

TERMS AND CONDITIONS OF THE BONDS

The Terms and Conditions set out below will be deemed to be incorporated by reference into each Certificate, if any, evidencing any Bonds.

IMPALA PLATINUM HOLDINGS LIMITED

(incorporated in South Africa with limited liability under registration number 1957/001979/06)

(the "**Issuer**")

Issue of ZAR 2,672,000,000 5.00 per cent Senior Unsecured Convertible Registered Bonds due 21 February 2018 convertible into Ordinary Shares of Impala Platinum Holdings Limited

- a.) The issue of ZAR 2,672,000,000 5.00 per cent Senior Unsecured Convertible Registered Bonds due 21 February 2018 (the "**Bonds**") was authorised by a resolution of the board of the Issuer passed on or about 8 February 2013.
- b.) The terms and conditions of the Bonds ("**Terms and Conditions**") are constituted as set out below, as read together with the Trust Deed.
- c.) GMG Trust Company (SA) Proprietary Limited, South Africa (the "**Trustee**") has been appointed in terms of a trust deed (the "**Trust Deed**") between the Trustee and the Issuer (as defined below), to act as trustee for the benefit of Bondholders.

1. Interpretation

Terms and expressions set out below shall have the meanings set out below in these Terms and Conditions, unless such term is separately defined in these Terms and Conditions or the context otherwise requires:

- 1.1 "**Additional Cash Alternative Amount**" has the meaning provided in Condition 9.14;
- 1.2 "**Additional Ordinary Shares**" has the meaning provided in Condition 9.3;
- 1.3 "**Agency Agreement**" means the agreement concluded between the Issuer, the Calculation Agent, the Transfer Agent and the Conversion Agent (or any separate agreement between the Issuer and any such agent), in terms of which the agents agree to provide calculation, bond registry and conversion agent services to the Issuer;
- 1.4 "**Applicable Law**" means in relation to a person, all and any:
 - 1.4.1 statutes and subordinate legislation;
 - 1.4.2 treaties, regulations, ordinances, decrees and directives;
 - 1.4.3 by-laws;

- 1.4.4 codes of practice, circulars, guidance notices, judgements and decisions of any competent authority;
- 1.4.5 any present or future common law; and
- 1.4.6 other similar provisions, from time to time;
- 1.5 "**Applicable Procedures**" means the rules and operating procedures for the time being of the Central Securities Depository, Settlement Agents and the JSE, as the case may be;
- 1.6 "**Base Conversion Price**" means ZAR 214.9000 per Ordinary Share;
- 1.7 "**Beneficial Interest**" means in relation to a Bond, an interest as beneficial owner of a Bond held in uncertificated form, in accordance with the Securities Services Act;
- 1.8 "**Bonds**" means the 5.00 per cent senior unsecured convertible registered bonds, in an aggregate Principal Amount of ZAR 2,672,000,000, with a minimum denomination on the Issue Date of ZAR 1,000,000 each, issued by the Issuer under these Terms and Conditions and for the time being outstanding;
- 1.9 "**Bondholder**" or "**holder**" means the person in whose name a Bond is registered in the Register;
- 1.10 "**Business Day**" means a day (other than a Saturday, Sunday or official South African public holiday within the meaning of the Public Holidays Act, 1994, as amended), which is a day on which commercial banks settle ZAR payments in Johannesburg;
- 1.11 "**Calculation Agent**" means The Standard Bank of South Africa Limited or such other person with whom the Issuer has entered into a Calculation Agent Agreement or any additional agent appointed to perform any particular function assigned to it;
- 1.12 "**Calculation Agent Agreement**" means the agreement concluded between the Issuer and the Calculation Agent (which may be incorporated into the Agency Agreement), in terms of which the Calculation Agent agrees to provide calculation services to the Issuer;
- 1.13 "**Capital Distribution**" has the meaning provided in Condition 9.2(a)(iii);
- 1.14 "**Cash Alternative Amount**" means an amount calculated in accordance with the following formula and which shall be payable to a Bondholder upon an exercise of a Conversion Right where the relevant Conversion Date falls prior to the Issuer having given notice to Bondholders that the Conversion Condition shall have been satisfied:

$$CAA = \sum_{n=1}^N \frac{1}{N} \times 5 \times P_n$$

where:

CAA= the Cash Alternative Amount;

S = the number of Ordinary Shares (including, for this purpose, any fraction of an Ordinary Share but rounded, if necessary, to five decimal places, with 0.000005 being rounded up) determined by dividing the Principal Amount of Bonds in respect of which the relevant Bondholder shall have exercised Conversion Rights by the Conversion Price in effect on the relevant Conversion Date;

P_n = the Volume Weighted Average Price of an Ordinary Share on the nth Dealing Day of the Cash Alternative Calculation Period; and

N = 20, being the number of Dealing Days in the Cash Alternative Calculation Period,

provided that if any Dividend or other entitlement in respect of the Ordinary Shares is announced on or prior to the last day of the Cash Alternative Calculation Period in circumstances where the record date or other due date for the establishment of entitlement in respect of such Dividend or other entitlement shall be on or after the relevant Conversion Date and if on any Dealing Day in the Cash Alternative Calculation Period the price determined as provided above is based on a price ex-Dividend or ex- any other entitlement, then such price shall be increased by an amount equal to the Fair Market Value of any such Dividend or other entitlement per Ordinary Share as at the date of the first public announcement of such Dividend or entitlement (or, if that is not a dealing day, the immediately preceding dealing day);

- 1.15 **"Cash Alternative Calculation Period"** means the period of 20 consecutive Dealings Days commencing on the relevant Conversion Date;
- 1.16 **"Cash Dividend"** has the meaning provided in Condition 9.2(a)(iii);
- 1.17 **"Central Securities Depository"** means Strate Limited (registration number 1998/022242/06), or its nominee, a central securities depository operating in terms of the Securities Services Act, or any additional or alternate depository approved by the Issuer;
- 1.18 **"Central Securities Depository's Nominee"** means any Wholly Owned Subsidiary of the Central Securities Depository approved by the Registrar (as defined in the Securities Services Act) for purposes of, and as contemplated in, section 40 of the Securities Services Act and any reference to "Central Securities Depository's Nominee" shall, whenever the context permits, be deemed to include a reference to its successor operating in terms of the Securities Services Act;
- 1.19 **"Certificate"** means as contemplated in these Terms and Conditions, a single individual certificate for Bonds, registered in the name of the relevant Bondholder;
- 1.20 **"Change of Control"** has the meaning provided in Condition 9.2(a)(x);
- 1.21 **"Change of Control Notice"** has the meaning provided in Condition 9.7;

- 1.22 "**Change of Control Period**" means the period commencing on the occurrence of a Change of Control and ending 60 calendar days following the Change of Control or, if later, 60 calendar days following the date on which a Change of Control Notice is given to Bondholders as required by Condition 9.7;
- 1.23 "**Change of Control Put Date**" has the meaning provided in Condition 10.4.2;
- 1.24 "**Change of Control Put Exercise Notice**" has the meaning provided in Condition 10.4.2;
- 1.25 "**Companies Act**" means the Companies Act, 2008;
- 1.26 "**Condition**" means a numbered term or condition of the Bonds forming part of these Terms and Conditions (and reference to a particular numbered Condition shall be construed as a reference to the corresponding condition in these Terms and Conditions);
- 1.27 "**Conversion Agent**" means The Standard Bank of South Africa Limited;
- 1.28 "**Conversion Condition**" means the approval at a general meeting of the Shareholders of the Issuer of such resolutions as are required to enable the issuance of such number of Ordinary Shares as may be required to be issued from time to time to satisfy the exercise of Conversion Rights pursuant to these Terms and Conditions;
- 1.29 "**Conversion Date**" has the meaning provided in Condition 9.8(e);
- 1.30 "**Conversion Notice**" has the meaning provided in Condition 9.8(a);
- 1.31 "**Conversion Period**" has the meaning provided in Condition 9.1(i);
- 1.32 "**Conversion Period Commencement Date**" has the meaning provided in Condition 9.1(e);
- 1.33 "**Conversion Price**" has the meaning provided in Condition 9.1(b);
- 1.34 "**Conversion Right**" has the meaning provided in Condition 9.1(a);
- 1.35 "**Current Market Price**" means in respect of an Ordinary Share on a particular date, the average of the daily Volume Weighted Average Price of an Ordinary Share on each of the 5 consecutive Dealing Days ending on the Dealing Day immediately preceding such date; provided that if at any time during the said 5 Dealing-Day period the Volume Weighted Average Price shall have been based on a price ex-Dividend (or ex- any other entitlement) and during some other part of that period the Volume Weighted Average Price shall have been based on a price cum-Dividend (or cum- any other entitlement), then:
- if the Ordinary Shares to be issued or transferred and delivered do not rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Ordinary Shares shall have been based on a price cum-Dividend (or cum- any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such

Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend; or

if the Ordinary Shares to be issued or transferred and delivered do rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Ordinary Shares shall have been based on a price ex-Dividend (or ex-any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof increased by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend,

and provided further that if on each of the said 5 Dealing Days the Volume Weighted Average Price shall have been based on a price cum-Dividend (or cum- any other entitlement) in respect of a Dividend (or other entitlement) which has been declared or announced but the Ordinary Shares to be issued or transferred and delivered do not rank for that Dividend (or other entitlement), the Volume Weighted Average Price on each of such dates shall for the purposes of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend,

and provided further that, if the Volume Weighted Average Price of an Ordinary Share is not available on one or more of the said 5 Dealing Days (disregarding for this purpose the proviso to the definition of Volume Weighted Average Price), then the average of such Volume Weighted Average Prices which are available in that 5 Dealing-Day period shall be used (subject to a minimum of two such prices) and if only one, or no, such Volume Weighted Average Price is available in the relevant period the Current Market Price shall be determined by an Independent Financial Adviser;

For this purpose, “**Effective Date**” means the first date on which the Ordinary Shares are traded ex-the relevant Dividend (or other entitlement) on the Relevant Stock Exchange;

1.36 “**Dealing Day**” means a day on which the Relevant Stock Exchange or relevant market is open for business and on which Ordinary Shares, Securities or Spin-Off Securities (as the case may be) may be dealt in (other than a day on which the Relevant Stock Exchange or relevant market is scheduled to or does close prior to its regular weekday closing time);

1.37 “**Dividend**” means any dividend or distribution to Shareholders (including a Spin-Off) whether of cash, assets or other property, and however described and whether payable out of share premium account, profits, retained earnings or any other capital or revenue reserve or account, and including a distribution or payment to Shareholders upon or in connection with a reduction of capital (and for these purposes a distribution of assets includes without limitation an issue of Ordinary Shares or other Securities credited as fully or partly paid up by way of capitalisation of profits or reserves), provided that:

(a) (1) where a Dividend in cash is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the issue or delivery of Ordinary

Shares or other property or assets, or where a capitalisation of profits or reserves is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the payment of cash, then the Dividend in question shall be treated as a Cash Dividend of the greater of (i) such cash amount and (ii) the Current Market Price of such Ordinary Shares or, as the case may be, Fair Market Value of such other property or assets as at the first date on which the Ordinary Shares are traded ex- the relevant Dividend or if later, the date on which the number of Ordinary Shares (or amount of property or assets, as the case may be) which may be issued or transferred and delivered is determined); and/or

- (2) if there shall be any issue of Ordinary Shares by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) where such issue is or is expressed to be in lieu of a Dividend (whether or not a cash Dividend equivalent or amount is announced or would otherwise be payable to Shareholders, whether at their election or otherwise), the capitalisation in question shall be treated as a Cash Dividend of an amount equal to the Current Market Price of such Ordinary Shares as at the first date on which the Ordinary Shares are traded ex- the relevant capitalisation on the Relevant Stock Exchange or, if later, the date on which the number of Ordinary Shares to be issued or transferred and delivered is determined;
- (b) any issue of Ordinary Shares falling within Condition 9.2(a)(ii) shall be disregarded;
- (c) a purchase or redemption or buy back of share capital of the Issuer by or on behalf of the Issuer or any of its Subsidiaries shall not constitute a Dividend unless, in the case of a purchase or redemption or buy back of Ordinary Shares by or on behalf of the Issuer or any of its Subsidiaries, the weighted average price per Ordinary Share (before expenses) on any one day (a “**Specified Share Day**”) in respect of such purchases or redemptions or buy backs (translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such day) exceeds by more than 5% per cent the average of the closing prices of the Ordinary Shares on the Relevant Stock Exchange (as published by or derived from the Relevant Stock Exchange) on the 5 Dealing Days immediately preceding the Specified Share Day or, where an announcement (excluding, for the avoidance of doubt for these purposes, any general authority for such purchases, redemptions or buy backs approved by a general meeting of Shareholders or any notice convening such a meeting of Shareholders) has been made of the intention to purchase, redeem or buy back Ordinary Shares at some future date at a specified price or where a tender offer is made, on the 5 Dealing Days immediately preceding the date of such announcement or the date of first public announcement of such tender offer (and regardless whether or not a price per Ordinary Share, a minimum price per Ordinary Share or a price range or a formula for the determination thereof is or is not announced at such time), as the case may be, in which case such purchase, redemption or buy back shall be deemed to constitute a Dividend in the Relevant Currency to the extent that the aggregate price paid (before

expenses) in respect of such Ordinary Shares purchased, redeemed or bought back by the Issuer or, as the case may be, any of its Subsidiaries (translated where appropriate into the Relevant Currency as provided above) exceeds the product of (i) 105% of the average closing price of the Ordinary Shares determined as aforesaid and (ii) the number of Ordinary Shares so purchased, redeemed or bought back;

- (d) if the Issuer or any of its Subsidiaries shall purchase, redeem or buy back any depositary or other receipts or certificates representing Ordinary Shares, the provisions of paragraph (c) shall be applied in respect thereof in such manner and with such modifications (if any) as shall be determined by an Independent Financial Adviser;
- (e) where a dividend or distribution is paid or made to Shareholders pursuant to any plan implemented by the Issuer for the purpose of enabling Shareholders to elect, or which may require Shareholders, to receive dividends or distributions in respect of the Ordinary Shares held by them from a person other than (or in addition to) the Issuer, such dividend or distribution shall for the purposes of these Conditions be treated as a dividend or distribution made or paid to Shareholders by the Issuer, and the foregoing provisions of this definition and the provisions of these Conditions shall be construed accordingly; and
- (f) a dividend or distribution that is a Spin-Off shall be deemed to be a Non Cash Dividend paid or made by the Issuer,

and any such determination shall be made on a gross basis and disregarding any withholding or deduction required to be made on account of tax, and disregarding any associated tax credit;

- 1.38 **"Enforcement Notice"** a notice delivered pursuant to these Terms and Conditions following an Event of Default under the Bonds;
- 1.39 **"equity share capital"** means in relation to any entity, its issued share capital excluding any part of that capital which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specific amount in a distribution;
- 1.40 **"Event of Default"** means in relation to any Bonds, any of the events specified as such in Condition 13 of these Terms and Conditions;
- 1.41 **"Exempt Newco Scheme"** means a Newco Scheme where immediately after completion of the relevant Scheme of Arrangement, the Ordinary Shares of Newco are (a) admitted to trading on the Relevant Stock Exchange or (b) admitted to listing on such other regulated, regularly operating, recognised stock exchange or securities market as the Issuer or Newco may determine;
- 1.42 **"Existing Shareholders"** shall bear the meaning defined in the definition of "*Newco Scheme*";

- 1.43 **"Extraordinary Resolution"** means a resolution passed at a properly constituted meeting of Bondholders by a majority consisting of not less than 66.67% of the votes cast at a poll by Bondholders, present in person or by proxy;
- 1.44 **"Fair Market Value"** means, with respect to any property on any date, the fair market value of that property as determined by an Independent Financial Adviser provided that (i) the Fair Market Value of a Cash Dividend shall be the amount of such Cash Dividend; (ii) the Fair Market Value of any other cash amount shall be the amount of such cash; (iii) where Securities, Spin-Off Securities, options, warrants or other rights are publicly traded in a market of adequate liquidity (as determined by an Independent Financial Adviser), the Fair Market Value (a) of such Securities or Spin-Off Securities shall equal the arithmetic mean of the daily Volume Weighted Average Prices of such Securities or Spin-Off Securities and (b) of such options, warrants or other rights shall equal the arithmetic mean of the daily closing prices of such options, warrants or other rights, in the case of both (a) and (b) during the period of 5 Dealing Days on the relevant market commencing on such date (or, if later, the first such Dealing Day such Securities, Spin-Off Securities, options, warrants or other rights are publicly traded) or such shorter period as such Spin-Off Securities, options, warrants or other rights are publicly traded; (iv) where Securities, Spin-Off Securities, options, warrants or other rights are not publicly traded (as aforesaid), the Fair Market Value of such Securities, Spin-Off Securities, options, warrants or other rights shall be determined by an Independent Financial Adviser, on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate, including the market price per Ordinary Share, the dividend yield of an Ordinary Share, the volatility of such market price, prevailing interest rates and the terms of such Securities, Spin-Off Securities, options, warrants or other rights, including as to the expiry date and exercise price (if any) thereof. Such amounts shall in the case of (i), be translated into ZAR (if declared or paid or payable in a currency other than ZAR) at the rate of exchange used to determine the amount payable to Shareholders who were paid or are to be paid or are entitled to be paid the Cash Dividend in ZAR; and in any other case, shall be translated into ZAR (if expressed in a currency other than ZAR) at the Prevailing Rate on that date. In addition, in the case of (i) and (ii), any withholding or deduction required to be made on account of tax and any associated tax credit shall be disregarded;
- 1.45 **"Final Redemption Date"** means 21 February 2018;
- 1.46 **"Group"** means the Issuer and its Subsidiaries from time to time;
- 1.47 **"IFRS"** means International Financial Reporting Standards and the interpretation of those standards as adopted by the International Accounting Standards Board;
- 1.48 **"Independent Financial Adviser"** means an independent financial institution of international repute or independent financial adviser with appropriate expertise, which may include the Calculation Agent, appointed at its own expense by the Issuer and approved in writing by the Trustee or, if the Issuer fails to make such appointment and such failure continues for a reasonable period (as determined by the Trustee in its sole discretion) and

the Trustee is indemnified and/or secured and/or prefunded to its satisfaction against the costs, fees and expenses of such adviser and otherwise in connection with such appointment, appointed by the Trustee following notification to the Issuer;

