Trustee appointed in terms of this Deed.
- 14.3.8 A Trustee shall not be entitled to appoint another Trustee as a successor Trustee to him, or as a person to fulfil his duties and exercise his powers as Trustee on his behalf.

14.4 **security**

None of the Trustees from time to time holding office shall be required to furnish either individually or collectively to the Master of the High Court or to any other Government official, security for the administration of the Trust hereby created, and the need for furnishing any such security is hereby dispensed with whether otherwise required under the Trust Property Control Act 1988 or any other law for the time being in force.

14.5 **exercise of powers by Trustee**

A Trustee shall at all times comply with and observe the provisions of this Deed when exercising his powers as Trustee.

14.6 **disqualification**

14.6.1 A person shall be disqualified from being a Trustee if:

14.6.1.1 such person being a natural person, has been placed under sequestration, whether provisional or final, or has committed an act of insolvency as defined in the Insolvency Act, 1936 as amended, or dies;

14.6.1.2 such person being a natural person, becomes insane or incapable of managing his affairs or is declared a prodigal;

14.6.1.3 such person commits an offence involving dishonesty under the laws of any country;

14.6.1.4 such person is removed from office by a Court or the Master of the High Court in terms of section 20 of the Trust Property Control Act, 1988; or

14.6.1.5 the remaining Trustees remove such person from office by vote in terms of clause 22.1.3.

14.7 **vacation of office**

14.7.1 A Trustee shall cease to hold office as such:

14.7.1.1 automatically if the Trustee becomes disqualified from being a Trustee in terms of 14.6; or

14.7.1.2 upon expiration of the notice period if the Trustee resigns, provided that the Trustee must give 30 (thirty) days' written notice of his resignation to the other Trustees.

14.8 **removal from office**

14.8.1 A Trustee shall cease to hold office if the Trustee in question:

14.8.1.1 being the Trustee who is appointed by the Company, is given not less than 30 (thirty) days notice in writing from the Company of his removal from office;

14.8.1.2 being a Trustee who is appointed by the Group's Rustenburg, Springs or Marula operations, is given not less than 30 (thirty) days notice in writing from the applicable operations who appointed him, of his removal from office; or

14.8.1.3 being a Trustee who is appointed by the majority union, is given 30 (thirty) days notice in writing from the majority union of his removal from office.

14.8.2 A Trustee shall have no claim against the Trust arising out of or in connection with his removal as Trustee, whether in terms of this clause 14.8, clause 14.7 or any other provisions of this Deed.

14.9 **accounts**

The Trustees shall within 9 (nine) months after the end of each financial year of the Trust consider and approve the accounts for the previous financial year.

15. POWERS AND DUTIES OF TRUSTEES

15.1 The Trustees shall have plenary powers to enable them to carry out and give effect to the intent, purposes and provisions of the Scheme, which shall include all the powers set out in Schedule 2 of the Act, and, without derogating from the generality of the foregoing, the power:

15.1.1 to borrow moneys, with or without security, for the purpose of giving effect to this Scheme;

15.1.2 to open and operate banking accounts, savings accounts or other accounts appropriate to the business of the Trust;

15.1.3 to invest any funds or surplus moneys of the Trust in Shares of the Company, or in such other manner as they may from time to time agree, subject to the provisions of the Scheme;

15.1.4 to employ and act on the advice of, and pay out of the funds of the Trust the reasonable fees and disbursements of the Company, auditors, attorneys, counsel and other professional consultants in connection with the affairs of the Trust;

- 15.1.5 to exercise such further rights, powers and authorities as may from time to time be conferred upon them by resolution of the Board;
- 15.1.6 to delegate any of their powers and functions to any one or more of their number;
- 15.2 The duties of the Trustees on behalf of the Trust shall be:
 - 15.2.1 to purchase, sell and transfer the Shares in accordance with the provisions of the Scheme;
 - 15.2.2 to administer the Scheme in order to achieve and maintain the objectives of the Scheme, with the assistance of the Company as envisaged in clause 11; and
 - 15.2.3 to carry out such other duties as may be consistent with their offices as Trustees.

