

## TERMS AND CONDITIONS OF THE BONDS

*The following, subject to completion and amendment, and save for the paragraphs in italics, is the text of the Terms and Conditions of the Bonds.*

The issue of the U.S.\$200,000,000 1.00 per cent. Convertible Bonds due 2018 (the “**Bonds**”, which expression shall, unless otherwise indicated, include any Further Bonds) was (save in respect of any Further Bonds) authorised by a resolution of the board of directors of Impala Platinum Holdings Limited (the “**Issuer**”) passed on 8 February 2013. The Bonds are constituted by a trust deed dated 21 February 2013 (the “**Trust Deed**”) between the Issuer and BNY Mellon Corporate Trustee Services Limited (the “**Trustee**”, which expression shall include all persons for the time being appointed as the trustee or trustees under the Trust Deed) as trustee for the holders (as defined below) of the Bonds. The statements set out in these Terms and Conditions (the “**Conditions**”) are summaries of, and are subject to, the detailed provisions of the Trust Deed, which includes the form of the Bonds. The Bondholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and those provisions applicable to them which are contained in the Paying, Transfer and Conversion Agency Agreement dated 21 February 2013 (the “**Agency Agreement**”) relating to the Bonds between the Issuer, the Trustee and The Bank of New York Mellon, London Branch (the “**Principal Paying, Transfer and Conversion Agent**”, which expression shall include any successor as Principal Paying, Transfer and Conversion Agent under the Agency Agreement), the Paying, Transfer and Conversion Agents for the time being (such persons, together with the Principal Paying, Transfer and Conversion Agent, being referred to below as the “**Paying, Transfer and Conversion Agents**”, which expression shall include their successors as Paying, Transfer and Conversion Agents under the Agency Agreement) and The Bank of New York Mellon (Luxembourg) S.A. in its capacity as registrar (the “**Registrar**”, which expression shall include any successor as registrar under the Agency Agreement).

Copies of the Trust Deed and the Agency Agreement are available for inspection by Bondholders during normal business hours at the office for the time being of the Trustee (being, at the Closing Date, One Canada Square, London E14 5AL), and at the specified offices of the Paying, Transfer and Conversion Agents and the Registrar.

Capitalised terms used but not defined in these Conditions shall have the meanings attributed to them in the Trust Deed unless the context otherwise requires or unless otherwise stated.

### 1 **Form, Denomination, Title and Status**

#### *(a) Form and Denomination*

The Bonds are in registered form in principal amounts of U.S.\$200,000 each (“**authorised denominations**”).

#### *(b) Title*

Title to the Bonds will pass by transfer and registration as described in Condition 4. The holder (as defined below) of any Bond will (except as otherwise required by law or as ordered by a court of competent jurisdiction) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or its theft or loss (or that of the related certificate, as applicable) or anything written on the certificate representing it (other than a duly executed transfer thereof)) and no person will be liable for so treating the holder.

#### *(c) Status*

The Bonds constitute direct, unconditional, unsubordinated and (subject to Condition 2) 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.

## 2 Negative Pledge

So long as any of the Bonds remain outstanding (as defined in the Trust Deed), 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:

- (i) 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
- (ii) 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 (as defined in the Trust Deed) of the Bondholders.

The provisions set out in this Condition 2 shall not apply to:

- (a) any Security Interest of the Issuer or any other Material Subsidiary in existence at the Closing Date (as defined below);
- (b) any Security Interest created over any asset owned, acquired, purchased, developed or constructed by the Issuer or any other Material Subsidiary after the Closing Date (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 Closing Date, 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;
- (c) any Security Interest created over or with respect to any receivables of the Issuer or any Material Subsidiary after the Closing Date, if such Security Interest was created pursuant to any securitisation or like arrangement in accordance with normal market practice;
- (d) 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;
- (e) 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;
- (f) any Security Interest over or affecting any asset acquired by the Issuer or any other Material Subsidiary after the Closing Date, if:

- (i) 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
  - (ii) 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;
- (g) in respect of any Material Subsidiary which becomes a member of the Group after the Closing Date, any Security Interest over or affecting any asset of that Material Subsidiary if:
- (i) 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
  - (ii) the principal amount secured has not increased in contemplation of or since the Material Subsidiary becoming a member of the Group;
- (h) 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;
- (i) any extension or renewal of any Security Interest contemplated in Condition 2(a) to (j) inclusive provided that the amount of such Security Interest is not increased; or
- (j) 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 five per cent. of the consolidated assets of the Group or its equivalent in another currency at any time.

### 3 Definitions

In these Conditions, unless otherwise provided:

“**Additional Cash Alternative Amount**” has the meaning provided in Condition 6(m).

“**Additional Ordinary Shares**” has the meaning provided in Condition 6(c).

“**Applicable Law**” means in relation to a person, all and any statutes and subordinate legislation; treaties, regulations, ordinances, decrees and directives; by-laws; codes of practice, circulars, guidance notices, judgements and decisions of any competent authority; any present or future common law; and other similar provisions, from time to time.