- 1.49 **"Interest Amount"** means the amount of interest payable in respect of each Bond, as determined in accordance with these Terms and Conditions;
- 1.50 **"Interest Commencement Date"** means in relation to each Bond, the Issue Date;
- 1.51 **"Interest Payment Date(s)"** means 21 February and 21 August of each year, commencing with the Interest Payment Date falling on 21 August 2013;
- 1.52 **"Interest Period"** means each period in respect of which interest accrues on the Bonds, commencing on (and including) the Issue Date and ending on (but excluding) the first Interest Payment Date, and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date;
- 1.53 **"Interest Rate"** means the rate of 5.00 per cent per annum calculated by reference to the Principal Amount of a Bond;
- 1.54 **"Issue Date"** means 21 February 2013;
- 1.55 **"Issuer"** means Impala Platinum Holdings Limited, a public company incorporated in accordance with the laws of South Africa, registration number 1957/001979/06;
- 1.56 **"JSE"** means the JSE Limited (Registration Number 2005/022939/06), licensed as an exchange in terms of the Securities Services Act, or any exchange which operates as a successor exchange to the JSE in terms of the Securities Services Act;
- 1.57 **"Last Day to Trade"** means 17h00 Johannesburg time on the day that is 5 Dealing Days before the Record Date;
- 1.58 **"Listing Document"** means the document used in respect of the application for listing of the Bonds on the JSE main board, incorporating the Terms and Conditions of the Bonds, as amended or supplemented from time to time;
- 1.59 **"Market Price"** means the Volume Weighted Average Price of an Ordinary Share on the relevant Reference Date, provided that if any Dividend or other entitlement in respect of the Ordinary Shares is announced on or prior to the relevant Conversion Date in circumstances where the record date or other due date for the establishment of entitlement in respect of such dividend or other entitlement shall be on or after the Conversion Date and if, on the relevant Reference Date, the Volume Weighted Average Price of an Ordinary Share is based on a price ex-Dividend or ex-any other entitlement, then such price shall be increased by an amount equal to the Fair Market Value of such dividend or entitlement per Ordinary Share as at the date of first public announcement of such Dividend or entitlement (or if that is not a dealing day, the immediately preceding Dealing Day);

- 1.60 **"Material Subsidiary"** means any Subsidiary of the Issuer:
- 1.60.1 whose (a) gross profits on ordinary activities before tax or (b) total assets (consolidated in the case of a Subsidiary which itself has Subsidiaries) represent no less than 10% (the **"Material Subsidiary Threshold"**) of the gross profits on ordinary activities before tax or consolidated total assets of the Group, respectively], all as calculated by reference to the latest audited (consolidated or, as the case may be, unconsolidated) annual accounts or unaudited semi-annual management accounts of the Subsidiary, whichever is the latest, and the latest audited annual or unaudited semi-annual consolidated accounts of the Issuer, whichever is the latest; or
- 1.60.2 to which is transferred the whole or substantially the whole of the undertaking and assets of a Subsidiary of the Issuer which immediately before the transfer is a Material Subsidiary of the Issuer (whereupon such transferor subsidiary shall cease to be a Material Subsidiary until the next publication of audited consolidated accounts of the Issuer following such transfer);
- provided that*
- 1.60.3 in the case of a Subsidiary acquired or an entity which becomes a Subsidiary of the Issuer after the end of the financial period to which the latest annual or unaudited semi-annual management accounts, whichever is the latest, relate, the reference to the latest audited consolidated accounts for the purposes of the calculation above shall, until audited consolidated accounts of the Issuer are published for the financial period in which the acquisition is made or, as the case may be, in which such entity becomes a Subsidiary, be deemed to be a reference to the latest consolidated accounts of the Issuer adjusted in such manner as the Issuer shall consider appropriate to consolidate the latest audited accounts of such Subsidiary in such accounts; and
- 1.60.4 a certificate signed by two directors of the Issuer that in their opinion a Subsidiary of the Issuer is or is not, or was or was not, at any time or throughout any specified period a Material Subsidiary shall, in the absence of manifest or proven error, be conclusive and binding; and
- 1.60.5 for the purposes of Clause 13.1.8, Material Subsidiary shall exclude Zimbabwe Platinum Mines (Private) Limited and Mimosa Holdings (Private) Limited and the Material Subsidiary Threshold shall be 20%;
- 1.61 **"Newco Scheme"** means a scheme of arrangement or analogous proceeding (**"Scheme of Arrangement"**) which effects the interposition of a limited liability company (**"Newco"**) between the Shareholders of the Issuer immediately prior to the Scheme of Arrangement (the **"Existing Shareholders"**) and the Issuer; provided that (i) only Ordinary Shares of Newco are issued to Existing Shareholders; (ii) immediately after completion of the Scheme of Arrangement the only shareholders of Newco are Existing Shareholders; (iii) immediately after completion of the Scheme of Arrangement, Newco is (or one or more Wholly-Owned Subsidiaries of Newco are) the only shareholder of the Issuer; (iv) all Subsidiaries of the

Issuer immediately prior to the Scheme of Arrangement (other than Newco, if Newco is then a Subsidiary of the Issuer) are Subsidiaries of the Issuer (or of Newco) immediately after completion of the Scheme of Arrangement; and (v) immediately after completion of the Scheme of Arrangement the Issuer (or Newco) holds, directly or indirectly, the same percentage of the ordinary share capital and equity share capital of those Subsidiaries as was held by the Issuer immediately prior to the Scheme of Arrangement;

- 1.62 "**Optional Redemption Date**" has the meaning provided in Condition 10.2.1;
- 1.63 "**Optional Redemption Notice**" has the meaning provided in Condition 10.2.1;
- 1.64 "**Ordinary Resolution**" means a resolution passed at a properly constituted meeting of Bondholders, by a majority of the votes cast at a poll by Bondholders, present in person or by proxy;
- 1.65 "**Ordinary Shares**" means fully paid ordinary shares in the share capital of the Issuer;
- 1.66 "**outstanding**" means, in relation to the Bonds, all the Bonds issued other than (i) those which have been redeemed in accordance with these Terms and Conditions, (ii) those in respect of which Conversion Rights have been exercised and the Issuer's obligations in relation thereto have been duly performed, (iii) those in respect of which the date for redemption in accordance with the Conditions has occurred and the redemption moneys (including all interest accrued on such Bonds to the date for such redemption and any interest payable under Condition 8 after such date) have been duly paid to the relevant Bondholder or on its behalf or to the Trustee and remain available for payment against presentation and surrender of Bonds, (iv) those which have become void or those in respect of which claims have become prescribed under Condition 23, (v) Bonds, the Certificates in respect of which have been mutilated or defaced Bonds and which Certificates have been surrendered in exchange for replacement Bonds pursuant to Condition 15, (vi) (for the purpose only of determining how many Bonds are outstanding and without prejudice to their status for any other purpose) those Bonds alleged to have been lost, stolen or destroyed and in respect of which replacement Bonds have been issued pursuant to Condition 15, (vii) those which have been purchased and cancelled as provided in Condition 10.6; provided that for the purposes of (a) ascertaining the right to attend and vote at any meeting of the Bondholders, (b) the determination of how many Bonds are outstanding for the purposes of Conditions 13, 20 and 26 and (c) the exercise of any discretion, power or authority which the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the Bondholders, those Bonds (if any) which are beneficially held by, or are held on behalf of, the Issuer or any of its respective Subsidiaries and not yet cancelled shall be deemed not to remain outstanding;
- 1.67 "**Participant**" a person that holds in custody and administers securities or an interest in securities and that has been accepted by the Central Securities Depository as a participant in terms of the Securities Services Act;

- 1.68 **"Potential Event of Default"** means any event or circumstance specified in Condition 13.1 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under a Transaction Document or any combination of any of the foregoing) be an Event of Default;
- 1.69 **"Prevailing Rate"** means, in respect of any currencies on any day, the spot rate of exchange between the relevant currencies prevailing as at or about 12 noon (South African time) on that date as appearing on or derived from the Relevant Page or if such a rate cannot be determined at such time, the rate prevailing as at or about 12 noon (South African time) on the immediately preceding day on which such rate can be so determined;
- 1.70 **"Principal Amount"** means in relation to a Bond, the nominal amount of that Bond;
- 1.71 **"R" or "Rand" or "ZAR"** means the lawful currency of South Africa, being South African Rand, or any successor currency;
- 1.72 **"Rand Equivalent"** means, with respect to any monetary amount in a currency other than Rand, at any time for the determination thereof, the amount of Rand obtained by converting such foreign currency involved in such computation into Rand at the spot rate for the purchase of Rand with the applicable foreign currency, as quoted by the Calculation Agent on the date two Business Days prior to such determination;
- 1.73 **"Record Date"** means the date on which the Register must be in final form, being the Friday immediately prior to each Interest Payment Date or Redemption Date, as the case may be, or if such Friday is not a Business Day, the last Business Day of the week preceding the Interest Date or Redemption Date, as the case may be;
- 1.74 **"Redemption Date"** means each date on which any Bonds are to be redeemed, partially or finally, as the case may be, pursuant to these Terms and Conditions;
- 1.75 **"Reference Date"** means, in relation to a Retroactive Adjustment, the date as of which the relevant Retroactive Adjustment takes effect or, in any such case, if that is not a Dealing Day, the next following Dealing Day;
- 1.76 **"Register"** means the register of Bondholders maintained by the Transfer Agent;
- 1.77 **"Registration Date"** means the date on which the Ordinary Shares (or any Additional Ordinary Shares) to be issued or delivered pursuant to Condition 9.8 (or Condition 9.3) are entered in the securities register of the Issuer and credited to the converting Bondholder as provided in Condition 9.8 (or Condition 9.3);
- 1.78 **"Regulator"** means any government or governmental, administrative, fiscal or judicial authority, body, court, department, commission, tribunal, registry, or any other state-owned or controlled authority which principally performs governmental actions;
- 1.79 **"Relevant Currency"** means South African Rand or, if at the relevant time or for the purposes of the relevant calculation or determination, the JSE is not the Relevant Stock

Exchange, the currency in which the Ordinary Shares are quoted or dealt in on the Relevant Stock Exchange at such time;

- 1.80 **"Relevant Date"** means the date on which a payment first becomes due and payable in accordance with these Terms and Conditions, except that in relation to moneys payable to the Central Securities Depository's Nominee in accordance with these Terms and Conditions, the claim in respect of any payment under the Bonds will prescribe 3 years after the date on which (i) the full amount of such moneys have been received by the Central Securities Depository's Nominee, (ii) such moneys are available for payment to the holders of Beneficial Interests, and (iii) notice to that effect has been duly given to such holders in accordance with the Applicable Procedures;
- 1.81 **"Relevant Indebtedness"** means any present or future indebtedness (whether being principal, interest or other amounts), for or in respect of (i) moneys borrowed or raised, or (ii) liabilities under any acceptance or acceptance credit, or (iii) any bonds, notes, debentures, loan stock or other debt securities; or (iv) any guarantees or indemnities given for indebtedness of another person, excluding double-counting;
- 1.82 **"Relevant Page"** means the relevant page on Bloomberg or such other information service provider that displays the relevant information;
- 1.83 **"Relevant Stock Exchange"** means the JSE or if at the relevant time the Ordinary Shares are not at that time listed and admitted to trading on the JSE, the principal stock exchange or securities market on which the Ordinary Shares are then listed, admitted to trading or quoted or dealt in;
- 1.84 **"Retroactive Adjustment"** has the meaning provided in Condition 9.3;
- 1.85 **"Scheme of Arrangement"** shall bear the meaning defined in the definition of **"Newco Scheme"**;
- 1.86 **"Securities"** means any securities as defined in the section 1 of the Companies Act including, without limitation, Ordinary Shares, or options, warrants or other rights to subscribe for or purchase or acquire Ordinary Shares;
- 1.87 **"Securities Services Act"** means the Securities Services Act, 2004;
- 1.88 **"Security Interest"** means any mortgage, charge, pledge, lien or other security interest including, without limitation, anything analogous to any of the foregoing under the laws of any jurisdiction, but excluding, for the avoidance of doubt, a guarantee;
- 1.89 **"Settlement Agents"** means those Participants which are approved by the JSE or any other relevant financial exchange from time to time, in terms of the Applicable Procedures of the JSE, as settlement agents to perform electronic settlement of funds and scrip on behalf of market participants;
- 1.90 **"Shareholders"** means the holders of Ordinary Shares;

- 1.91 **"South Africa"** means the Republic of South Africa;
- 1.92 **"Specified Date"** has the meaning provided in Conditions 9.2(a)(vii) and 9.2(a)(viii);
- 1.93 **"Specified Office"** in relation to each of the Issuer, the Trustee, the Calculation Agent, the Transfer Agent, the Conversion Agent, the registered office of such entity or, once listed, the address of the office specified in respect of such entity at the end of the Listing Document, or such other address as is notified by such entity (or, where applicable, a successor to such entity) to the Bondholders in accordance with these Terms and Conditions;
- 1.94 **"Spin-Off"** means:
- (a) distribution of Spin-Off Securities by the Issuer to Shareholders as a class; or
- (b) any issue, transfer or delivery of any property or assets (including cash or shares or securities of or in or issued or allotted by any entity) by any entity (other than the Issuer) to Shareholders as a class or, in the case of or in connection with a Newco Scheme, Existing Shareholders as a class (but excluding the issue and allotment of Ordinary Shares by Newco to Existing Shareholders as a class), pursuant in each case to any arrangements with the Issuer or any of its Subsidiaries;
- 1.95 **"Spin-Off Securities"** means equity share capital of an entity other than the Issuer or options, warrants or other rights to subscribe for or purchase equity share capital of an entity other than the Issuer;
- 1.96 **"Subsidiary"** bears the meaning assigned thereto in the Companies Act;
- 1.97 **"Tax Redemption Date"** bears the meaning assigned thereto in Condition 10.3.1;
- 1.98 **"Tax Redemption Notice"** bears the meaning assigned thereto in Condition 10.3.1;
- 1.99 **"Taxes"** means all present and future taxes, levies, imposts, duties, charges, fees, deductions and withholdings imposed or levied by any governmental, financial or other competent authority in South Africa or any other jurisdiction from which any payment is made (and including any penalty payable in connection with any failure to pay, or delay in paying, any of the same) and **"Tax"** and **"Taxation"** shall be construed accordingly;
- 1.100 **"Terms and Conditions"** or **"Conditions"** means the terms and conditions of the Bonds set out in this debt instrument;
- 1.101 **"Transaction Documents"** means collectively and individually any of:
- 1.101.1 Trust Deed;
- 1.101.2 these Terms and Conditions of the Bonds; and
- 1.101.3 the Agency Agreement;

- 1.102 **"Transfer Agent"** means The Standard Bank of South Africa Limited or such other person with whom the Issuer has entered into a Transfer Agent Agreement;
- 1.103 **"Transfer Agent Agreement"** means the agreement concluded between the Issuer and the Transfer Agent (which may be incorporated into the Agency Agreement), in terms of which the Transfer Agent agrees to provide note registry services to the Issuer;
- 1.104 **"Transfer Form"** in relation to the transfer of a Bond as contemplated in these Terms and Conditions, means a form of transfer in the usual form or in such other form approved by the Transfer Agent;
- 1.105 **"Trust Deed"** means the trust deed constituting the trust established by the Issuer for the benefit of Bondholders, called the Impala Platinum Holdings Limited Bond Trust;
- 1.106 **"Trustee"** means the trustee for the time being of the Impala Platinum Holdings Limited Bond Trust, which shall initially be GMG Trust Company (SA) Proprietary Limited, South Africa, a company duly registered and incorporated in accordance with the company laws of South Africa;
- 1.107 **"VAT"** means value added tax imposed in terms of the Value-Added Tax Act, 1991, or any similar tax imposed in place thereof from time to time;
- 1.108 **"Volume Weighted Average Price"** means, in respect of an Ordinary Share, Security or, as the case may be, a Spin-Off Security on any Dealing Day, the volume-weighted average price of an Ordinary Share (based on Automated Trades (a transaction matched automatically in the JSE trading system during continuous trading) and Auction Trades (a transaction matched automatically in the JSE trading system during price determination in an auction), Security or, as the case may be, a Spin-Off Security, published by or derived (in the case of an Ordinary Share) from Bloomberg page IMP SJ Equity HP (setting Weighted Average) or (in the case of a Security (other than Ordinary Shares) or Spin-Off Security) from the Relevant Stock Exchange or securities market on which such Securities or Spin-Off Securities are then listed or quoted or dealt in, if any or, in any such case, such other source as shall be determined to be appropriate by an Independent Financial Adviser on such Dealing Day, provided that if on any such Dealing Day such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of an Ordinary Share, Security or a Spin-Off Security, as the case may be, in respect of such Dealing Day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined; and
- 1.109 **"Wholly Owned Subsidiary"** bears the meaning assigned thereto in the Companies Act.
- 1.110 In these Terms and Conditions:
- 1.110.1 one gender includes a reference to the others;
- 1.110.2 the singular includes the plural and *vice versa*;

- 1.110.3 natural persons include juristic persons and vice versa;
- 1.110.4 "**person**" means any individual, company, partnership, joint venture, association, trust, unincorporated organisation or government or any agency or political subdivision thereof;
- 1.110.5 any agreement or instrument is a reference to that agreement or instrument as amended, supplemented, varied, novated, restated or replaced from time to time, and **amended** or **amendment** will be construed accordingly;
- 1.110.6 a provision of law is a reference to that provision as amended or re-enacted, and includes any subordinate legislation;
- 1.110.7 a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.110.8 **assets** includes present and future properties, revenues and rights of every description;
- 1.110.9 **disposal** means a sale, transfer, grant, lease or other disposal (whether voluntary or involuntary);
- 1.110.10 **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent, excluding double-counting;
- 1.110.11 an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
- 1.110.12 days is a reference to calendar days, unless expressly stated otherwise;
- 1.110.13 a Party or any other person includes that person's permitted successor, transferee, assignee, cessionary and/or delegate;
- 1.110.14 a time of day is a reference to South African time;
- 1.110.15 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect must be given to it as if it were a substantive provision in the body of the agreement, notwithstanding that it is contained in the interpretation clause;
- 1.110.16 headings are inserted for the sake of convenience only and do not in any way affect the interpretation of these Terms and Conditions;

- 1.110.17 the use of the word **including** followed by specific examples will not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule must not be applied in the interpretation of such general wording or such specific examples;
- 1.110.18 an accounting term not otherwise defined has the meaning assigned to it in accordance with IFRS;
- 1.110.19 references to any issue or offer or grant to Shareholders or Existing Shareholders “as a class” or “by way of rights” shall be taken to be references to an issue or offer or grant to all or substantially all Shareholders or Existing Shareholders, as the case may be, other than Shareholders or Existing Shareholders, as the case may be, to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such issue or offer or grant;
- 1.110.20 in making any calculation or determination of Current Market Price or Volume Weighted Average Price, such adjustments (if any) shall be made as an Independent Financial Adviser considers appropriate to reflect any consolidation or sub-division of the Ordinary Shares or any issue of Ordinary Shares by way of capitalisation of profits or reserves, or any like or similar event;
- 1.110.21 for the purposes of Conditions 9.2, 9.3 and 9.8 and Condition 14 only, (a) references to the “*issue*” of Ordinary Shares shall include the transfer and/or delivery of Ordinary Shares, whether newly issued and allotted or previously existing or held by or on behalf of the Issuer or any of its Subsidiaries, and (b) Ordinary Shares held by or on behalf of the Issuer or any of its respective Subsidiaries (and which, in the case of Condition 9.2(a)(iv) and 9.2(a)(vi), do not rank for the relevant right or other entitlement) shall not be considered as or treated as “*in issue*”.