16. **EXERCISE OF TRUSTEES' POWER**

- 16.1 The Trustees shall have no powers, express or implied, in respect of the Trust, the Trust Fund, the Trust Income or the Trust Expenses other than those set out in clauses 4.2 and 15.
- 16.2 The Trustees shall obtain the prior written approval of the Founder prior to undertaking any course of action in respect of the following:
 - 16.2.1 the amendment, cancellation, or waiver of any of the Trust's rights and/or obligations under any agreement, contract or undertaking to which the Trust is or becomes a party;
 - 16.2.2 instituting or defending any legal proceedings in the name of the Trust;

- 16.2.3 entering into any agreements, contracts or relationships or incurring any obligations for the Trust, including those contemplated in this Deed.
- 16.3 The Trustees shall have the powers to grant pre-emptive rights to the Company in respect to the Scheme Shares.
- 16.4 The Trustees shall at all times comply with this Deed and all laws affecting the administration of the Trust, and all activities carried on by the Trust.

17. ACTS VALID DESPITE DEFECT IN APPOINTMENT

All acts performed by the Trustees in good faith shall be valid regardless of any defect in any or all of their appointments, provided the Trustees have received the requisite letters of authority issued by the Master of the High Court appointing them as Trustees.

18. SCHEME AS A BROAD BASED SHARE OWNERSHIP SCHEME

- 18.1 In excess of 90% (ninety percent) of the total number of the Participants will be HDSA persons.
- 18.2 The Scheme shall be operated as a broad based share ownership scheme governed by the principles set out in this Deed as read with the Codes of Good Practice published in terms of the Broad Based Black Economic Empowerment Act, 2003 (the "Codes"), and the Charter. In the event of a conflict between the Codes and the Charter, the provisions of the Charter shall prevail.
- 18.3 The Trust's postal and physical address to which all communications and notices may be addressed shall be Private Bag X18 Northlands 2116, and c/o Impala Platinum Holdings Limited, No 2 Fricker Road Illovo 2196. The foregoing addresses may be changed with the consent of the

Founder. Any such change in the said addresses shall be communicated in writing to the Beneficiaries or shall be otherwise advertised in such venues as may be accessible by the majority of the Beneficiaries.

19. CONTRACTING WITH THE TRUST

19.1 The Trustees shall be disqualified from entering into contracts with the Trust or having an interest in a contract with the Trust or retaining any profit from such contract.

19.2 If the Trustees have an interest in a contract with the Trust, they shall not be entitled to decide any matter pertaining to such contract. In such situation, the Founder shall take any decision in respect of the relevant contract.

20. EXEMPTION FROM LIABILITY

20.1 Provided that the loss or claim does not arise from the wilful default in the performance of their duties or the exercise of their rights and powers under this Deed, the Trustees shall not be personally liable for any loss or damage suffered by the Trust, whatever the cause, and the Founder hereby indemnifies the Trustees against all and any such claims.

20.2 A Trustee shall not be liable for any act or dishonesty or other misconduct committed by any other Trustee unless he knowingly allowed it or was an accessory thereto.

21. REMUNERATION

21.1 The Founder or any Capital Contributor which agrees to same, shall pay the Trustees such remuneration as may be agreed from time to time between it and the Trustees: Provided that if any such remuneration is

paid out of dividends or interest payable to the Scheme then such must be market related, reasonable and disclosed to all the Beneficiaries.

- 21.2 The Trustees' remuneration (if any) shall be payable to them quarterly.
- 21.3 The Trustees are entitled to reimbursement for all Trust Expenses properly incurred by them in administering this Trust, including costs of litigation instituted or defended.