“**assets**” as used in these Conditions includes present and future properties, revenues and rights of every description.

“**Bondholder**” and “**holder**” mean the person in whose name a Bond is registered in the Register (as defined in Condition 4(a)).

“**business day**” means, in relation to any place, a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets are open for business in that place.

“**Calculation Agency Agreement**” means the calculation agency agreement dated 21 February 2013 relating to the Bonds between the Issuer and the Calculation Agent.

“**Calculation Agent**” means Conv-Ex Advisors Limited, or such other entity as may be appointed as such.

“**Capital Distribution**” has the meaning provided in Condition 6(b)(iii).

“**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:

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

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  $n$ th dealing day of the Cash Alternative Calculation Period, translated into U.S. dollars at the Prevailing Rate on such dealing day; 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).

“**Cash Alternative Calculation Period**” means the period of 20 consecutive dealing days commencing on the relevant Conversion Date.

“**Cash Dividend**” has the meaning provided in Condition 6(b)(iii).

a “**Change of Control**” has the meaning provided in Condition 6(b)(x).

“**Change of Control Notice**” has the meaning provided in Condition 6(g).

“**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 6(g).

“**Change of Control Put Date**” has the meaning provided in Condition 7(e).

“**Change of Control Put Exercise Notice**” has the meaning provided in Condition 7(e).

“**Closing Date**” means 21 February 2013.

“**Companies Act**” means the Companies Act, 2008 of South Africa.

“**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 Conditions.

“**Conversion Date**” has the meaning provided in Condition 6(h).

“**Conversion Notice**” has the meaning provided in Condition 6(h).

“**Conversion Period**” has the meaning provided in Condition 6(a).

“**Conversion Period Commencement Date**” has the meaning provided in Condition 6(a).

“**Conversion Price**” has the meaning provided in Condition 6(a).

“**Conversion Right**” has the meaning provided in Condition 6(a).

“**Current Market Price**” means, in respect of an Ordinary Share at a particular date, the average of the daily Volume Weighted Average Price of an Ordinary Share on each of the five consecutive dealing days ending on the dealing day immediately preceding such date; provided that if at any time during the said five-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:

- (a) 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
- (b) 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 five 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 five 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 five 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 in good faith.

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.

“**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).

“**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 holders 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) where:

- (1) 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 or capitalisation in question shall be treated as a Dividend of an amount equal to the greater of (i) the Fair Market Value of such cash amount and (ii) the Current Market Price of such Ordinary Shares or, as the case may be, the Fair Market Value of such other property or assets, in any such case as at the first date on which the Ordinary Shares are traded ex- the relevant Dividend or capitalisation on the Relevant Stock Exchange or, if later, the date on which the number of Ordinary Shares (or amount of such other property or assets, as the case may be) which may be issued or delivered is determined; or
- (2) 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 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 6(b)(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 daily Volume Weighted Average Price of an Ordinary Share on the five 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 five 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), in which case such purchase, redemption or buy back shall be deemed to constitute a Dividend in the Relevant Currency in the amount by which the aggregate price paid (before expenses) in respect of such Ordinary Shares purchased, redeemed or bought back by or on behalf of 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 per cent. of the average of the daily Volume Weighted Average Price of an Ordinary Share 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) above 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.

**“Effective Date relating to such Dividend or entitlement”** means the first date on which the Ordinary Shares are traded ex- the relevant Dividend or entitlement on the Relevant Stock Exchange.

**“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.

**“Event of Default”** has the meaning given to it in Condition 10.

**“Exempt Newco Scheme”** means a Newco Scheme where, immediately after completion of the relevant Scheme of Arrangement, the ordinary shares or units or equivalent of Newco (or depositary or other receipts or certificates representing ordinary shares or units or equivalent of Newco) are (1) admitted to trading on the Relevant Stock Exchange or (2) admitted to listing on such other regulated, regularly operating, recognised stock exchange or securities market as the Issuer or Newco may determine.

**“Existing Shareholders”** shall bear the meaning defined in the definition of “Newco Scheme”.

**“Extraordinary Resolution”** has the meaning provided in the Trust Deed.

**“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 in good faith 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 in good faith), 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 five 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 in good faith, 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.

“**Final Maturity Date**” means 21 February 2018.

“**First Call Date**” has the meaning provided in Condition 7(b).

“**Further Bonds**” means any further Bonds issued pursuant to Condition 18 and consolidated and forming a single series with the then outstanding Bonds.

“**Group**” means the Issuer and its Subsidiaries from time to time.

“**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 (without liability for so doing) following notification to the Issuer.

“**IFRS**” means International Financial Reporting Standards and the interpretation of those standards as adopted by the International Accounting Standards Board.

“**indebtedness**” as used in these Conditions 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.