2. **Issue**

An aggregate Principal Amount of ZAR 2,672,000,000 Bonds will be issued by the Issuer.

3. **Form and Denomination**

- 3.1 The Bonds are fixed rate senior unsecured convertible Bonds with a minimum denomination on the Issue Date of ZAR 1,000,000 each.
- 3.2 The Bonds will be issued in the form of registered Bonds, represented by (i) Certificates registered in the name, and for the account of, the relevant Bondholder or (ii) no Certificate, and held in uncertificated form in the Central Securities Depository in terms of section 37 of the Securities Services Act, and registered in the name, and for the account of, the Central Securities Depository's Nominee. The Central Securities Depository will hold the Bonds subject to the Securities Services Act and the Applicable Procedures.

4. **Title**

- 4.1 Title to the Bonds will pass upon registration of transfer in the Register in accordance with Condition 16. The Issuer and the Transfer Agent shall recognise a Bondholder as the sole and absolute owner of the Bonds registered in that Bondholder's name in the Register (notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) and shall not be bound to enter any trust in the Register or to take notice of or to accede to the execution of any trust, express, implied or constructive, to which any Bond may be subject.
- 4.2 Beneficial Interests in Bonds held in uncertificated form may in terms of existing law and practice, be transferred through the Central Securities Depository by way of book entry in the securities accounts of Participants. Such transfers will not be recorded in the Register and the Central Securities Depository's Nominee will continue to be reflected in the Register as the Bondholder in respect of the Bonds held in uncertificated form, notwithstanding such transfers.
- 4.3 Any reference in these Terms and Conditions to the relevant Participant shall, in respect of Beneficial Interests, be a reference to the Participant appointed to act as such by a holder of such Beneficial Interest.

5. **Status of Bonds**

The Bonds constitute direct, unconditional, unsubordinated and (subject to Condition 6) unsecured obligations of the Issuer and will rank equally among themselves and at least equally with all other existing and future unsecured and unsubordinated obligations of the Issuer, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

6. **Negative Pledge**

- 6.1 So long as any of the Bonds remain outstanding, the Issuer shall not, and shall procure that no Material Subsidiary shall, create or permit to subsist any Security Interest upon the whole or any part of its present or future property or assets to secure any Relevant Indebtedness, unless in any such case, before or at the same time as the creation of the Security Interest, any and all action necessary shall have been taken to the satisfaction of the Trustee to ensure that:
- 6.1.1 all amounts payable by the Issuer under the Bonds and the Trust Deed are secured equally and rateably with the Relevant Indebtedness or guarantee or indemnity, as the case may be, to the satisfaction of the Trustee; or
- 6.1.2 such other Security Interest or guarantee or other arrangement (whether or not including the giving of a Security Interest) is provided in respect of all amounts payable by the Issuer under the Bonds and the Trust Deed either (i) as the Trustee shall in its absolute discretion deem not materially less beneficial to the interests of the

Bondholders or (ii) as shall be approved by an Extraordinary Resolution of the Bondholders.

- 6.2 The provisions set out in Condition 6.1 shall not apply to:
- 6.2.1 any Security Interest of the Issuer or any other Material Subsidiary in existence at the date of signature of the Terms and Conditions;
 - 6.2.2 any Security Interest created over any asset owned, acquired, purchased, developed or constructed by the Issuer or any other Material Subsidiary after the date of signature of the Terms and Conditions (including any Security Interest over the shares or other ownership interests in, or securities of, any person, acquired or subscribed for by the Issuer or other Material Subsidiary, after the date of signature of the Terms and Conditions, or the assets of such other company or person) if such Security Interest was created for the sole purpose of financing or refinancing that asset by the Issuer or any other Material Subsidiary; provided that the Relevant Indebtedness so secured shall not exceed the *bona fide* arm's length market value (on or about the date of creation of such Security Interest) of that asset or the cost of the acquisition, purchase, development or construction of that asset by the Issuer or the relevant Material Subsidiary (including all interest and other finance charges, adjustments due to changes in circumstances and other charges reasonably incidental to such cost, whether contingent or otherwise) and where such market value and such cost both apply, the higher of the two;
 - 6.2.3 any Security Interest created over or with respect to any receivables of the Issuer or any Material Subsidiary after the date of signature of the Terms and Conditions, if such Security Interest was created pursuant to any securitisation or like arrangement in accordance with normal market practice;
 - 6.2.4 any Security Interest created over or with respect to any netting or set-off arrangement entered into by the Issuer or any other Material Subsidiary in the ordinary course of its banking arrangements for the purposes of netting debit and credit balances;
 - 6.2.5 any statutory Security Interest or Security Interest created by operation of law in the ordinary course of the business of the Issuer or any other Material Subsidiary;
 - 6.2.6 any Security Interest over or affecting any asset acquired by the Issuer or any other Material Subsidiary after the date of signature of the Terms and Conditions, if:
 - 6.2.6.1 the asset was subject to that Security Interest prior to the date of acquisition of that asset and the Security Interest was not created in contemplation of the acquisition of that asset by the Issuer or that other Material Subsidiary, as the case may be; and

- 6.2.6.2 the principal amount secured has not increased in contemplation of or since the acquisition of that asset by the Issuer or that other Material Subsidiary, as the case may be;
- 6.2.7 in respect of any Material Subsidiary which becomes a member of the Group after the date of signature of the Terms and Conditions, any Security Interest over or affecting any asset of that Material Subsidiary if:
- 6.2.7.1 the asset was subject to the Security Interest prior to the date of the Material Subsidiary becoming a member of the Group and the Security Interest was not created in contemplation of or in connection with the Material Subsidiary becoming a member of the Group; and
- 6.2.7.2 the principal amount secured has not increased in contemplation of or since the Material Subsidiary becoming a member of the Group;
- 6.2.8 any Security Interest arising in the ordinary course of trade of the Issuer or any other Material Subsidiary and securing amounts that are not more than 60 days overdue;
- 6.2.9 any extension or renewal of any Security Interest contemplated in Conditions 6.2.1 to 6.2.9 inclusive provided that the amount of such Security Interest is not increased; or
- 6.2.10 any Security Interest securing indebtedness the amount of which (when aggregated with the amount of any other indebtedness which has the benefit of a Security Interest not allowed under the preceding sub-paragraphs) does not exceed 5% of the consolidated assets of the Group or its equivalent in another currency at any time.

7. Conversion Agent, Calculation Agent and Transfer Agent

- 7.1 The Issuer is entitled to vary or terminate the appointment of the Conversion Agent, Calculation Agent and/or the Transfer Agent and/or to appoint additional or other agents.
- 7.2 There will at all times be a Conversion Agent, Calculation Agent and a Transfer Agent with a Specified Office. The Conversion Agent, Transfer Agent and the Calculation Agent act solely as the agents of the Issuer and do not assume any obligation towards or relationship of agency or trust for or with any Bondholders.

8. Interest

8.1 Interest on Bonds

8.1.1 Interest Rate

Each Bond will bear interest on its Principal Amount, at the rate per annum equal to the Interest Rate, from and including the Interest Commencement Date.

8.1.2 **Interest Payment Dates**

The interest due in respect of each Interest Period will be payable in arrear on the Interest Payment Date in respect of such Interest Period. The first payment of interest will be made on the Interest Payment Date following the Interest Commencement Date. If any Interest Payment Date falls upon a day which is not a Business Day, the provisions of Condition 11.3 shall determine the date of payment of interest due upon such Interest Payment Date.

8.1.3 **Calculation of Interest Amount**

The Calculation Agent will calculate the Interest Amount payable in respect of each Bond for each Interest Period. The Interest Amount for half yearly interest payments shall be calculated by multiplying the Interest Rate by the Principal Amount of the Bond and then dividing such product by 2 (the resultant sum will be rounded to the nearest cent, half a cent being rounded upwards). If interest is required to be calculated for a period of other than 6 months (in the case of semi-annual interest payments), such interest shall be calculated on the basis of a 365 day year and the actual number of days elapsed in such period.

8.2 **Accrual of Interest**

Each Bond will cease to bear interest:

8.2.1 where the Conversion Right has been exercised by a Bondholder, from the Interest Payment Date immediately preceding the relevant Conversion Date (subject in any such case as provided in Condition 9.10); or

8.2.2 where such Bond is redeemed or repaid pursuant to Condition 10 or Condition 13, from the due date for redemption or repayment thereof unless, upon due presentation thereof, payment of principal is improperly withheld or refused, in which event interest will continue to accrue at the rate specified in Condition 8.1.1 (both before and after judgment) on the amounts due in terms of such Bond until the day on which such sums due are received by or on behalf of the relevant holder.

8.3 **Publication of Interest Amount by the Calculation Agent**

The Calculation Agent will, in relation to the Bonds, at least 2 Business Days before each Interest Payment Date, cause the aggregate Interest Amount payable for the relevant Interest Period in respect of the Bonds to be notified to the Bondholders (in the manner set out in Condition 18), the Issuer and the JSE (if the Bonds are listed).

8.4 **Calculations final and limitation of liability**

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained by the Calculation Agent pursuant to the

exercise or non-exercise by it of its powers, duties and discretions under these Terms and Conditions, will, in the absence of wilful deceit, negligence, bad faith, or manifest error, be binding on the Issuer and the Bondholders, and the Calculation Agent will not have any liability to the Issuer or the Bondholders in connection therewith.

9. Conversion of Bonds

9.1 Conversion Period and Conversion Price

- (a) Except as otherwise provided in these Terms and Conditions, each Bond shall entitle the holder to convert such Bond into new and/or existing, as determined by the Issuer, Ordinary Shares credited as fully paid (a "**Conversion Right**").
- (b) The number of Ordinary Shares to be issued or transferred and delivered on exercise of a Conversion Right shall be determined by dividing the Principal Amount of the Bonds to be converted by the conversion price (the "**Conversion Price**") in effect on the relevant Conversion Date.
- (c) The Conversion Price as at the Issue Date is the Base Conversion Price. The Conversion Price is subject to adjustment in the circumstances described in Condition 9.2.
- (d) A Bondholder may exercise the Conversion Right in respect of a Bond that has not already been redeemed or repurchased and cancelled by delivering the Certificate, if any, in respect of such Bond to the Specified Office of the Conversion Agent in accordance with Condition 9.8 whereupon the Issuer shall (subject as provided in these Terms and Conditions) procure the delivery, to or as directed by the relevant Bondholder, of Ordinary Shares credited as paid up in full as provided in this Condition 9.
- (e) Subject to and as provided in these Terms and Conditions, the Conversion Right in respect of a Bond may be exercised, at the option of the holder thereof, at any time (subject to any applicable fiscal or other laws or regulations and as hereinafter provided) from the earlier of the date on which satisfaction of the Conversion Condition is notified to Bondholders and 21 August 2013 (the "**Conversion Period Commencement Date**") (provided that the Conversion Period Commencement Date shall not fall before 3 April 2013) to the close of business (at the place where the relevant Bond is delivered for conversion) on the date falling 10 days prior to the Final Redemption Date (both days inclusive) or, if such Bond is to be redeemed pursuant to Condition 10.2 or 10.3 prior to the Final Redemption Date, then up to the close of business (at the place aforesaid) on the 10th day before the date fixed for redemption thereof pursuant to Condition 10.2 or 10.3, unless there shall be a default in making payment in respect of such Bond on such date fixed for redemption, in which event the Conversion Right shall extend up to the close of business (at the place aforesaid) on the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given in accordance with Condition 19 or, if earlier, the Final Redemption Date; provided that, in each case, if the final such date for

the exercise of Conversion Rights is not a Business Day, then the period for exercise of Conversion Rights by Bondholders shall end on the immediately preceding Business Day.

- (f) Notwithstanding the foregoing, if a Change of Control occurs, the Conversion Rights may be exercised prior to the Conversion Period Commencement Date.
- (g) Conversion Rights may not be exercised (i) following the giving of notice by the Trustee pursuant to Condition 13 or (ii) in respect of a Bond in respect of which the relevant Bondholder has exercised its right to require the Issuer to redeem pursuant to Condition 10.4.
- (h) Save where a notice of redemption is given by the Issuer in the circumstances provided in Condition 9.10, Conversion Rights may not be exercised by a Bondholder in circumstances where the relevant Conversion Date would fall during the period commencing on the Last Day to Trade in respect of any payment of interest on the Bonds and ending on the relevant Interest Payment Date (both days inclusive).
- (i) The period during which Conversion Rights may (subject as provided below) be exercised by a Bondholder is referred to as the “**Conversion Period**”.
- (j) Conversion Rights may only be exercised in respect of the whole of a Bond.
- (k) Fractions of Ordinary Shares will not be issued or transferred and delivered on conversion or pursuant to Condition 9.3 and no cash payment or other adjustment will be made *in lieu* thereof. Any fractions of Ordinary Shares will be rounded down to the nearest whole number of Ordinary Shares. However, if the Conversion Rights in respect of more than one Bond are exercised at any one time such that the Ordinary Shares to be delivered on conversion or pursuant to Condition 9.3 are to be registered in the same name, the number of such Ordinary Shares to be delivered in respect thereof shall be calculated on the basis of the aggregate Principal Amount of such Bonds being so converted and rounded down to the nearest whole number of Ordinary Shares.
- (l) The Issuer will procure that Ordinary Shares to be issued or transferred and delivered on conversion will be issued or transferred and delivered to the holder of the Bonds completing the relevant Conversion Notice or his nominee. Any Additional Ordinary Shares to be issued or transferred and delivered pursuant to Condition 9.3 will be deemed to be issued or delivered as of the relevant Reference Date.
- (m) If at any time the Conversion Price falls to be adjusted pursuant to Condition 9.2, the Calculation Agent shall determine what adjustment (if any) shall be made. The Calculation Agent may obtain the advice or engage the services of any lawyers, accountants, investment banks or other experts whose advice or services the Calculation Agent may deem necessary and rely upon any advice so obtained. The Calculation Agent is acting exclusively as an agent for the Issuer, and in such capacity does not have any relationship of agency or trust with the Bondholders.

Adjustment of Conversion Price

(a) Upon the happening of any of the events described below, the Conversion Price shall be adjusted as follows:

- (i) If and whenever there shall be a consolidation, reclassification or subdivision in relation to the Ordinary Shares, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such consolidation, reclassification or subdivision by the following fraction:

$$\frac{A}{B}$$

where:

A is the aggregate number of Ordinary Shares in issue immediately before such consolidation, reclassification or subdivision, as the case may be; and

B is the aggregate number of Ordinary Shares in issue immediately after, and as a result of, such consolidation, reclassification or subdivision, as the case may be.

Such adjustment shall become effective on the date the consolidation, reclassification or subdivision, as the case may be, takes effect.

- (ii) If and whenever the Issuer shall issue any Ordinary Shares credited as fully paid to the Shareholders by way of capitalisation of profits or reserves (including any, share premium account or capital redemption reserve) other than (1) where any such Ordinary Shares are or are to be issued instead of the whole or part of a Dividend in cash which the Shareholders would or could otherwise have elected to receive or (2) where the Shareholders may elect to receive a Dividend in cash in lieu of such Ordinary Shares, or (3) where any such Ordinary Shares are or are expressed to be issued in lieu of a Dividend (whether or not a cash Dividend equivalent or amount is announced or would otherwise be payable to Shareholders, whether at their election or otherwise), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such issue by the following fraction:

$$\frac{A}{B}$$

where:

A is the aggregate number of Ordinary Shares in issue immediately before such issue; and

B is the aggregate number of Ordinary Shares in issue immediately after such issue.