22. MEETINGS OF TRUSTEES

- 22.1 The Trustees in the performance of their duties in office shall:
- 22.1.1 meet together for dispatch of business, adjourn and otherwise regulate their meetings and the manner of convening the same as they think fit; provided that at least two meetings are held each year;
- 22.1.2 determine all questions arising at any meeting by a majority vote of all the Trustees present at such meeting;
- 22.1.3 be entitled by a 75% majority vote of all the Trustees present at such meeting, to remove any Trustee from office as such. Any Trustee who is the subject matter of such vote, shall recuse himself from the meeting and shall not be entitled to vote.
- 22.2 Provided that the additional Trustees have been appointed in terms of clause 14.2.3, a quorum for any meeting of Trustees shall be 5 (five); provided that, if a number of Trustees drops below 5 (five) as envisaged in clause 14.3.6, then a quorum for the appointment of new Trustees shall be all the Trustees then in office. . The Trustees shall not proceed to the despatch of any business unless there is a quorum present.

- 22.3 A Trustee may at any time summon a meeting of Trustees on not less than 14 (fourteen) days notice to the remaining Trustees, or on such shorter notice as may be agreed by all the Trustees.
- 22.4 A resolution in writing signed by all the Trustees shall be as valid and effective as if it had been passed at a meeting of the Trustees duly called and constituted.
- 22.5 All decisions at the meetings of the Trustees, shall be taken on a show of hands.

23. MINUTE BOOK AND MEETINGS OF BENEFICIARIES

- 23.1 The Trustees shall keep a minute book of all the minutes and resolutions passed by them, full details of which shall be recorded in writing and kept in such minute book, within one month after the date on which the meeting was held. Such minute books shall be open to inspection by any Beneficiary at the office of the Trust during office hours.
- 23.2 General meetings of the Beneficiaries must be held from time to time to approve any proposed amendment to the Scheme which adversely affects the rights of Beneficiaries or to approve the winding-up of the Scheme other than subsequent to the Termination Date.
- 23.3 The Trustees shall convene a meeting of Beneficiaries on 21 (twenty one) days prior written notice to Beneficiaries, to consider and approve any amendments or the winding-up of the Scheme in terms of clause 23.2
- 23.4 The Trustees shall ensure that in respect of any general meeting convened in terms of clause 23.3 the Beneficiaries will receive notice of any resolution which may properly be moved and is intended to be moved at that meeting, provided that the Trustees shall in any event apply all reasonable endeavours in ensuring that every Beneficiary is

notified of the meeting and of any resolutions to be considered in good time.

- 23.5 Any Beneficiary entitled to attend and vote at a meeting of Beneficiaries shall be entitled to appoint another Beneficiary as his/her proxy to attend, speak, and vote in his/her stead at any meeting of Beneficiaries, provided that such appointment is in writing and presented by the proxy at the meeting. In this regard, in every notice calling a meeting of Beneficiaries there shall appear with reasonable prominence a statement that a Beneficiary entitled to attend and vote at the meeting is entitled to appoint a proxy.
- 23.6 The quorum for a general meeting of the Beneficiaries shall be such number of Beneficiaries as may hold at least 10% (ten percent) of the total number of votes to which all Beneficiaries of the Scheme are entitled, present in person or represented by proxy. If, within 30 (thirty) minutes after the time appointed for any meeting of Beneficiaries a quorum is not present, the meeting shall stand adjourned to a date to be determined by the Trustees (which date shall not be earlier than 5 (five) Business Days and not later than 15 (fifteen) Business Days after the date of the meeting being adjourned), at the same time and place (or if such place is not available at such other place as the Trustees may appoint). If at such adjourned meeting a quorum is not present within 30 (thirty) minutes after the time appointed for the meeting, the Beneficiaries present in person or by proxy shall be a quorum and may conduct the business for which the meeting was called.
- 23.7 General meetings of the Beneficiaries shall be chaired by one of the Trustees.
- 23.8 Decisions at any meeting of the Beneficiaries shall be taken by way of a majority vote of Beneficiaries present in person or represented by proxy at the meeting.

- 23.9 Every Beneficiary shall have a right to exercise one vote at meetings of the Scheme. The exercise of votes shall be either by way of show of hands, or upon request of Beneficiaries holding at least 10% (ten percent) of the votes of the Beneficiaries present in person or represented by proxy at a meeting, by ballot.