Such adjustment shall become effective on the date of issue of such Ordinary Shares.

- (iii) (A) If and whenever the Issuer shall pay or make any Capital Distribution to the Shareholders, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share on the Dealing Day immediately preceding the Effective Date; and
- B is the portion of the Fair Market Value of the aggregate Capital Distribution attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Capital Distribution by the number of Ordinary Shares entitled to receive the relevant Capital Distribution (or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares by or on behalf of the Issuer or any Subsidiary of the Issuer, by the number of Ordinary Shares in issue immediately following such purchase, redemption or buy back).

Such adjustment shall become effective on the Effective Date or, if later, the first date upon which the Fair Market Value of the relevant Capital Distribution is capable of being determined as provided herein.

As used in this paragraph (iii)(A):

“Effective Date” means in respect of this paragraph (iii)(A), the first date on which the Ordinary Shares are traded ex- the relevant Dividend on the Relevant Stock Exchange or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares, the date on which such purchase, redemption or buy back is made or in the case of a Spin-Off, the first date on which the Ordinary Shares are traded ex- the relevant Spin-Off on the Relevant Stock Exchange.

(i) **“Capital Distribution”** means any Non-Cash Dividend.

(ii) **“Non-Cash Dividend”** means any Dividend which is not a Cash Dividend, and shall include a Spin-Off.

(B) If and whenever the Issuer shall pay any Extraordinary Dividends to the Shareholders, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A - C}$$

where:

- A is the Current Market Price of one Ordinary Share on the Effective Date;
- B is the portion of the Fair Market Value of the aggregate Extraordinary Dividend attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Extraordinary Dividend by the number of Ordinary Shares entitled to receive the Relevant Dividend; and
- C is the amount (if any) by which the Threshold Amount in respect of the Relevant Financial Year exceeds an amount equal to the aggregate of the Fair Market Values of any previous Cash Dividends per Ordinary Share paid or made in respect of such Relevant Financial Year (where C shall be zero if such previous Cash Dividends per Ordinary Share are equal to, or exceed, the Threshold Amount in respect of such Relevant Financial Year). For the avoidance of doubt “C” shall equal the Threshold Amount in respect of the Relevant Financial Year where no previous Cash Dividends per Ordinary Share have been paid or made in respect of such Relevant Financial Year.

Such adjustment shall become effective on the Effective Date or, if later, the first date upon which the Fair Market Value of the relevant Extraordinary Dividend can be determined.

“Effective Date” means, in respect of this paragraph (iii)(B), the first date on which the Ordinary Shares are traded ex-the Relevant Dividend on the Relevant Stock Exchange.

“Extraordinary Dividend” means any Cash Dividend (the **“Relevant Dividend”**) paid or made in respect of a financial year of the Issuer (the **“Relevant Financial Year”**), if (a) the Fair Market Value of the Relevant Dividend per Ordinary Share or (b) the sum of (i) the Fair Market Value of the Relevant Dividend per Ordinary Share and (ii) an amount equal to the

aggregate of the Fair Market Value or Values of any other Cash Dividend or Cash Dividends per Ordinary Share paid or made in respect of the Relevant Financial Year, exceeds the Threshold Amount in respect of such Relevant Financial Year, and in that case the Extraordinary Dividend shall be the Relevant Dividend.

“Threshold Amount” means in respect of any Relevant Dividend 1.5 per cent. of the average of the Volume Weighted Average Price of an Ordinary Share on each dealing day in the period of 90 days ending on the day immediately preceding the Effective Date, provided that if on any such dealing day the Volume Weighted Average Price shall have been based on a price cum-Dividend or cum-any other entitlement, the Volume Weighted Average Price of an Ordinary Share on such dealing day shall be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such Dividend or other entitlement per Ordinary Share as at the Effective Date (adjusted pro rata for any adjustments to the Conversion Price made pursuant to the provisions of this Condition 9.2(a), including this sub-paragraph (iii)).

“Cash Dividend” means (i) any Dividend which is to be paid or made in cash (in whatever currency), but other than falling within paragraph (b) of the definition of **“Spin-Off”** and (ii) any Dividend determined to be a Cash Dividend pursuant to paragraph (a) of the definition of **“Dividend”**, and for the avoidance of doubt, a Dividend falling within paragraph (c) or (d) of the definition of **“Dividend”** shall be treated as being a Non-Cash Dividend.

(C) For the purposes of the above, Fair Market Value shall (subject as provided in paragraph (a) of the definition of **“Dividend”** and in the definition of **“Fair Market Value”**) be determined as at the Effective Date.

(D) In making any calculations for the purposes of this 9.2(a)(iii), such adjustments (if any) shall be made as an Independent Financial Adviser may determine in good faith to be appropriate to reflect (i) any consolidation or sub-division of any Ordinary Shares or the issue of Ordinary Shares by way of capitalisation of profits or reserves (or any like or similar event) or any increase in the number of Ordinary Shares in issue in relation to the financial year of the Issuer in question, or (ii) any change in the financial year of the Issuer, or (iii) any adjustment to the Conversion Price made in the financial year of the Issuer in question.

(iv) If and whenever the Issuer shall issue Ordinary Shares to Shareholders as a class by way of rights or issue or grant to Shareholders as a class by way of rights, options, warrants or other rights to subscribe for or purchase any Ordinary Shares, in each case at a price per Ordinary Share which is less than 95% of the Current Market Price per Ordinary Share on the Effective Date, the Conversion Price shall be adjusted by multiplying the Conversion Price in force on

the Dealing Day immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue on the Dealing Day immediately preceding the Effective Date; and
- B is the number of Ordinary Shares, which is the aggregate consideration (if any) receivable for the Ordinary Shares issued by way of rights, or for the options or warrants or other rights issued by way of rights and for the total number of Ordinary Shares deliverable on the exercise thereof, would purchase at such Current Market Price per Ordinary Share; and
- C is the number of Ordinary Shares to be issued or, as the case may be, the maximum number of Ordinary Shares to be issued which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights.

Such adjustment shall become effective on the Effective Date. For the purpose of this Condition 9.2(a)(iv), “**Effective Date**” means the first date on which the Ordinary Shares are traded ex-rights, ex-options, or ex-warrants on the Relevant Stock Exchange.

- (v) If and whenever the Issuer shall issue any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for or purchase any Ordinary Shares) to Shareholders as a class by way of rights or grant to Shareholders as a class by way of rights any options, warrants or other right to subscribe for or purchase any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for or purchase Ordinary Shares), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share immediately preceding the Effective Date; and
- B is the Fair Market Value on the Effective Date of the portion of the rights attributable to one Ordinary Share.

Such adjustment shall become effective on the Effective Date.

For the purposes of this Condition 9.2(a)(v) “**Effective Date**” means the first date on which the Ordinary Shares are traded ex-the relevant securities or ex-rights, ex-option or ex-warrants on the Relevant Stock Exchange.

- (vi) If and whenever the Issuer shall issue (otherwise than as mentioned in Condition 9.2(a)(iv) above) wholly for cash or for no consideration any Ordinary Shares (other than Ordinary Shares issued on conversion of the Bonds or on the exercise of any rights of conversion into, or exchange or subscription for or purchase of Ordinary Shares) or issue or grant (otherwise than as mentioned in Condition 9.2(a)(iv) above) wholly for cash or for no consideration any options, warrants or other right to subscribe for or purchase any Ordinary Shares (other than the Bonds) in each case at a price per Ordinary Share which is less than 95% of the Current Market Price per Ordinary Share on (or, if that is not a Dealing Day, the immediately preceding Dealing Day) the date of the first public announcement of the terms of such issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such issue or grant by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue immediately before the issue of such Ordinary Shares or the grant of such options, warrants or rights; and
- B is the number of Ordinary Shares, which is the aggregate consideration (if any) receivable for the issue of such Ordinary Shares or, as the case may be, for the Ordinary Shares to be issued or otherwise made available upon the exercise of any such options, warrants or rights, would purchase at such Current Market Price per Ordinary Share; and
- C is the number of Ordinary Shares to be issued pursuant to such issue of such Ordinary Shares or, as the case may be, the maximum number of Ordinary Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights.

Such adjustment shall become effective on the date of issue of such Ordinary Shares or, as the case may be, the grant of such options, warrants or rights.

- (vii) If and whenever the Issuer or any Subsidiary of the Issuer or (at the direction or request of or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity (otherwise than as mentioned in Conditions 9.2(a)(iv), 9.2(a)(v) or 9.2(a)(vi) above) shall issue

wholly for cash or for no consideration any Securities (other than the Bonds), which by their terms of issue carry (directly or indirectly) rights of conversion into or exchange or subscription for, Ordinary Shares (or shall grant any such rights in respect of existing Securities so issued) or Securities which by their terms might be redesignated as Ordinary Shares, and the consideration per Ordinary Share receivable upon conversion, exchange, subscription or redesignation is less than 95% of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of issue of such Securities (or the terms of such grant) (or, if that day is not a Dealing Day, the immediately preceding Dealing Day), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such issue (or grants) by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue immediately before such issue or grant (but where the Relevant Securities carry rights of conversion into or rights of exchange or subscription for Ordinary Shares which have been issued, purchased or acquired by the Issuer or any Subsidiary of the Issuer (or at the direction or request or pursuant to any arrangement with the Issuer or any Subsidiary of the Issuer) for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued, purchased or acquired); and
- B is the number of Ordinary Shares, which is the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon the exercise of the right of subscription attached to such Securities or, as the case may be, for the Ordinary Shares to be issued or to arise from any such redesignation would purchase at such Current Market Price per Ordinary Share; and
- C is the maximum number of Ordinary Shares to be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such right of subscription attached thereto at the initial conversion, exchange or subscription price or rate or, as the case may be, the maximum number of Ordinary Shares which may be issued or arise from any such redesignation,

provided that if at the time of issue of the relevant Securities or date of grant of such rights (as used in this Condition 9.2(a)(vii) the “**Specified Date**”) such number of Ordinary Shares is to be determined by reference to the application

of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription are exercised or, as the case may be, such Securities are redesignated or at such other time as may be provided) then, for the purposes of this Condition 9.2(a)(vii), "C" shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and if such conversion, exchange, subscription, purchase or acquisition or, as the case may be, redesignation had taken place on the Specified Date.

Such adjustment shall become effective on the date of issue of such Securities or, as the case may be, the grant of such rights.

(viii) If and whenever there shall be any modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to any such Securities (other than the Bonds) as are mentioned in Condition 9.2(a)(vii) above (other than in accordance with the terms (including terms as to adjustment) applicable to such Securities upon issue) so that following such modification the consideration per Ordinary Share receivable has been reduced and is less than 95% of the Current Market Price per Ordinary Share on the date of the first public announcement of the proposals for such modification (or, if that is not a Dealing Day, the immediately preceding Dealing Day), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such modification by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue immediately before such modification (but where the relevant Securities carry rights of conversion into or rights of exchange or subscription for Ordinary Shares which have been issued, purchased or acquired by the Issuer or any Subsidiary of the Issuer (or at the direction or request or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued, purchased or acquired);
- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription attached to the Securities so modified would purchase at such Current Market Price per Ordinary Share or, if lower, the existing conversion, exchange or subscription price of

such Securities; and

- C is the maximum number of Ordinary Shares which may be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such rights of subscription attached thereto at the modified conversion, exchange or subscription price or rate but giving credit in such manner as an Independent Financial Adviser shall consider appropriate for any previous adjustment under this sub-paragraph or sub-paragraph (b)(vii) above;

provided that if at the time of such modification (as used in this Condition 9.2(a)(viii) the “**Specified Date**”) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription are exercised or at such other time as may be provided) then for the purposes of this Condition 9.2(a)(viii), “C” shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange or subscription had taken place on the Specified Date.

Such adjustment shall become effective on the date of modification of the rights of conversion, exchange or subscription attaching to such Securities.

- (ix) If and whenever the Issuer or any Subsidiary of the Issuer or (at the direction or request of or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity shall offer any Securities in connection with which Shareholders as a class are entitled to participate in arrangements whereby such Securities may be acquired by them (except where the Conversion Price falls to be adjusted under Conditions 9.2(a)(ii), 9.2(a)(iii), 9.2(a)(iv), 9.2(a)(vi) or 9.2(a)(vii) above or 9.2(a)(x) below (or would fall to be so adjusted if the relevant issue or grant was at less than 95% of the Current Market Price per Ordinary Share on the relevant Dealing Day) or under Condition 9.2(a)(v) above) the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the making of such offer by the following fraction:

$$\frac{A-B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share on the Dealing Day immediately preceding the date on which the terms of such offer are first publicly announced (or, if such date is not a Dealing Day, the immediately preceding Dealing Day); and

B is the Fair Market Value on the date of such announcement (or, if that is not a Dealing Day, the immediately preceding Dealing Day) of the portion of the relevant offer attributable to one Ordinary Share.

Such adjustment shall become effective on the first date on which the Ordinary Shares are traded ex-rights on the Relevant Stock Exchange.

(x) If any of the events referred to in (A), (B) or (C) below occur (each such event being a "**Change of Control**"):

(A) an offer is made to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all) such Shareholders other than the offeror and/or any parties acting in concert (as defined in Section 117 of the Companies Act) with the offeror), to acquire all or a majority of the issued ordinary share capital of the Issuer or if any person proposes a scheme with regard to such acquisition (other than an Exempt Newco Scheme) and (such offer or scheme having become or been declared unconditional in all respects) the right to cast more than 50 per cent of the votes which may ordinarily be cast on a poll at a general meeting of the Issuer has or will become unconditionally vested in the offeror and/or any such parties as aforesaid; or

(B) any person and/or parties acting in concert (defined as aforesaid) shall own, acquire or control (or have the right to own, acquire or control) more than 50 per cent of the issued ordinary share capital of the Issuer or the right to cast more than 50 per cent of the votes which may ordinarily be cast on a poll at a general meeting of the Issuer; or

(C) an event that occurs which has a like or similar effect to (A) or (B) above,

then upon any exercise of Conversion Rights during the Change of Control Period, the Conversion Price (the "**Change of Control Conversion Price**") shall be determined as set out below:

$$\text{COCCP} = \text{OCP} / (1 + (\text{CP} \times c/t))$$

where:

COCCP = means the Change of Control Conversion Price;

OCP = means the Conversion Price in effect on the relevant Conversion Date;

CP = means 35 per cent (expressed as fraction);

c = means the number of days from and including the date the Change of Control occurs to but excluding the Final Redemption Date; and

t = means the number of days from and including the Issue

Date to but excluding the Final Redemption Date.

- (xi) If the Issuer determines that an adjustment should be made to the Conversion Price as a result of one or more circumstances not referred to above in this Condition 9.2) (even if the relevant circumstance is specifically excluded from the operation of Conditions 9.2(a)(i) to (x) above), the Issuer shall, at its own expense and acting reasonably, request an Independent Financial Adviser to determine as soon as practicable what adjustment (if any) to the Conversion Price is fair and reasonable to take account thereof and the date on which such adjustment (if any) should take effect and upon such determination such adjustment (if any) shall be made and shall take effect in accordance with such determination, provided that an adjustment shall only be made pursuant to this Condition 9.2(a)(xi) if such Independent Financial Adviser is so requested to make such a determination not more than 21 days after the date on which the relevant circumstance arises and if the adjustment would result in a reduction to the Conversion Price.
- (b) Notwithstanding the foregoing provisions, where the events or circumstances giving rise to any adjustment pursuant to this Condition 9.2 have already resulted or will result in an adjustment to the Conversion Price or where the events or circumstances giving rise to any adjustment arise by virtue of any other events or circumstances which have already given or will give rise to an adjustment to the Conversion Price or where more than one event which gives rise to an adjustment to the Conversion Price occurs within such a short period of time that, in the opinion of the Issuer, a modification to the operation of the adjustment provisions is required to give the intended result, such modification shall be made to the operation of the adjustment provisions as may be advised by an Independent Financial Adviser to be in its opinion appropriate to give the intended result.
- (c) For the purpose of any calculation of the consideration receivable or price pursuant to Conditions 9.2(a)(iv), (vi), (vii) and (viii), the following provisions shall apply:
 - (i) the aggregate consideration receivable or price for Ordinary Shares issued for cash shall be the amount of such cash;
 - (ii) (x) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the conversion or exchange of any Securities shall be deemed to be the consideration or price received or receivable for any such Securities and (y) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the exercise of rights of subscription attached to any Securities or upon the exercise of any options, warrants or rights shall be deemed to be that part (which may be the whole) of the consideration or price received or receivable for such Securities or, as the case may be, for such options, warrants or rights which are attributed by the Issuer to such rights of subscription or, as the case may be, such options, warrants or rights or, if no

part of such consideration or price is so attributed, the Fair Market Value of such rights of subscription or, as the case may be, such options, warrants or rights as at the date of the first public announcement of the terms of issue of such Securities or, as the case may be, such options, warrants or rights, plus in the case of each of (x) and (y) above, the additional minimum consideration receivable or price (if any) upon the conversion or exchange of such Securities, or upon the exercise of such rights or subscription attached thereto or, as the case may be, upon exercise of such options, warrants or rights and (z) the consideration receivable or price per Ordinary Share upon the conversion or exchange of, or upon the exercise of such rights of subscription attached to, such Securities or, as the case may be, upon the exercise of such options, warrants or rights shall be the aggregate consideration or price referred to in (x) or (y) above (as the case may be) divided by the number of Ordinary Shares to be issued upon such conversion or exchange or exercise at the initial conversion, exchange or subscription price or rate;

- (iii) if the consideration or price determined pursuant to (i) or (ii) above (or any component thereof) shall be expressed in a currency other than the Relevant Currency, it shall be converted into the Relevant Currency at the Prevailing Rate on the date of the first public announcement of the terms of issue of such Ordinary Shares or, as the case may be, Securities; and
- (iv) in determining the consideration or price pursuant to the above, no deduction shall be made for any commissions or fees (howsoever described) or any expenses paid or incurred for any underwriting, placing or management of the issue of the relevant Ordinary Shares or Securities or options, warrants or rights, or otherwise in connection therewith.

9.3 **Retroactive Adjustments**

If the Registration Date in relation to the conversion of any Bond shall be after the record date in respect of any consolidation, reclassification or sub-division as is mentioned in Condition 9.2(a)(i), or after the record date or other due date for the establishment of entitlement for any such issue, distribution, grant or offer (as the case may be) as is mentioned in Condition 9.2(a)(ii), (iii) (iv), (v) or (ix), or after any such issue or grant as is mentioned in Condition 9.2(a)(vi) and (vii), in circumstances where the relevant Conversion Date falls before the relevant adjustment (if any) to the Conversion Price becomes effective under Condition 9.2 (such adjustment, a “**Retroactive Adjustment**”), then the Issuer shall (conditional upon the relevant adjustment becoming effective) procure that there shall be issued or transferred and delivered to the converting Bondholder, in accordance with the instructions contained in the Conversion Notice, such additional number of Ordinary Shares (if any) (the “**Additional Ordinary Shares**”) as, together with the Ordinary Shares issued or to be transferred and delivered on conversion of the relevant Bond (together with any fraction of an Ordinary Share not so issued or transferred and delivered), is equal to the number of Ordinary Shares which would have been required to be issued or transferred and delivered on conversion of such Bond if the relevant

adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date; provided that in the case of a Retroactive Adjustment arising in respect of any such consolidation, the number of Ordinary Shares to be transferred and delivered to the relevant holder shall be reduced to that number of Ordinary Shares which would have been required to be issued or transferred and delivered on conversion of such Bond if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date.

9.4 **Decision of an Independent Financial Adviser/ Calculation of Calculation Agent**

If any doubt shall arise as to whether an adjustment fails to be made to the Conversion Price or as to the appropriate adjustment to the Conversion Price, and following consultation between the Issuer and an Independent Financial Adviser, a written opinion of such Independent Financial Adviser in respect thereof shall be conclusive and binding on all parties, save in the case of manifest error. If any adjustment fails to be made to the Conversion Price which shall be calculated by the Calculation Agent as provided in Condition 9.2, such calculation shall be conclusive and binding on all parties, save in the case of manifest error.

9.5 **Share or Option Schemes**

No adjustment will be made to the Conversion Price where Ordinary Shares or other Securities (including rights, warrants and options) are issued, offered, exercised, allotted, appropriated, modified or granted to, or for the benefit of, employees or former employees (including directors of the Issuer holding or formerly holding executive office or the personal service company of any such person) or their spouses or relatives, in each case, of the Issuer or any of its Subsidiaries or any associated company or to a trustee or trustees to be held for the benefit of any such person, in any such case pursuant to any share or option scheme.

9.6 **Rounding Down and Notice of Adjustment of Conversion Price**

- (a) On any adjustment, the resultant Conversion Price, if not an integral multiple of ZAR 0.01, shall be rounded down to the nearest whole multiple of ZAR 0.01. No adjustment shall be made to the Conversion Price where such adjustment (rounded down if applicable) would be less than one per cent of the Conversion Price then in effect. Any adjustment not required to be made and/or any amount by which the Conversion Price has been rounded down, shall be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment shall be made on the basis that the adjustment not required to be made had been made at the relevant time and/or, as the case may be, that the relevant rounding down had not been made.
- (b) Notice of any adjustments to the Conversion Price shall be given by the Issuer to Bondholders in accordance with Condition 19 and to the Trustee promptly after the determination thereof.

- (c) The Issuer undertakes that it shall not take any action, and shall procure that no action is taken, that would otherwise result in an adjustment to the Conversion Price to below any minimum level permitted by Applicable Laws.

9.7 **Change of Control**

- (a) Within 14 (fourteen) days after the Issuer has become aware of a Change of Control, the Issuer shall give notice thereof to the Trustee and to the Bondholders in accordance with Condition 18 (a “**Change of Control Notice**”). Such notice shall contain a statement informing Bondholders of their entitlement to exercise their Conversion Rights as provided in these Terms and Conditions and their entitlement to exercise their rights to require redemption of their Bonds pursuant to Condition 10.4.
- (b) The Change of Control Notice shall also specify:
 - (i) all information material to Bondholders concerning the Change of Control;
 - (ii) the Conversion Price immediately prior to the occurrence of the Change of Control and the Conversion Price applicable pursuant to Condition 9.2(b)(x) above during the Change of Control Period on the basis of the Conversion Price in effect immediately prior to the occurrence of the Change of Control;
 - (iii) the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange as at the latest practicable date prior to the publication of the Change of Control Notice;
 - (iv) the last day of the Change of Control Period;
 - (v) the Change of Control Put Date; and
 - (vi) such other information relating to the Change of Control as the Trustee may reasonably require.
- (c) The Trustee shall not be required to monitor or take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur and will not be responsible or liable to Bondholders or any other person for any loss arising from any failure by it to do so.

9.8 **Procedure for exercise of Conversion Rights**

- (a) Conversion Rights may be exercised by a Bondholder during the Conversion Period by delivering the Certificate, if any, in respect of relevant Bond to the Specified Office of the Conversion Agent, during its usual business hours, accompanied by a duly completed and signed notice of conversion (a “**Conversion Notice**”) in the form (for the time being current) obtainable from the Conversion Agent. Conversion Rights shall be exercised subject in each case to any applicable fiscal or other laws or regulations applicable in the jurisdiction in which the Specified Office of the Conversion Agent to whom the relevant Conversion Notice is delivered is located.

- (b) If such delivery is made after the end of normal business hours or on a day which is not a Business Day in the place of the Specified Office of the Conversion Agent, such delivery shall be deemed for all purposes of these Terms and Conditions to have been made on the next following Business Day.
- (c) Conversion Rights may only be exercised in respect of a whole Bond. Where Conversion Rights are exercised in respect of some only of the Bonds represented by a single Certificate, the old Certificate shall be cancelled and a new Certificate for the balance thereof shall be issued in lieu thereof without charge but upon payment by the holder of any Taxes, duties and other governmental charges payable in connection therewith in the place of the Specified Office of the Transfer Agent, and the Transfer Agent will within seven Business Days following the relevant Conversion Date, deliver such new Certificate to the Bondholder at the Specified Office of the Transfer Agent or (at the risk and, if mailed (at the request of the Bondholder) otherwise than by ordinary mail, at the expense of the Bondholder) mail a new Certificate by uninsured mail to such address as the Bondholder may request.
- (d) A Conversion Notice, once delivered, shall be irrevocable.
- (e) The conversion date in respect of a Bond (the “**Conversion Date**”) shall be the Business Day immediately following the date of the delivery of the Certificate, if any, in respect of the Bonds and the Conversion Notice, and (if applicable) the making of any payment to be made as provided in Condition 9.8(f) below.
- (f) A Bondholder exercising a Conversion Right must pay directly to the relevant authorities any Taxes that may be payable arising on conversion and redemption of a Bond and capital, stamp, issue and registration and transfer Taxes and duties arising on conversion of a Bond; provided that the Issuer shall be liable for any stamp duties, issue and registration and transfer Taxes and duties payable in South Africa in respect of the issue or transfer and delivery of any Ordinary Shares on such conversion (including any Additional Ordinary Shares). Such Bondholder must also pay all, if any, Taxes arising by reference to any disposal or deemed disposal of a Bond or interest therein in connection with such conversion. The Trustee shall not be responsible for determining whether such Taxes or capital, stamp, issue and registration and transfer Taxes and duties are payable or the amount thereof and it shall not be responsible or liable for any failure by the Issuer to pay such Taxes or capital, stamp, issue and registration and transfer Taxes and duties.
- (g) Ordinary Shares to be issued on exercise of Conversion Rights will be issued in uncertificated form through the securities trading system operated by Strate Limited (“**Strate**”), or any successor licensed clearance and settlement facility (applicable to the Ordinary Shares) of Strate.
- (h) The Issuer will procure the delivery of the Ordinary Shares to the Strate account specified by the relevant Bondholder in the relevant Conversion Notice as soon as possible and in any event within 15 (fifteen) Business Days after the relevant Conversion Date (or, in the case of any Additional Ordinary Shares, not later than 15 (fifteen) Business Days following the Reference Date).

- (i) In addition, a Bondholder exercising Conversion Rights for delivery into Strate will be required to certify, represent and agree in the relevant Conversion Notice either:
- (i) that such Bondholder is not a resident of South Africa within the meaning of the Exchange Control Regulations 1961 (as may be amended from time to time) of South Africa promulgated under the Currency and Exchanges Act, 1933 (as amended) of South Africa and that all exchange control approvals required under Applicable Laws of South Africa in connection with the exercise of Conversion Rights by such Bondholder and the issue or transfer of Ordinary Shares to such Bondholder upon such exercise have been obtained and are in full force and effect; or
 - (ii) that no exchange control approvals are required under Applicable Laws of South Africa in connection with the exercise of such Conversion Rights by such Bondholder and the issue or transfer of Ordinary Shares to such Bondholder upon such exercise,

and shall be required to provide evidence reasonably satisfactory to the Issuer as to the applicability of (i) or (ii), as the case may be. The Issuer will (if applicable) procure that Ordinary Shares delivered through Strate are flagged “*Non Resident*” for the purposes of South African exchange control laws and regulations.

9.9 Ranking

- (a) Ordinary Shares (or any Additional Ordinary Shares) issued or transferred and delivered upon conversion of the Bonds will be fully paid and will in all respects rank *pari passu* with the fully paid Ordinary Shares in issue on the relevant Registration Date, except in any such case for any right excluded by mandatory provisions of Applicable Law and except that such Ordinary Shares or, as the case may be, Additional Ordinary Shares will not rank for (or, as the case may be, the relevant holder shall not be entitled to receive) any rights, distributions or payments, the record date or other due date for the establishment of entitlement for which falls prior to the relevant Registration Date.

If the record date or other due date for establishment or entitlement for the payment of any dividend or other distribution in respect of the Ordinary Shares to be issued on conversion of the Bonds is on or after the Conversion Date in respect of any Bond but before the Registration Date (other than and to the extent that it results in any adjustment (retroactive or otherwise) to the number of Ordinary Shares to which a converting Bondholder is entitled under Condition 9.2(a)), the Issuer will pay to the Bondholder who has exercised his Conversion Right in lieu of such dividend or distribution an amount in ZAR (the “**Equivalent Amount**”) equal to any such dividend or other distribution to which such Bondholder would have been entitled had he on that record date or other due date for establishment of entitlement been such a shareholder of record of such Ordinary Shares on that date and will make the relevant payment to the relevant Bondholder at the same time that it makes payment of the dividend or other distribution.

- (b) Save as provided in Condition 9.10, no payment or adjustment shall be made on conversion for any interest which otherwise would have accrued on the relevant Bonds since the last Interest Payment Date preceding the Conversion Date relating to such Bonds.

9.10 Interest on Conversion

If any notice requiring the redemption of any Bonds is given pursuant to Condition 10.2 on or after the fifteenth Business Day prior to a record date falling after the last Interest Payment Date (or in the case of the first Interest Period, the Issue Date) (whether such notice is given before, on or after such record date) in respect of any Dividend or distribution payable in respect of the Ordinary Shares where such notice specifies a date for redemption falling on or prior to the date which is 14 (fourteen) days after the Interest Payment Date next following such record date, interest shall accrue on Bonds in respect of which Conversion Rights shall have been exercised and in respect of which the Conversion Date falls after such record date and on or prior to the Interest Payment Date next following such record date in respect of such Dividend or distribution, in each case from and including the preceding Interest Payment Date (or, if such Conversion Date falls before the first Interest Payment Date, from the Issue Date) to but excluding such Conversion Date. The Issuer shall pay any such interest or procure that any such interest is paid by not later than 14 (fourteen) days after the relevant Conversion Date by Rand cheque drawn on, or by transfer to, a Rand account maintained with, a bank in Johannesburg in accordance with instructions given by the relevant Bondholder in the relevant Conversion Notice.

9.11 Purchase or Redemption of Ordinary Shares

The Issuer or any Subsidiary of the Issuer may exercise such rights as it may from time to time enjoy to purchase or redeem or buy back any shares of the Issuer (including Ordinary Shares) or any depositary or other receipts or certificates representing the same without the consent of the Bondholders.

9.12 No Duty to Monitor

The Trustee shall not be under any duty to monitor whether any event or circumstance has happened or exists which may require an adjustment to be made to the Conversion Price and will not be responsible or liable to the Bondholders for any loss arising from any failure by it to do so.

9.13 Consolidation, Amalgamation or Merger

In the case of any consolidation, amalgamation or merger of the Issuer with any other company (other than a consolidation, amalgamation or merger in which the Issuer is the continuing company), or in the case of any sale or transfer of all, or substantially all, of the assets of the Issuer, the Issuer will forthwith give notice thereof to the Trustee and to the Bondholders in accordance with Condition 18 of such event and take such steps as shall be required by the Trustee (including the execution of a deed supplemental to or amending the

Trust Deed) to ensure that each Bond then outstanding will (during the period in which Conversion Rights may be exercised) be convertible into the class and amount of shares and other securities and property receivable upon such consolidation, amalgamation, merger, sale or transfer by a holder of the number of Ordinary Shares which would have become liable to be issued or transferred and delivered upon exercise of Conversion Rights immediately prior to such consolidation, amalgamation, merger, sale or transfer. The above provisions of this Condition 9.13 will apply, *mutatis mutandis* to any subsequent consolidations, amalgamations, mergers, sales of transfers.

9.14 **Cash Settlement**

9.14.1 Notwithstanding any other provision of these Conditions, upon exercise of Conversion Rights by a Bondholder in respect of which the Conversion Date falls prior to the date on which the Issuer shall have given notice to the Bondholders and the Trustee that the Conversion Condition shall have been satisfied, the Issuer shall satisfy the exercise of Conversion Rights relating to such Bondholder's Bonds by making payment, or procuring that payment is made on its behalf, to the relevant Bondholder of the Cash Alternative Amount, together with any other amount payable by the Issuer to such Bondholder pursuant to these Conditions in respect of or relating to the relevant exercise of Conversion Rights, including any interest payable pursuant to Condition 9.10. The Issuer will pay the Cash Alternative Amount, together with any other amount as aforesaid by not later than 5 Business Days following the last day of the Cash Alternative Calculation Period (the "**Cash Alternative Payment Date**") by transfer to a Rand account with a bank in Johannesburg in accordance with the instructions contained in the relevant Conversion Notice.

9.14.2 If the Conversion Date in relation to the exercise of Conversion Rights by a Bondholder falls prior to the Issuer giving notice to Bondholders that the Conversion Condition shall have been satisfied, and such Conversion Date shall be after the record date in respect of any consolidation, reclassification or sub-division as is mentioned in Condition 9.2(a)(i), or after the record date or other due date for the establishment for any such issue, distribution, grant or offer (as the case may be) as is mentioned in Condition 9.2(a)(ii), (iii), (iv), (v) or (ix), or after the date of the first public announcement of the terms of any such issue or grant as is mentioned in Condition 9.2(a)(vi) and (vii) or of the terms of any such modification as is mentioned in Condition 9.2(a)(viii), in circumstances where the relevant Conversion Date falls before the relevant adjustment to the Conversion Price becomes effective under Condition 9.2(a) (such adjustment, a "**Retroactive Adjustment**"), the Issuer shall pay to the relevant Bondholder an additional amount (the "**Additional Cash Alternative Amount**") equal to the Market Price of such number of Ordinary Shares equal to that by which the number of Ordinary Shares by reference to which the Cash Alternative Amount shall have been determined would have been increased if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date. The Issuer will pay the Additional Cash Alternative Amount by the later of the Cash Alternative Payment Date and the date falling 5 Business Days following the relevant

Reference Date by transfer to a Rand account with a bank in Johannesburg in accordance with the instructions contained in the relevant Conversion Notice.

10. Redemption and purchases

10.1 Final redemption

Unless previously redeemed, converted or purchased and cancelled as specified below, each Bond shall, subject to the Conditions, be redeemed by the Issuer at its Principal Amount (together with accrued unpaid interest thereon) on the Final Redemption Date.

10.2 Redemption at the option of the Issuer

10.2.1 On giving not less than 40 nor more than 60 days' (the "**Notice Period**") notice (an "**Optional Redemption Notice**") to the Trustee and to the Bondholders in accordance with Condition 18, the Issuer may redeem all but not some only of the Bonds then outstanding on the date (the "**Optional Redemption Date**") specified in the Optional Redemption Notice at their Principal Amount together with accrued interest up to but excluding the Optional Redemption Date

10.2.1.1 at any time on or after 14 March 2016, if on more than 20 out of 30 consecutive Dealing Days ending not earlier than 7 days prior to the giving of the relevant Optional Redemption Notice the Volume Weighted Average Price of an Ordinary Share for each such Dealing Day exceeds 130% of the Conversion Price in effect (or deemed to be in effect) on such Dealing Day; or

10.2.1.2 at any time if, prior to the date on which the relevant Optional Redemption Notice is given, Conversion Rights shall have been exercised and/or redemptions and/or purchases (and corresponding cancellations) effected in respect of 85% or more in Principal Amount of the Bonds originally issued.

10.2.2 Any Optional Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Optional Redemption Date which shall be a Business Day, (ii) the Conversion Price, the aggregate Principal Amount of the Bonds outstanding and the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange, in each case as at the latest practicable date prior to the publication of the Optional Redemption Notice and (iii) the last day on which Conversion Rights may be exercised by Bondholders.