24. **BOOKS OF ACCOUNT**

- 24.1 The Trustees shall keep true and correct records and books of account in respect of their administration of the Trust and of any receipts, costs and expenditure of and in respect of the Trust Income, in such manner and such form as is necessary so that such records and books shall at all times accurately reflect the financial position of the Trust. Such books and records shall record, amongst others, any changes in the Trust Income from time to time.
- 24.2 The records and books of account shall be kept in compliance with International Financial Reporting Standards and shall be open to inspection by Beneficiaries at the Trust's office during office hours.
- 24.3 The Trustees shall procure that the Auditors shall audit the Trust once every year in respect of each financial year of the Trust.
- 24.4 The Trustees shall prepare Annual Financial Statements in respect of the Trust, reflecting the affairs and operations of the Trust for the year ending 30 June, and the Trust's assets and liabilities as at the last day of June.
- 24.5 The Trustees shall not be obliged to file any liquidation, distribution or administrative accounts with any officer, official or person, except to the extent that they are legally obliged so to do.

24.6 Each financial year of the Trust shall end on the last day of June each year.

25. **INSPECTION**

25.1 The Trustees shall, on receipt of reasonable written notice, permit the Beneficiaries to inspect the books and records (including the minute book maintained under clause 23) and the books of account and records maintained under clause 24, of the Trust.

25.2 This Deed and other relevant documents of the Scheme will be available, on receipt of reasonable written notice, to any Beneficiary in an official language with which that Beneficiary is conversant, and to the extent necessary with its content summarised in a user-friendly manner taking into account levels of literacy or numeracy.

26. **TRUST INCOME AND OTHER MONIES**

26.1 The Trustees shall apply all and any Trust Income which the Trust receives in that order of priority set out in clause 8.4.

26.2 The Trust shall maintain at its official office a register of all investments made by the Scheme and such register shall be accessible to any Beneficiary upon reasonable request and shall be open to inspection by the Beneficiaries at the office of the Trust during office hours.

26.3 The register of investments shall contain sufficient detail as to the nature and size of any investments made as well as any information as to the most recent valuation of the investment. Such a valuation must be undertaken at least once in every 12 (twelve) month period.

27. **INFORMATION**

The Trustees shall retain copies of, and shall within 2 (two) days after any reasonable written request therefore, provide copies of all of the documents,

notices and any other written information which they receive, to each of the Founder, the Beneficiaries or their respective duly appointed agents.

28. AMENDMENT

Subject to clause 23.3, the provisions of this Deed (including without limitation provisions relating to the Principal Objects, the appointment of Trustees and the identity of the Beneficiaries) may be amended at any time, provided that such amendment shall have been agreed to in writing by the Trustees and the Founder, and do not conflict with the provisions of the Scheme.

29. INITIAL VESTING

29.1 Each Participant shall be entitled (subject to clause 33) at any time between the Initial Vesting Date and the Termination Date, by notice to the Trustees in terms of clause 29.2, to instruct the Trustees to sell 40% (forty percent) of the number of Scheme Shares which, on the Initial Vesting Date, are notionally allocated to that Participant in terms of clauses 8.1 and 8.2.

29.2 Any instruction in terms of clause 29.1 must be given in writing by the Participant concerned and must be sent by e-mail or fax or delivered by hand to the Trustees or such representative or representatives of the Trustees whose details are communicated to the Participants in writing, as the case may be, and should be in a form substantially similar to the document attached to this Deed marked Annex 1. The Trustees shall be entitled to act on any such e-mail or fax or hand delivered document purporting to originate from a Participant.

29.3 Upon receipt of a written notice given in terms of clauses 29.1 and 29.2 (but subject to clause 33), the Trustees shall sell the applicable Scheme Shares within 30 (thirty) days of the end of the calendar month in which the written instruction is given, at the Ruling Market Price.