10.3 Optional redemption for tax reasons

10.3.1 For so long as the Bonds are admitted to listing and trading on the JSE main board the Bonds may be redeemed at the option of the Issuer, in whole and not in part, on the occasion of the next payment due under the Bonds (the "**Tax Redemption Date**"), on giving not less than 20 days notice (a "**Tax Redemption Notice**") to the Trustee and the Bondholders prior to such redemption, in accordance with Condition 18 (which notice shall be irrevocable), if the Issuer is of the reasonable opinion that:

- 10.3.1.1 on the occasion of the next payment due under the Bonds, the Issuer has or will become obliged to deduct or withhold from any payment of principal or interest on the Bonds any amounts as provided for or referred to in Condition 12 as a result of any change in, or amendment to, the laws or regulations of South Africa or any other Applicable Law or any political subdivision of, or any authority in, or of, South Africa having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date; and
- 10.3.1.2 such obligation cannot be avoided by the Issuer taking reasonable measures available to it.
- 10.3.2 From the date of publication of any notice of redemption pursuant to this Condition 10.3, the Issuer shall make available at its Specified Office, for inspection by any holder of Bonds so redeemed, a certificate signed by 2 authorised signatories of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers to the effect that the Issuer has or will become obliged to make such deduction or withholding as a result of such change or amendment.
- 10.3.3 If the Issuer gives a Tax Redemption Notice, each Bondholder will have the right to elect that his Bonds shall not be redeemed and that the provisions of Condition 12 shall not apply in respect of any payment of interest to be made on such Bonds which falls due after the relevant Tax Redemption Date, whereupon no additional amounts shall be payable in respect thereof pursuant to Condition 12 and payment of all amounts of such interest on such Bonds shall be made subject to the deduction or withholding of any South African taxation required to be withheld or deducted. To exercise such right, the holder of the relevant Bond must complete, sign and deposit at the Specified Office of the Transfer Agent a duly completed and signed notice of election, in the form for the time being current, obtainable from the Specified Office of the Transfer Agent together with the relevant Bonds on or before the day falling 10 days prior to the Tax Redemption Date.
- 10.3.4 Bonds redeemed for tax reasons pursuant to this Condition 10.3 will be redeemed at their Principal Amount, together with accrued unpaid interest (if any) from (and including) the immediately preceding Interest Payment Date to (but excluding) the date of redemption.
- 10.3.5 Any Tax Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Tax Redemption Date which shall be a Business Day, (ii) the Conversion Price, the aggregate Principal Amount of the Bonds outstanding and the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange, in each case as at the latest practicable date prior to the publication of the Tax Redemption Notice.

10.4 **Redemption at the option of Bondholders: Change of Control**

10.4.1 Following the occurrence of a Change of Control, the holder of each Bond will have the right to require the Issuer to redeem, in cash, that Bond on the Change of Control Put Date at its Principal Amount, together with accrued and unpaid interest to such date.

10.4.2 To exercise such right, the holder of the relevant Bond must deliver such Bond to the Specified Office of the Transfer Agent, together with a duly completed and signed notice of exercise in the form for the time being current obtainable from the Specified Office of the Transfer Agent (a “**Change of Control Put Exercise Notice**”), at any time during the Change of Control Period. The “**Change of Control Put Date**” shall be the fourteenth day after the expiry of the Change of Control Period.

10.4.3 A Change of Control Put Exercise Notice, once delivered, shall be irrevocable and the Issuer shall redeem all the Bonds that are subject to Change of Control Put Exercise Notices delivered as aforesaid on the Change of Control Put Date.

10.5 **Mandatory Redemption following delivery of an Enforcement Notice**

Upon the delivery of an Enforcement Notice (following the occurrence of an Event of Default), the Bonds will be immediately due and payable, and the Bonds will be redeemed in accordance with Condition 13.

10.6 **Purchases**

The Issuer may at any time purchase Bonds at any price in the open market or otherwise. In the event of the Issuer purchasing Bonds, such Bonds shall be held, resold or at the option of the Issuer, cancelled.

10.7 **Cancellation**

All Bonds which are redeemed in full or in respect of which Conversion Rights are exercised will forthwith be cancelled. All Bonds so cancelled and the Bonds purchased and cancelled pursuant to Condition 10.6, shall be held by the Issuer and cannot be re-issued or resold. Where a portion of the Bonds represented by a Certificate are cancelled, the Transfer Agent shall deliver a Certificate to such Bondholder in respect of the balance of the Bonds. The Issuer shall notify the Central Securities Depository and the JSE (if the Bonds are listed), of any cancellation or partial redemption of the Bonds so that such entity can record the reduction in the aggregate Principal Amount of the Bonds in issue.

11. **Payment**

11.1 **Method of payment**

11.1.1 Payments of interest and principal in respect of Bonds held in uncertificated form in the Central Securities Depository will be made to the Central Securities Depository's Nominee, as the registered holder of such Bonds, which in turn will transfer such funds,

via the Participants, to the holders of Beneficial Interests. Each of the persons reflected in the records of the Central Securities Depository or the relevant Participants, as the case may be, as the holders of Beneficial Interests shall look solely to the Central Securities Depository or the relevant Participant, as the case may be, for such persons share of each payment so made by the Issuer to, or for the order of, the registered holder of the Bond held in uncertificated form. The Issuer will not have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Beneficial Interests, or for maintaining, supervising or reviewing any records relating to such Beneficial Interests. Payments of interest and principal in respect of Bonds held in the Central Securities Depository in uncertificated form shall be recorded by the Central Securities Depository's Nominee, as the registered holder of the Bonds, distinguishing between interest and principal, and such record of payments by the registered holder of the Bonds shall be *prima facie* proof of such payments. Payments of interest and principal in respect of Bonds represented by Certificates shall be made to the person reflected as the registered holder of the Certificate in the Register on the Record Date.

11.1.2 The Issuer shall pay the interest and principal payable in respect of each Bond, in immediately available and freely transferable funds, in Rand by electronic funds transfer, to the bank account of the Bondholder as set forth in the Register at 17h00 (South African time) on the Record Date preceding the relevant Interest Payment Date or Redemption Date, as the case may be, or, in the case of joint Bondholders, the account of that one of them who is first named in the Register in respect of that Bond. If several persons are entered into the Register as joint Bondholders, then without affecting the previous provisions of this condition, payment to any one of them of any moneys payable on or in respect of the Bond shall be an effective and complete discharge by the Issuer of the amount so paid, notwithstanding any notice (express or otherwise) which the Issuer may have of the right, title, interest or claim of any other person to or in any Bond or interest therein.

11.1.3 If the Issuer is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with the preceding paragraph (whether by reason of strike, lockout, fire, explosion, floods, riot, war, accident, act of God, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or disturbances, cessation of labour, government interference or control or any other cause or contingency beyond the control of the Issuer) such inability shall not constitute an Event of Default and the Issuer shall give notice to the Bondholders within 3 Business Days of such inability arising. Upon receipt of such notice any Bondholder may request the Issuer in writing to make payment of any such amounts by way of cheque (or by such number of cheques as may be required in accordance with applicable banking law and practice). Such notice shall specify the address of the payee entitled to payment in respect of the Bond, and if the Bondholder so desires, a request to make such cheque available for collection during business hours by a Bondholder or its duly authorised representative at the registered office of the Issuer.

11.1.4 All moneys so payable by cheque shall, save if the Bondholder requests that the cheque be made available for collection as set out above (unless such cheque is not so collected within 2 Business Days of being made available for collection), be sent by post within 2 Business Days of the receipt by the Issuer of the notice from a Bondholder referred to in the preceding paragraph to:

11.1.4.1 the address of that Bondholder as set forth in the Register at 17h00 (South African time) on the relevant Record Date; or

11.1.4.2 in the case of joint Bondholders, the address set forth in the Register of that one of them who is first named in the Register in respect of that Bond.

The Issuer shall not be responsible for any loss in transmission of cheques posted in terms of this Condition 11.1 and the postal authorities shall be deemed to be the agent of the Bondholders for the purposes of all cheques posted in terms of this Condition 11.1.

11.1.5 Only Bondholders, or, in the case of joint Bondholders, the one of them who is first named in the Register in respect of that Bond, reflected in the Register at 17h00 (South African time) on the relevant Record Date will be entitled to payments of interest and/or principal in respect of Bonds.

11.1.6 Payments will be subject in all cases to any Taxation or other laws, directives and regulations applicable to such payment in the place of payment without prejudice to Condition 12.

11.1.7 Payment of all amounts other than interest and principal in respect of the Bonds, will be made as provided in these Conditions.

11.2 **Surrender of Certificates**

11.2.1 On or before the Last Day to Trade prior to any Redemption Date, the holder of a Certificate, in respect of a Bond to be redeemed (in part or in whole, as the case may be) shall deliver to the Transfer Agent the Certificates to be redeemed. This will enable the Transfer Agent to endorse the partial redemption thereon or, in the case of final redemption, to cancel the relevant Certificates.

11.2.2 Should the holder of a Certificate refuse or fail to surrender the Certificate for endorsement or cancellation on or before a Redemption Date, the amount payable to him in respect of such redemption, including any accrued interest, shall be retained by the Issuer for such Bondholder, at the latter's risk, until the Bondholder surrenders the necessary Certificate, and interest shall cease to accrue to such Bondholder from the Redemption Date in respect of the amount redeemed.

11.2.3 Documents required to be presented and/or surrendered to the Transfer Agent in accordance with these Terms and Conditions will be so presented and/or surrendered at the Specified Office of the Transfer Agent.

11.2.4 In the case of the Bonds held in uncertificated form in the Central Securities Depository, redemptions in part will be handled in accordance with the Applicable Procedures.

11.3 **Payment Date**

Notwithstanding anything to the contrary contained in these Terms and Conditions, if the date for payment of any amount payable in respect of any Bond is not a Business Day, then such date for payment shall be the following Business Day. The Bondholder shall not be entitled to further interest or other payment in respect of such delayed payment.

11.4 **Calculation and notice of principal payments**

The Calculation Agent will calculate the aggregate amount of principal due and payable by the Issuer for each Bond on each date that payment is due and payable. The Calculation Agent will, at least 2 Business Days before each such date, cause such aggregate amount of principal to be notified to the Bondholders (in the manner set out in Condition 18), the JSE (if the Bonds are listed), and the Issuer.

12. **Taxation**

12.1 All payments (whether in respect of principal, interest or otherwise) in respect of the Bonds will be made without withholding or deduction for or on account of any Taxes, unless such withholding or deduction is required by Applicable Law.

12.2 If any such withholding or deduction is required by Applicable Law in respect of Taxes imposed or levied on any payments (whether in respect of principal, interest or otherwise) in respect of any Bonds, the Issuer will, subject to the Issuer's rights to redeem such Bonds in terms of Condition 10.3, make such payments after such withholding or deduction has been made and will account to the relevant authorities for the amount so required to be withheld or deducted. The Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the Bondholders after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Bonds, as the case may be, in the absence of such withholding or deduction, except that no such additional amounts shall be payable with respect to any Bond:

12.2.1 held by or on behalf of a Bondholder, who is liable for such Taxes in respect of such Bond by reason it is having some connection with South Africa other than the mere holding of such Bond or the receipt of principal or interest in respect thereof; or

- 12.2.2 held by or on behalf of a Bondholder which would not be liable or subject to the withholding or deduction by complying with any statutory requirement or by making a declaration of non-residence or other similar claim for exemption to the relevant tax authority; or
- 12.2.3 where such withholding or deduction is in respect of Taxes levied or imposed on interest or principal payments only by virtue of the inclusion of such payments in the Taxable Income or Taxable Gains (each as defined below) of any Bondholder; or
- 12.2.4 where (in the case of any payment of principal or interest which is conditional on surrender of the relevant Certificate in accordance with these Terms and Conditions) the relevant Certificate is surrendered for payment more than 30 days after the Relevant Date except to the extent that the relevant Bondholder would have been entitled to an additional amount on presenting the Certificate for payment on such thirtieth day; or
- 12.2.5 if such withholding or deduction arises through the exercise by revenue authorities of special powers in respect of Tax defaulters.
- 12.3 Where a withholding or deduction is in respect of Taxes levied or imposed, the exclusions in Condition 12.2 will only apply if the Bonds have been (even if they no longer remain) admitted to listing and trading on the JSE main board (provided that such admission to listing and trading affords an exemption from any requirement to withhold or deduct in respect of any Taxes).
- 12.4 Where a withholding or deduction is in respect of Taxes levied or imposed, the exclusions in Condition 12.2 will only apply for so long as the Bonds are admitted to listing and trading on the JSE main board.
- 12.5 For the purposes of this Condition 12:
- 12.5.1 "**Taxable Income**" means any "taxable income" as defined in section 1 of the Income Tax Act;
- 12.5.2 "**Taxable Gain**" means any "taxable capital gain" as defined in paragraph 1 of Schedule 8 to the Income Tax Act; and
- 12.5.3 "**Income Tax Act**" means the South African Income Tax Act, 1962.

13. Events of Default

13.1 Events of Default relating to the Bonds

An Event of Default in relation to the Bonds shall arise if any of the following events occurs and is continuing:

13.1.1 *Non-payment:* the Issuer fails to pay any amount of principal, interest or any other amount (including any Cash Alternative Amount or any Additional Cash Alternative Amount) in respect of any Bonds on the due date for payment thereof and such failure remains unremedied for 7 days after written notice thereof has been delivered by the Trustee on behalf of any Bondholder to the Issuer; or

13.1.2 *Non-delivery of Ordinary Shares:* the Issuer fails to issue or transfer and deliver Ordinary Shares as provided in these Conditions following any exercise of Conversion Rights, and such failure continues for a period of 14 days; or

13.1.3 *Breach of other obligations:* the Issuer fails to perform any of its other obligations under or in respect of the Bonds or the Trust Deed, and such failure, if capable of remedy, remains unremedied for 10 Business Days after written notice thereof has been delivered by the Trustee on behalf of any Bondholder to the Issuer; or

13.1.4 *Cross-default or security enforced:*

- (a) if any Relevant Indebtedness of the Issuer or any Material Subsidiary is declared to be or becomes due and repayable before its stated maturity by reason of an event of default (however described); or
- (b) the Issuer or any Material Subsidiary fails to make any payment in respect of any Relevant Indebtedness on the due date for payment (as extended by any originally applicable grace period); or
- (c) any security given by the Issuer or any Material Subsidiary for any Relevant Indebtedness becomes enforceable by reason of default in relation thereto and steps are taken to enforce such security; or
- (d) if default is made by the Issuer or any Material Subsidiary in making any payment due under any guarantee and/or indemnity (at the expiry of any originally applicable grace period) given by it in relation to any Relevant Indebtedness of any other person;

provided that in each case no event shall constitute an Event of Default unless the Relevant Indebtedness or other relative liability either alone or when aggregated with other Relevant Indebtedness and/or other relative liabilities which shall have occurred, equals or exceeds ZAR 500,000,000 (or its equivalent in any other currency).

For the purposes of this Condition 13.1.4 and 13.1.5, any indebtedness which is in a currency other than South African Rand shall be translated into the Rand Equivalent on the date of such Event of Default; or

13.1.5 *Judgement:* any final judgement or arbitration award ("**judgement**") in respect of a claim of more than ZAR 500,000,000, or its equivalent in any other currency, is given by a court of competent jurisdiction or arbitrator against the Issuer or any Material

Subsidiary, or against the assets or revenues of the Issuer or any Material Subsidiary, and is not discharged or contested with 10 Business Days of the final judgment being granted; or

- 13.1.5.1 if such judgement is appealable, fails to appeal against such judgement within the time limits prescribed by law or fails to diligently prosecute such appeal thereafter or ultimately fails in such appeal; and/or
- 13.1.5.2 if such judgement is a default judgment, fails to apply for the rescission thereof within the time limits prescribed by law or fails to diligently prosecute such application thereafter or ultimately fail in such application; and/or
- 13.1.5.3 if such judgement is reviewable, fails to initiate proceedings for the review thereof within the time limits prescribed by law or fails to diligently prosecute such proceedings thereafter or ultimately fails in such proceedings; or
- 13.1.6 *Insolvency*: an Insolvency Event occurs in respect of the Issuer or any Material Subsidiary.