- 29.4 The proceeds of the sale referred to in clause 29.3 shall accrue and be paid in the following order of priority:
- 29.4.1 first in settlement of and/or provision for a pro-rata portion of all outstanding Trust Expenses and any liabilities of the Trust as at the Initial Vesting Date; thereafter
- 29.4.2 in repayment of a pro-rata amount of 40% (forty percent) of the Capital Contributions outstanding as at the Initial Vesting Date; and thereafter
- 29.4.3 in payment of the balance remaining to the Participant in question, after deduction and payment of any employee and other taxes attributable thereto.
- 29.5 Should any Participants fail to give the Trustees a written instruction in terms of clauses 29.1 or 29.2 before the Termination Date or before the date of termination of employment with a Group Company as contemplated in clause 31.3.2, then the Participant shall be deemed to have given a written instruction to the Trustees in terms of clauses 29.1 and 29.2 on the day immediately preceding the Termination Date or the day immediately preceding the date of termination of employment (whichever is applicable) and the Trustees shall act and apply the proceeds of the sale in accordance with clauses 29.3 and 29.4, in relation thereto.
- 29.6 All references to "pro-rata" in clauses 29.4.1 and 29.4.2 mean a proportion equal to the Participant's participation in the Scheme in terms of clauses 8.1 and 8.2.

30. DURATION AND TERMINATION

30.1 The Scheme shall endure for a period of 10 (ten) years commencing on the Implementation Date.

30.2 Subject to clause 33, the Trustees shall sell the balance of the Scheme Shares which have not been sold in terms of clauses 29 and 31 within 90 (ninety) days of the Termination Date. The proceeds of such sale shall accrue to the Beneficiaries on (and not before) the dates of sale by the Trustees but shall be paid to the Trustees who shall apply same in the following order of priority:

30.2.1 firstly, in settlement of and/or provision for all outstanding Trust Expenses and any liabilities of the Trust; thereafter

30.2.2 in repayment of the balance of the Capital Contributions; thereafter

30.2.3 in payment of the balance remaining to the Participants in the applicable proportions referred to in clauses 8.1 and 8.2 (after deduction and payment of any employee and other taxes attributable thereto).

whereafter the Trust will be wound up by resolution of the Trustees.

31. TERMINATION OF EMPLOYMENT

31.1 In the event that a Participant's employment with a Group Company is terminated due to death, Retrenchment, Retirement or Incapacity, all benefits accruing to that Participant under the Trust which had not already accrued and been paid to the Participant in terms of clause 29, shall thereupon vest and accrue to the Participant and the Trust shall determine the amount of the benefits to which such Participant is entitled. In making their determination, the Trustees will take the number of Scheme Shares which are notionally allocated to the Participant in terms

of clauses 8.1 and 8.2 (less any Scheme Shares which had already been sold in terms of clause 29.3) as at the end of the month in which cessation of employment occurs, and shall:

- 31.1.1 if the Ruling Market Price is equal to or greater than R170.00, sell such Scheme Shares within 30 (thirty) days from the end of the month in which cessation of employment occurred;
- 31.1.2 if the Ruling Market Price is less than R170.00 but greater than R159.175, sell such Scheme Shares within 6 (six) calendar months from the end of the month in which cessation of employment occurred;
- 31.1.3 if the Ruling Market Price remains less than R159.175 throughout the 6 (six) calendar months from the end of the month in which cessation of employment occurred, not sell such Scheme Shares which shall be notionally allocated in terms of clause 31.2;

The proceeds of such sales referred to in clauses 31.1.1 and 31.1.2 shall be dealt with in accordance with clauses 30.2.1, 30.2.2 and 30.2.3, *mutatis mutandis*, in full and final settlement of all rights of the Participant under the Scheme. All the deductions from such proceeds for the Trust Expenses and the benefits payable to the Capital Contributors shall be proportionate to such Participant's participation in the Scheme.

- 31.2 If the Trust determines, prior to the sale of the Scheme Shares contemplated in 31.1, that no amount will accrue to a Participant after such sale and taking into account the deduction of Trust Expenses and a proportionate amount of outstanding Capital Contributions from the proceeds of such sale, then the Trust shall not sell the affected Scheme Shares but instead the affected Scheme Shares shall be notionally allocated amongst the remaining Participants in accordance with clauses 8.1 and 8.2. In this event the Participant in question shall forfeit all his rights under the Scheme and shall cease to be a Participant on cessation of employment.

- 31.3 A Participant who resigns or is dismissed from his employment with the Group:
- 31.3.1 prior to the Initial Vesting Date, shall forfeit all his rights and entitlements under the Scheme and shall cease to be a Participant. All Scheme Shares which were notionally allocated to that Participant shall be notionally allocated to the remaining Participants in terms of clauses 8.1 and 8.2;
- 31.3.2 between the Initial Vesting Date and the Termination Date, shall forfeit all his rights and entitlements under the Scheme excluding his rights under clause 29. All Scheme Shares (excluding the Scheme Shares referred to in clause 29.1 which were notionally allocated to the Participant on the Initial Vesting Date) shall be notionally allocated to the remaining Participants in terms of clauses 8.1 and 8.2.
- 31.4 The provisions of clause 31.3 shall not apply to a Participant whose dismissal is reversed (and who is reinstated) or declared unlawful by a final order of a competent court or competent arbitration forum. In this event:
- 31.4.1 if the dismissal is reversed and the Participant is reinstated, the Participant shall continue to enjoy all his rights and entitlements as a Participant in the Scheme as if his employment had never ceased;
or
- 31.4.2 if the dismissal is declared unlawful but the Participant is not reinstated, the Participant's employment will be deemed to have terminated in terms of clause 31.1.

32. **RIGHT OF FIRST REFUSAL**

The Company, or any of its subsidiaries, shall have the right of first refusal with regards to the sale of the Scheme Shares contemplated in clauses 29.3, 30.2 and 31.1 and such right may only be exercised in the manner set out in the Repurchase Agreement.

33. **CLOSED PERIODS**

Notwithstanding any provisions to the contrary in this Trust Deed, if the period in which the Trustees are required to sell any Scheme Shares in terms of clauses 29.3, and 30.2 falls within a Closed Period, then (i) Trustees shall not sell any Scheme Shares during that Closed Period; (ii) the applicable sale period shall be extended so as to commence after the end of the Closed Period in question; and (iii) the Ruling Market Price shall be determined accordingly.

34. **APPLICABLE LAW**

This Deed shall be governed by, interpreted and implemented in accordance with the laws of the Republic of South Africa.

35. **DISPUTE RESOLUTION**

35.1 Any dispute relating to any calculation to be made in terms of this Deed shall be referred to the Auditors for the time being of the Trust for determination, acting as experts and not as arbitrators, and their determination shall in the absence of manifest error be final and binding on the Founder, the Trustees and all Beneficiaries.

35.2 Any dispute as to the interpretation or implementation of this Deed (other than as contemplated in clause 35.1) shall be referred to a senior counsel or attorney of not less than 15 (fifteen) years experience for determination, who shall act as an expert and not as an arbitrator, and

whose determination shall, in the absence of manifest error, be final and binding on the Founder, the Trustees and all Beneficiaries.

36. **TRUST PROPERTY CONTROL ACT**

The provisions of the Trust Property Control Act, 1988, shall apply to this Deed.

SIGNED AT _____ on _____ 2009.

AS WITNESSES:

1

2

Initial Trustee

SIGNED AT _____ on _____ 2009.

AS WITNESSES:

1

2

Founder

ANNEX 1

INSTRUCTION TO SELL

TO: [DETAILS AS PER CLAUSE 29.2]

I, the undersigned

[NAME OF PARTICIPANT]

do hereby instruct the Trustees of the Morokotso Trust, to sell 40% (forty percent) of the number of Scheme Shares which are notionally allocated to me in terms of the Morokotso Scheme, pursuant to clause 29 of the Morokotso Scheme.

SIGNATURE OF PARTICIPANT

DATE