For the purposes of this Condition 13.1.6, "**Insolvency Event**" means the occurrence of any of the following events:

- 13.1.6.1 an order is made, for (a) the compulsory, provisional or final winding-up, liquidation, compromise, administration order, curatorship, business rescue, dissolution or administration of the Issuer or any Material Subsidiary; or (b) the appointment of an administrator, trustee, liquidator, business rescue practitioner or similar officer over any or all of the assets or revenues of the Issuer or any Material Subsidiary; or (c) the removal of the Issuer or any Material Subsidiary from the register of companies; or
- 13.1.6.2 the Issuer or any Material Subsidiary seeks the appointment of an administrator, liquidator (whether provisional or final), business rescue practitioner or other similar official for it or for all or substantially all its assets or estate (in each case other than for purposes of a solvent reconstruction or amalgamation in which the Issuer or any Material Subsidiary remains the debtor under the Bonds); or
- 13.1.6.3 the Issuer or any Material Subsidiary takes any proceedings or other step with a view to the general readjustment, rescheduling or deferral of its indebtedness (or any part thereof which it would otherwise be unable to pay when due) or proposes to take any such step; or
- 13.1.6.4 the Issuer or any Material Subsidiary compromising with or taking any procedural step attempting to compromise with its creditors generally (or any significant class of creditors) or deferring or taking any procedural step attempting to defer payment of debts owing by it to its creditors generally (or any significant class of creditors) (except a deferral provided for in terms of these Terms and Conditions

- of the Bonds) or proposing or seeking to make or makes a general assignment or any arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness; or
- 13.1.6.5 the Issuer or any Material Subsidiary committing an act which would be an act of insolvency, in terms of the Insolvency Act, 1936, if committed by a natural person; or
- 13.1.6.6 the Issuer or any Material Subsidiary is unable (or admits inability) to pay its debts generally as they fall due or is deemed to be unable to pay its debts or is (or admits to being) otherwise insolvent or stops, suspends or threatens to stop or suspend payment of all or a material part of its indebtedness; or
- 13.1.6.7 the board or members of the Issuer or any Material Subsidiary convening a meeting in order to consider the passing of a resolution providing for the Issuer or any Material Subsidiary to be wound-up, liquidated, deregistered or placed under business rescue, or any resolution being passed to this effect (in each case other than for purposes of a solvent reconstruction or amalgamation in which the Issuer or any Material Subsidiary remains the debtor under the Bonds); or
- 13.1.6.8 the Issuer or any Material Subsidiary causes or is subject to any event with respect to it which, under the Applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in 13.1.6.1 to 13.1.6.7 above.
- 13.1.7 *Attachment of assets:* any attachment in execution of a judgment in respect of a claim for more than ZAR 500,000,000 is levied against any undertaking or asset of the Issuer or any Material Subsidiary and such attachment or execution is not set aside or lifted with 15 Business Days after it came to the attention of the Issuer or such Material Subsidiary; or
- 13.1.8 *Governmental intervention by or under the authority of any government:* all or a majority of the issued shares of the Issuer or any Material Subsidiary or a material part of its revenues or assets is seized, nationalised or compulsorily acquired.
- 13.2 **Steps following an Event of Default**
- 13.2.1 If an Event of Default occurs in relation to the Bonds:
- 13.2.1.1 the Calculation Agent and/or the Issuer will forthwith inform the Bondholders, the Trustee and the JSE (if the Bonds are listed) thereof; and
- 13.2.1.2 the Trustee will, as soon as such Event of Default comes to its notice (whether as a result of having been informed by the Calculation Agent and/or the Issuer

thereof pursuant to Condition 13.2.1.1 or otherwise), forthwith call a meeting of the Bondholders.

- 13.2.2 If any Event of Default has occurred and is continuing, then the Trustee at its discretion may, and if so directed by an Extraordinary Resolution of the Bondholders or in writing by Bondholders holding at least one-quarter of the aggregate Principal Amount of the Bonds for the time being outstanding, it shall, give written notice to the Issuer that the Bonds are, and they shall accordingly become immediately due and payable at their Principal Amount together with accrued interest (if any) thereon to the date of payment.

14. Undertakings

- 14.1 Whilst any Conversion Right remains exercisable, the Issuer will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in its opinion, it is not materially prejudicial to the interests of the Bondholders to give such approval:

- 14.1.1 allot, issue, register and deliver Ordinary Shares on exercise of Conversion Rights in accordance with these Terms and Conditions and the Trust Deed and at all times keep available for issue free from pre-emptive or other similar rights out of its authorised but unissued ordinary share capital such number of Ordinary Shares as would enable it to issue in full such number of Ordinary Shares as are required to be issued by it upon exercise of Conversion Rights and all other rights of subscription and exchange for and conversion into Ordinary Shares;

- 14.1.2 other than in connection with a Newco Scheme, not issue or pay up any Securities, in either case by way of capitalisation of profits or reserves, other than:

- 14.1.2.1 by the allotment and issue of fully paid Ordinary Shares to Shareholders and other holders of shares in the capital of the Issuer which by their terms entitle the holders thereof to receive Ordinary Shares or other shares or securities on a capitalisation of profits or reserves; or

- 14.1.2.2 by the allotment and issue of Ordinary Shares paid up in full (in accordance with Applicable Law) and issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a cash dividend; or

- 14.1.2.3 by the allotment and issue of fully paid equity share capital (other than Ordinary Shares) to the holders of equity share capital of the same class and other holders of shares in the capital of the Issuer which by their terms entitle the holders thereof to receive equity share capital (other than Ordinary Shares); or

- 14.1.2.4 by the allotment and issue of Ordinary Shares or any equity share capital to, or for the benefit of, any employee or former employee, director or executive holding or formerly holding executive office of the Issuer or any of its Subsidiaries or any of its Subsidiaries or any associated company or to trustees

or nominees to be held for the benefit of any such person, in any such case pursuant to an employee, director or executive share or option scheme whether for all employees, directors, or executives or any one or more of them,

unless, in any such case, the same constitutes a Dividend or otherwise gives rise (or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price;

- 14.1.3 not modify the rights attaching to the Ordinary Shares with respect to voting, dividends or liquidation nor issue any other class of equity share capital carrying any rights which are more favourable than the rights attaching to the Ordinary Shares but so that nothing in this Condition 14.1.3 shall prevent:
- 14.1.3.1 any consolidation, reclassification or subdivision of the Ordinary Shares; or
 - 14.1.3.2 any modification of such rights which is not, in the opinion of an Independent Financial Adviser, materially prejudicial to the interests of the holders of the Bonds; or
 - 14.1.3.3 any issue of equity share capital where the issue of such equity share capital results, or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments or, where comprising Ordinary Shares, the fact that the consideration per Ordinary Share receivable therefore is at least 95% (ninety five per cent) of the Current Market Price per Ordinary Share, otherwise result, in an adjustment to the Conversion Price; or
 - 14.1.3.4 any issue of equity share capital or modification of rights attaching to the Ordinary Shares, where prior thereto the Issuer shall have instructed an Independent Financial Adviser to determine what (if any) adjustments should be made to the Conversion Price as being fair and reasonable to take account thereof and such Independent Financial Adviser shall have determined either that no adjustment is required or that an adjustment resulting in a decrease in the Conversion Price is required and, if so, the new Conversion Price as a result thereof and the basis upon which such adjustment is to be made and, in any such case, the date on which the adjustment shall take effect (and so that the adjustment shall be made and shall take effect accordingly);
- 14.1.4 procure that no Securities (whether issued by the Issuer or any Subsidiary of the Issuer or procured by the Issuer or any Subsidiary of the Issuer to be issued or issued by any other person pursuant to any arrangement with the Issuer or any Subsidiary of the Issuer) issued without rights to convert into, or exchange or subscribe for, Ordinary Shares shall subsequently be granted such rights exercisable at a consideration per Ordinary Share which is less than 95% of the Current Market Price per Ordinary Share at the close of business on the last Dealing Day preceding the date of the first public announcement of the proposed inclusion of such rights unless the same gives rise (or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward

of adjustments, give rise) to an adjustment to the Conversion Price and that at no time shall there be in issue Ordinary Shares of differing nominal values, save where such Ordinary Shares have the same economic rights;

14.1.5 not make any issue, grant or distribution or take or omit to take any other action if the effect thereof would be that, on the exercise of Conversion Rights, Ordinary Shares could not, under any Applicable Law then in effect, be legally issued as fully paid;

14.1.6 not reduce its issued share capital, share premium account, or any uncalled liability in respect thereof, or any non-distributable reserves, except:

14.1.6.1 pursuant to the terms of issue of the relevant share capital; or

14.1.6.2 by means of a purchase or redemption of share capital of the Issuer to the extent permitted by applicable law; or

14.1.6.3 pursuant to a Newco Scheme; or

14.1.6.4 by way of transfer to reserves as permitted under Applicable Law; or

14.1.6.5 where the reduction is permitted by Applicable Law and the Trustee is advised by an Independent Financial Adviser, acting as an expert, that the interests of the Bondholders will not be materially prejudiced by such reduction; or

14.1.6.6 where the reduction is permitted by Applicable Law and results in (or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is otherwise taken into account for the purposes of determining whether such an adjustment should be made,

provided that, without prejudice to the other provisions of these Conditions, the Issuer may exercise such rights as it may from time to time be entitled pursuant to Applicable Law to purchase, redeem or buy back its Ordinary Shares and any depositary or other receipts or certificates representing Ordinary Shares without the consent of Bondholders;

14.1.7 if any offer is made to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all) Shareholders other than the offeror and/or any parties acting in concert (as defined in the Companies Act or any modification or re-enactment thereof)) to acquire the whole or any part of the issued Ordinary Shares, or if any person proposes a scheme with regard to such acquisition (other than a Newco Scheme), give notice of such offer or scheme to the Bondholders at the same time as any notice thereof is sent to the Shareholders (or as soon as practicable thereafter) that details concerning such offer or scheme may be obtained from the Specified Offices of the Paying, Transfer and Conversion Agents and, where such an offer or scheme has been recommended by the board of directors of the Issuer, or where such an offer has

become or been declared unconditional in all respects or such scheme has become effective, use all reasonable endeavours to procure that a like offer or scheme is extended to the holders of any Ordinary Shares issued during the period of the offer or scheme arising out of the exercise of the Conversion Rights by the Bondholders and/or to the holders of the Bonds;

- 14.1.8 in the event of a Newco Scheme, the Issuer shall take (or shall procure that there is taken) all necessary action to ensure that (to the satisfaction of the Trustee) immediately after completion of the scheme of arrangement, at its option, either (a) Newco is substituted under the Bonds and the Trust Deed as principal obligor in place of the Issuer (with the Issuer providing a guarantee); or (b) Newco becomes a guarantor under the Bonds and the Trust Deed and, in either case, that (i) such amendments are made to these Conditions and the Trust Deed as are necessary, in the opinion of the Trustee, to ensure that the Bonds may be converted into or exchanged for Ordinary Shares in Newco *mutatis mutandis* in accordance with and subject to these Conditions and the Trust Deed and (ii) the Ordinary Shares of Newco are:
- 14.1.8.1 admitted to the Relevant Stock Exchange; or
- 14.1.8.2 admitted to listing on another regulated, regularly operating, recognised stock exchange or securities market; and
- 14.1.9 for so long as any Bond remains outstanding, use its reasonable endeavours to maintain the listing of its issued Ordinary Shares on the JSE;
- 14.1.10 apply for the Bonds to be admitted to listing and trading on the JSE main board within 3 months of the Issue Date. If the Issuer is unable to maintain the inclusion of the Bonds to trading as aforesaid, the Issuer undertakes to use all reasonable endeavours to obtain and maintain a listing and/or admission to trading for the Bonds on such other stock exchange as the Issuer may from time to time determine and as may be approved by the Trustee, and the Issuer will forthwith give notice to the Bondholders in accordance with Condition 18 of the listing or delisting of the Bonds by any of such stock exchanges; and
- 14.1.11 use its best endeavours to convene a meeting of Shareholders by 21 May 2013 for the purpose of considering and if thought fit, passing such resolutions as are required to enable the issuance of such number of Ordinary Shares as may be required to be issued from time to time to satisfy the exercise of Conversion Rights.
- 14.2 The Issuer undertakes to give notice to the Bondholders and the Trustee within 2 days of satisfaction of the Conversion Condition.
- 14.3 The Issuer undertakes to deliver to the Trustee annually, within 120 days of each financial year end of the Issuer, a certificate of the Issuer, signed by two directors of the Issuer, as to there not having occurred, as far as the board of directors of the Issuer is aware, an Event

of Default or Potential Event of Default since the date of the last such certificate or if such event has occurred as to the details of such event. The Trustee will be entitled to rely on such certificate and shall not be obliged to independently monitor compliance by the Issuer or the Issuer with the undertakings set forth in this Condition 14 or the other provisions of the Terms and Conditions, nor be liable to any person for not so doing.

15. Exchange of Beneficial Interests and replacement of Bonds

15.1 Exchange

15.1.1 The holder of a Beneficial Interest in Bonds may, in terms of the Applicable Procedures and subject to section 44 of the Securities Services Act, by written notice to the holder's nominated Participant (or, if such holder is a Participant, the Central Securities Depository), request that such Beneficial Interest be exchanged for Bonds in definitive form represented by a Certificate (the "**Exchange Notice**"). The Exchange Notice shall specify (i) the name, address and bank account details of the holder of the Beneficial Interest and (ii) the day on which such Beneficial Interest is to be exchanged for a Certificate; provided that such day shall be a Business Day and shall fall not less than 30 (thirty) days after the day on which such Exchange Notice is given ("**Exchange Date**").

15.1.2 The holder's nominated Participant will, following receipt of the Exchange Notice, through the Central Securities Depository, notify the Transfer Agent that it is required to exchange such Beneficial Interest for Bonds represented by a Certificate. The Transfer Agent will, as soon as is practicable but within 14 days after receiving such notice, in accordance with the Applicable Procedures, procure that a Certificate is prepared, authenticated and made available for delivery, on a Business Day falling within the aforementioned 14 day period, to the holder of the Beneficial Interest at the Specified Office of the Transfer Agent; provided that joint holders of a Beneficial Interest shall be entitled to receive only one Certificate in respect of that joint holding, and delivery to one of those joint holders shall be delivery to all of them.

15.1.3 In the case of the exchange of a Beneficial Interest in Bonds issued in uncertificated form:

15.1.3.1 the Central Securities Depository's Nominee shall, prior to the Exchange Date, will surrender (through the Central Securities Depository system) such uncertificated Bonds to the Transfer Agent at its Specified Office; and

15.1.3.2 the Transfer Agent will obtain the release of such uncertificated Bonds from the Central Securities Depository in accordance with the Applicable Procedures.

15.1.4 A Certificate shall, in relation to a Beneficial Interest in any number of Bonds issued in uncertificated form of a particular aggregate Principal Amount standing to the account of the holder thereof, represent that number of Bonds of that aggregate Principal Amount, and shall otherwise be in such form as may be agreed between the Issuer and

the Transfer Agent; provided that if such aggregate Principal Amount is equivalent to a fraction of the minimum denomination of the Bonds or a fraction of any multiple thereof, such Certificate shall be issued in accordance with, and be governed by, the Applicable Procedures.

15.2 Costs

Certificates shall be provided (whether by way of issue or delivery) by the Issuer without charge, save as otherwise provided in these Terms and Conditions. The costs and expenses of delivery of Certificates by a method other than ordinary post (if any) and, if the Issuer shall so require, Taxes or governmental charges or insurance charges that may be imposed in relation to such mode of delivery, shall be borne by the Bondholder.

15.3 Replacement

If any Certificate is mutilated, defaced, stolen, destroyed or lost it may be replaced at the office of the Transfer Agent on payment by the claimant of such costs and expenses as may be incurred in connection therewith and against the furnishing of such indemnity as the Transfer Agent may reasonably require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

15.4 Death and sequestration or liquidation of Bondholder

Any person becoming entitled to Bonds in consequence of the death, sequestration or liquidation of the relevant Bondholder may, upon producing evidence to the satisfaction of the Issuer that he holds the position in respect of which he proposes to act under this paragraph or of his title, require the Transfer Agent to register such person as the holder of such Bonds or, subject to the requirements of this Condition, to transfer such Bonds to such person.

16. Transfer of Bonds

16.1 Beneficial Interests in the Bonds may be transferred in terms of the Applicable Procedures through the Central Securities Depository.

16.2 The Central Securities Depository maintains accounts only for its Participants. Beneficial Interests which are held by Participants (which are also Settlement Agents) may be held directly through the Central Securities Depository. Participants are in turn required to maintain securities accounts for their clients. Beneficial Interests which are not held by Participants may be held by clients of Participants indirectly through such Participants.

16.3 Transfers of Beneficial Interests to and from clients of Participants occur, in terms of existing law and practice, by way of electronic book entry in the securities accounts maintained by the Participants for their clients. Transfers of Beneficial Interests among Participants occur through electronic book entry in the central securities accounts maintained by the Central Securities Depository for the Participants. Such transfers of Beneficial Interests will not be

recorded in the Register and the Central Securities Depository's Nominee will continue to be reflected in the Register as the Bondholder in respect of the Beneficial Interests notwithstanding such transfers. Beneficial Interests may be transferred only in accordance with these Terms and Conditions, and the Applicable Procedures.

- 16.4 In order for any transfer of Bonds to be recorded in the Register, and for such transfer to be recognised by the Issuer:
- 16.4.1 the transfer of such Bonds must be embodied in the Transfer Form;
- 16.4.2 the Transfer Form must be signed by the registered Bondholder and the transferee, or any authorised representative of that registered Bondholder and/or transferee; and
- 16.4.3 the Transfer Form must be delivered to the Transfer Agent at its Specified Office together with the relevant Certificate, if any, for cancellation.
- 16.5 Transfers of Bonds recorded in the Register will only be in a denomination equal to or greater than the minimum denomination of the Bonds. The transfer of Bonds recorded in the Register may be transferred in whole or in part.
- 16.6 Subject to the preceding provisions of this Condition 16, the Transfer Agent will, within 3 Business Days of receipt by it of a valid Transfer Form (or such longer period as may be required to comply with any applicable fiscal or other laws or regulations), record the transfer of Bonds in the Register, and authenticate and deliver to the transferee at the Transfer Agent's Specified Office or, at the risk of the transferee, send by mail to such address as the transferee may request, a new Certificate, if applicable, in respect of such Bonds reflecting the same Principal Amount as the Bonds transferred. Where a Bondholder has transferred part only of his holding of Bonds represented by a Certificate, the Transfer Agent will authenticate and deliver to such Bondholder at the Transfer Agent's Specified Office or, at the risk of such Bondholder, send by mail to such address as such Bondholder may request, a new Certificate in respect of the balance of the Bonds held by such Bondholder.
- 16.7 The transferor of any Bonds will be deemed to remain the owner thereof until the transferee is registered in the Register as the holder thereof.
- 16.8 Before any transfer of any Bonds is registered, all relevant transfer Taxes (if any) must have been paid by the transferor and/or the transferee and such evidence must be furnished as the Transfer Agent reasonably requires as to the identity and title of the transferor and the transferee.
- 16.9 No transfer of any Bonds will be registered (i) while the Register is closed as contemplated in Condition 17.2, or (ii) where a Conversion Notice has been delivered by a Bondholder pursuant to these Conditions.

16.10 If a transfer of any Bonds is registered, the Transfer Form and cancelled Certificate, if any, will be retained by the Transfer Agent.

17. Register

17.1 The Register will be kept at the Specified Office of the Transfer Agent. The Register will contain the name, address and bank account details of the registered Bondholders. The Register will set out the Principal Amount of the Bonds issued to any Bondholder and will show the date of such issue and the date upon which the Bondholder became registered as such. The Register will show the serial numbers of the Certificates issued. The Register will be open for inspection during the normal business hours of the Transfer Agent to any Bondholder or any person of proven identity authorised in writing by any Bondholder. The Issuer and the Transfer Agent will not be bound to enter any trust into the Register or to take any notice of or to accede to the execution of any trust (express, implied or constructive) to which any Bond may be subject.

17.2 To be recorded in the Register on the Record Date, the trade must take place on the Last Day to Trade.

17.3 The Transfer Agent will alter the Register in respect of any change of name, address or bank account number of any of the Bondholders of which it is notified in accordance with Condition 18.

18. Notices

18.1 Subject to Condition 18.2, all notices (including all demands or requests under these Terms and Conditions) to the Bondholders will be valid if mailed by registered post or delivered by hand to their addresses appearing in the Register or published in a leading English language daily newspaper of general circulation in South Africa. Each such notice will be deemed to have been given on the day of first publication or delivery by hand or on the 14th day after the day on which it is mailed, as the case may be.

18.2 For so long as the Bonds are held in their entirety by the Central Securities Depository, there may be substitution for publication as contemplated in clause 18.1 by the delivery of the relevant notice to the Central Securities Depository's Nominee, the Participants and the JSE for communication by them to the holders of Beneficial Interests in the Bonds, in accordance with the Applicable Procedures.

18.3 Where any provision of these Terms and Conditions requires notice to be given to the Bondholders of any matter other than a meeting of Bondholders, such notice will be given *mutatis mutandis* as set out in Condition 18.1 and Condition 18.2, respectively, subject to compliance with any other time periods prescribed in the provision concerned.

18.4 All notices (including all communications, demands and/or requests under these Terms and Conditions) to be given by any Bondholder to the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, will be in writing and given by

delivering the notice, by hand or by registered post, together with a certified copy of the relevant Certificate, if any, to the Specified Office of the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, and marked for the attention of the chief executive officer. Any notice to the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, will be deemed to have been received by the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, on the second Business Day after being delivered by hand to the Specified Office of the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, or on the 14th day after the day on which it is mailed by registered post to the Specified Office of the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be.

- 18.5 Whilst any of the Bonds are held in uncertificated form, notices to be given by any holder of a Beneficial Interest to the Issuer shall be given by such holder through such holder's relevant Participant in accordance with the Applicable Procedures.
- 18.6 Any notices to Bondholders, including of meetings and any amendments to these Terms and Conditions, shall be published on SENS.

19. **Amendment of these Terms and Conditions**

- 19.1 The Trustee may agree, without the consent of the Bondholder, to any amendment to these Terms and Conditions which in the opinion of the Trustee is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the Applicable Law. Any such amendment will be binding on Bondholders and such amendment will be notified to Bondholders in accordance with Condition 18 as soon as practicable thereafter.
- 19.2 In respect of an amendment that is not of a formal, minor or technical nature, such amendment may be made only with the prior authorisation of an Extraordinary Resolution of the Bondholders, in accordance with Condition 20.13. The Issuer will call a meeting of all of the Bondholders. Such meeting or meetings will be regulated by the provisions set out in Condition 20. No proposed amendment will be made to these Terms and Conditions until such amendment has been approved by Extraordinary Resolution at such meeting and, while the Bonds are listed on the JSE, made in accordance with the JSE debt listings requirements.

20. **Meetings of Bondholders**

Where a meeting of the Bondholders is to be convened, in accordance with these Terms and Conditions or the Trust Deed, then the provisions of this Condition 20 shall apply.

20.1 **Convening of meetings**

The Issuer or the Trustee may at any time convene a meeting of the Bondholders (a "**meeting**").

20.1.1 The Issuer or the Trustee will convene a meeting of the Bondholders upon the requisition in writing of members of the Bondholders holding not less than 20% of the aggregate Principal Amount of the Bonds for the time being outstanding (a "**requisition notice**").

20.1.2 Whenever the Issuer wishes to convene a meeting, it will forthwith give notice in writing to the Bondholders in the manner prescribed in Condition 18 and to the Trustee in accordance with the provisions of the Trust Deed of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.

20.1.3 Whenever the Trustee wishes or is obliged to convene a meeting it will forthwith give notice in writing to the Bondholders and the Issuer in the manner prescribed in Condition 18, of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.

20.1.4 All meetings of the Bondholders will be held in Johannesburg.

20.2 **Requisition**

20.2.1 A requisition notice will state the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting and will be deposited at the Specified Office of the Issuer or the Trustee, as the case may be.

20.2.2 A requisition notice may consist of several documents in like form, each signed by one or more requisitionists.

20.3 **Convening of meetings by requisitionists**

If the Issuer or the Trustee, as the case may be, does not convene a meeting to be held within 20 days of the deposit of a requisition notice, the requisitionists may themselves convene the meeting, but the meeting so convened will be held within 60 days from the date of such deposit and will be convened as nearly as possible in the same manner as that in which meetings may be convened by the Issuer. Whenever the requisitionists are about to so convene any such meeting, requisitionists shall forthwith give notice of the meeting to the Issuer and the Trustee.

20.4 **Notice of meeting**

20.4.1 Unless the holders of at least 90% of the aggregate Principal Amount of the Bonds for the time being outstanding, agree in writing to a shorter period, at least 15 days' written notice, specifying the place, day and time of the meeting, the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting, will be given to each Bondholder, to the Issuer and to the Trustee.

20.4.2 The accidental omission to give such notice to any Bondholder, to the Issuer or to the Trustee, as the case may be, or the non-receipt of any such notice, will not invalidate the proceedings at a meeting.

20.5 **Quorum**

20.5.1 A quorum at a meeting shall:

20.5.1.1 for the purposes of considering an Ordinary Resolution, consist of Bondholders present in person or by proxy and holding in the aggregate not less than one-third of the aggregate Principal Amount of the Bonds for the time being outstanding;

20.5.1.2 for the purposes of considering a resolution in respect of the dismissal of the Trustee and approval of the appointment of any new Trustee in accordance with the provisions of the Trust Deed or an Extraordinary Resolution, consist of Bondholders present in person or by proxy and holding in the aggregate not less than a clear majority of the aggregate Principal Amount of the Bonds for the time being outstanding; provided that at any meeting the business of which includes any of the matters specified in the proviso to Condition 20.13, the quorum shall be one or more persons present in person holding Bonds or being proxies or representatives and holding in the aggregate not less than three-quarters in Principal Amount of the Bonds for the time being outstanding.

20.5.2 No business will be transacted at a meeting of the Bondholders unless a quorum is present at the time when the meeting proceeds to business.

20.5.3 If, within 15 minutes from the time appointed for the meeting, a quorum is not present, the meeting will, if it was convened on the requisition of the Bondholders be dissolved. In every other case the meeting will stand adjourned to the same day in the third week thereafter, at the same time and place, or if that day is not a Business Day, the next succeeding Business Day. If at such adjourned meeting a quorum is not present the Bondholders present, in person or by proxy, will constitute a quorum for the purpose of considering any resolution, including an Extraordinary Resolution; provided that at any adjourned meeting at which is to be proposed an Extraordinary Resolution for the purpose of effecting any of the modifications specified in the proviso to Condition 20.13, the quorum shall be one or more persons so present holding Bonds or being proxies or representatives and holding in the aggregate not less than one-half in Principal Amount of the Bonds for the time being outstanding.

20.6 **Chairman**

The chairman of the meeting shall be appointed by the Trustee. If the Trustee or the person appointed by the Trustee to preside as chairman of the meeting is not present within 10 minutes of the time appointed for the holding of the meeting, the Bondholders then present will choose one of their own number to preside as chairman.

20.7 **Adjournment**

20.7.1 Subject to the provisions of this Condition 20, the chairman may, with the consent of, and will on the direction of, the meeting adjourn the meeting from time to time and from place to place.

20.7.2 No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

20.7.3 At least 14 days written notice of the place, day and time of an adjourned meeting will be given by the Issuer or the Trustee, as the case may be, to the Issuer, the Trustee and each Bondholder. In the case of a meeting adjourned in terms of Condition 20.7.3, the notice will state that the Bondholders present in person or by proxy at the adjourned meeting will constitute a quorum.

20.8 **How questions are decided**

20.8.1 At a meeting, a resolution put to the vote will be decided on a poll.

20.8.2 In the case of an equality of votes, the chairman will not be entitled to a casting vote in addition to the vote, if any, to which he is entitled.

20.9 **Votes**

Voting shall only take place on a poll and not on a show of hands. On a poll every Bondholder, present in person or by proxy, will be entitled to that proportion of the total votes which the aggregate Principal Amount of the Bonds for the time being outstanding held by such Bondholder bears to the aggregate Principal Amount of all the Bonds for the time being outstanding, held by Bondholders present in person or by proxy at the meeting. In relation to joint Bondholders, the vote may be exercised only by that Bondholder whose name appears first on the Register in the event that more than one of such Bondholders is present, in person or by proxy, at the meeting. The Bondholder in respect of Bonds held in the Central Securities Depository in uncertificated form shall vote at any such meeting on behalf of the holders of Beneficial Interests in such Bonds in accordance with the instructions to the Central Securities Depository's Nominee from the holders of Beneficial Interests conveyed through the Participants in accordance with the Applicable Procedures.

20.10 **Proxies and representatives**

20.10.1 Bondholders, present either in person or by proxy, may vote on a poll. A Bondholder, may by an instrument in writing (a "**proxy form**") signed by the Bondholder (or his duly authorised agent) or, in the case of a juristic person, signed on its behalf by a duly authorised officer of the juristic person, appoint any person (a "**proxy**" or "**proxies**") to act on his or its behalf in connection with any meeting or proposed meeting.

20.10.2 A person appointed to act as proxy need not be a Bondholder.

- 20.10.3 The proxy form will be deposited at the Specified Office of the Issuer or at the Specified Office of the Transfer Agent, as the case may be, not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in such proxy proposes to vote.
- 20.10.4 No proxy form will be valid after the expiration of 6 months from the date named in it as the date of its execution.
- 20.10.5 Notwithstanding Condition 20.10.4, a proxy form will be valid for any adjourned meeting, unless the contrary is stated thereon.
- 20.10.6 A vote given in accordance with the terms of a proxy form will be valid notwithstanding the previous death or incapacity of the principal or revocation or amendment of the proxy form or of any of the instructions of the Bondholder, pursuant to which the proxy form was executed or of the authority under which the proxy form was executed or the transfer of Bonds or in respect of which the proxy was given, provided that no intimation in writing of such death, incapacity, revocation or amendment shall have been received by the Issuer at its Specified Office or the Transfer Agent at its Specified Office, as the case may be, more than, and that the transfer has been given effect to less than, 12 hours before the commencement of the meeting or adjourned meeting at which the proxy is to be used.
- 20.10.7 Any Bondholder which is a juristic person may authorise any person to act as its representative in connection with any meeting or proposed meeting of the Bondholders, by resolution of the directors or other governing body of the juristic person. Any reference in these Terms and Conditions to a Bondholder or any other member of the Bondholders present in person, includes the duly authorised representative of a Bondholder or any other member of the Bondholders, as the case may be, which is a juristic person.
- 20.11 **Minutes**
- 20.11.1 The Issuer will cause minutes of all resolutions and proceedings of meetings to be duly entered in the minute books of the Issuer.
- 20.11.2 Any such minutes as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings held or by the chairman of the next succeeding meeting, will be receivable in evidence without any further proof, and until the contrary is proved, a meeting the Bondholders in respect of the proceedings of which minutes have been so made will be deemed to have been duly held and convened and all resolutions passed thereat, or proceedings held, to have been duly passed and held.

20.12 **Written resolutions**

A resolution in writing signed by the requisite majority of Bondholders shall be as valid and effective as if it had been passed at a meeting duly convened and constituted and shall be deemed (unless a statement to the contrary is made in that resolution) to have been passed on the last day on which that resolution is signed by any one or more of the Bondholders. That resolution may consist of two or more documents in the same form each of which is signed by one or more of the Bondholders.

20.13 **Powers of Bondholders by Extraordinary Resolution**

A meeting of Bondholders shall, subject to the Conditions, in addition to the powers given above, but without prejudice to any powers conferred on other persons by the Trust Deed, have power exercisable by Extraordinary Resolution:

20.13.1 to sanction any proposal by the Issuer or the Trustee for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Bondholders against the Issuer or against any of their property whether such rights shall arise under the Trust Deed or otherwise;

20.13.2 to sanction any scheme or proposal for the exchange, substitution or sale of the Bonds for, or the conversion of the Bonds into, or the cancellation of the Bonds in consideration of, shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any other body corporate formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration of cash;

20.13.3 to assent to any modification of the Trust Deed or the Conditions that relate to the rights appertaining to the Bonds which shall be proposed by the Issuer or the Trustee;

20.13.4 to authorise anyone to concur in and do all such things as may be necessary to carry out and to give any authority, direction or sanction which under the Trust Deed or the Bonds is required to be given by Extraordinary Resolution;

20.13.5 to appoint any persons (whether Bondholders or not) as a committee or committees to represent the interests of the Bondholders and to confer upon such committee or committees any powers or discretions which the Bondholders could themselves exercise by Extraordinary Resolution;

20.13.6 to approve the substitution of any entity for the Issuer (or any previous substitute) as principal debtor under the Trust Deed; and

20.13.7 to discharge or exonerate the Trustee from any liability in respect of any act or omission for which it may become responsible under the Trust Deed or the Bonds;

provided that the special quorum provisions contained in the proviso to Condition 20.5.1.2 and, in the case of an adjourned meeting, in the proviso to Condition 20.5.3, shall apply in relation to any Extraordinary Resolution for the purpose of Condition 20.13.2 or 20.13.6 or for the purpose of making any modification to the provisions contained in the Trust Deed or the Bonds which would have the effect of:

- 20.13.7.1 changing the Final Redemption Date or the dates on which interest is payable in respect of the Bonds; or
- 20.13.7.2 modifying the circumstances in which the Issuer or Bondholders are entitled to redeem the Bonds pursuant to Condition 10.2, 10.3 or 10.4; or
- 20.13.7.3 reducing or cancelling the Principal Amount of, or interest on, the Bonds or reducing the amount payable on redemption of the Bonds or reducing the interest rate, or to modify the basis for calculating the interest payable in respect of the Bonds; or
- 20.13.7.4 modifying or cancelling the Conversion Rights; or
- 20.13.7.5 increasing the Conversion Price other than in accordance with the Conditions; or
- 20.13.7.6 changing the currency of any payment in respect of the Bonds or the due date or dates for any payment in respect of the Bonds; or
- 20.13.7.7 changing the governing law of the Bonds, the Trust Deed or the Agency Agreement; or
- 20.13.7.8 modifying the quorum required at any meeting of Bondholders or the majority required to pass an Extraordinary Resolution; or
- 20.13.7.9 amending this proviso.

21. No voting rights on Bonds held by the Issuer or any Subsidiary

None of the Issuer or any Subsidiary of any of them will have any voting rights in respect of Bonds which are beneficially held by or on behalf of the Issuer or any Subsidiary of any of them.

22. Prescription

Any claim for payment of principal and/or interest in respect of the Bonds will prescribe 3 years after the Relevant Date.

23. The Trustee

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including relieving it from taking proceedings unless indemnified and/or secured and/or prefunded to its satisfaction. The Trustee is entitled to enter into business transactions with

the Issuer and any entity related to the Issuer without accounting for any profit. The Trustee may rely without liability to Bondholders on a report, confirmation or certificate or any advice of any accountants, financial advisers or investment bank, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee shall be obliged to accept and be entitled to rely on any such report, confirmation or certificate or advice where the Issuer procures delivery of the same pursuant to its obligation to do so under any provision of these Conditions or the Trust Deed and such report, confirmation or certificate or advice shall be binding on the Issuer, the Trustee and the Bondholders in the absence of manifest error.

24. Entitlement of the Trustee

In connection with the exercise of its functions (including but not limited to those referred to in this Condition 24) the Trustee shall have regard to the interests of the Bondholders as a class and, in particular but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Bondholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory, and the Trustee shall not be entitled to require, nor shall any Bondholder be entitled to claim, from the Issuer or any other person any indemnification or payment in respect of any tax consequences of any such exercise upon individual Bondholders.

25. Enforcement

The Trustee may at any time, at its discretion and without notice, take such proceedings against the Issuer as it may think fit to enforce the provisions of the Trust Deed or the Bonds, but it shall not be bound to take any such proceedings or any other action in relation to the Trust Deed or the Bonds, unless (i) it shall have been so directed by an Extraordinary Resolution of the Bondholders or so requested in writing by Bondholders holding at least one-quarter of the aggregate Principal Amount of the Bonds for the time being outstanding, and (ii) it shall have been indemnified and/or secured and/or prefunded to its satisfaction. No Bondholder shall be entitled to proceed directly against the Issuer.

26. Governing law

The Bonds and these Terms and Conditions are governed by, and will be construed in accordance with, the laws of South Africa.

SIGNED at _____ this _____ day of _____ 2013

For and on behalf of
IMPALA PLATINUM HOLDINGS LIMITED
(Registration Number 1957/001979/06)

Name:
Capacity: Director
Who warrants his authority hereto

Name:
Capacity: Director
Who warrants his authority hereto