“**Interest Payment Date**” has the meaning provided in Condition 5(a).

“**Interest Period**” has the meaning given to it in Condition 5(a).

“**Issuer**” means Impala Platinum Holdings, a public company incorporated in accordance with the laws of South Africa, registration number 1957/001979/06.

“**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.

“**Market Price**” means the Volume Weighted Average Price of an Ordinary Share on the relevant Reference Date, translated into U.S. dollars at the Prevailing Rate on the 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).

“**Material Subsidiary**” means any Subsidiary of the Issuer:

- (a) 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 per cent. (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
- (b) 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

- (c) 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
- (d) 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 error, be conclusive and binding on the Issuer, the Bondholders and the Trustee and the Trustee shall be entitled to rely on such certificate without liability to any person for so doing;
- (e) for the purposes of Condition 10(h), Material Subsidiary shall exclude Zimbabwe Platinum Mines (Private) Limited and Mimoso Holdings (Private) Limited and the Material Subsidiary Threshold shall be 20 per cent.

“**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 or units or equivalent of Newco or depositary or other receipts or certificates representing ordinary shares or units or equivalent are issued to Existing Shareholders; (ii) immediately after completion of the Scheme of Arrangement the only holders of ordinary shares, units or equivalent of Newco or, as the case may be, the only holders of depositary or other receipts or certificates representing ordinary shares or units or equivalent of Newco are Existing Shareholders holding in the same proportions as immediately prior to completion of the Scheme of Arrangement (other than a nominal holding by initial subscribers); (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.

“**Optional Redemption Date**” has the meaning provided in Condition 7(b).

“**Optional Redemption Notice**” has the meaning provided in Condition 7(b).

“**Ordinary Shares**” means fully paid ordinary shares in the capital of the Issuer, on the Closing Date, with a par value of ZAR 0.025 each.

“**Parity Value**” means, in respect of any dealing day, the amount calculated as follows:

$$PV = N \times VWAP$$

where

$$PV = \text{the Parity Value}$$

N = the number of Ordinary Shares that would fall to be issued or delivered on the exercise of Conversion Rights in respect of a Bond in the principal amount of U.S.\$200,000 (rounded down, if necessary, to the nearest whole number of Ordinary Shares), assuming the Conversion Date to be such dealing day

VWAP = the Volume Weighted Average Price of an Ordinary Share on such dealing day (provided that if on any such dealing day the Ordinary Shares shall have been quoted 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 entitlement per Ordinary Share as at the Effective Date relating to such Dividend or entitlement translated, if not in U.S. dollars, into U.S. dollars at the Prevailing Rate on such dealing day (determined, in any case, on a gross basis and disregarding any withholding or deduction required to be made on account of tax, and disregarding any associated tax credit).

a “**person**” includes any individual, company, corporation, firm, partnership, joint venture, undertaking, association, organisation, trust, state or agency of a state (in each case whether or not being a separate legal entity).

“**Potential Event of Default**” has the meaning given to in the Trust Deed.

“**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 (London 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 (London time) on the immediately preceding day on which such rate can be so determined or if such rate cannot be determined by reference to the Relevant Page, the rate determined in such other manner as an Independent Financial Adviser shall consider appropriate.

“**R**” or “**Rand**” or “**ZAR**” means the lawful currency of South Africa, being South African Rand, or any successor currency.

“**Record Date**” has the meaning provided in Condition 8(c).

“**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.

“**Register**” has the meaning provided in Condition 4(a).

“**Registration Date**” means the date on which the Ordinary Shares (or any Additional Ordinary Shares) to be issued or delivered pursuant to Condition 6(h) (or Condition 6(c)) are entered in the securities register of the Issuer and credited to the converting Bondholder as provided in Condition 6(h) (or Condition 6(c)).

“**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.

“**Relevant Date**” means, in respect of any Bond, whichever is the later of:

- (i) the date on which payment in respect of it first becomes due; and
- (ii) if any payment is improperly withheld or refused the date on which payment in full of the amount outstanding is made or (if earlier) the date on which notice is duly given by the Issuer to the Bondholders in accordance with Condition 17 that, upon further presentation of the Bond, where required pursuant to these Conditions, being made, such payment will be made, provided that such payment is in fact made as provided in these Conditions.

“**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) or any guarantees or indemnities given for indebtedness of another person, excluding double-counting.

“**Relevant Page**” means the relevant page on Bloomberg or such other information service provider that displays the relevant information.

“**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 and admitted to trading or quoted or dealt in.

“**Retroactive Adjustment**” has the meaning provided in Condition 6(c).

“**Scheme of Arrangement**” has the meaning provided in the definition of “Newco Scheme”.

“**Securities**” means any securities including, without limitation, shares in the capital of the Issuer, or options, warrants or other rights to subscribe for or purchase or acquire shares in the capital of the Issuer.

“**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.

“**Securities Services Act**” means the Securities Services Act, 2004 of South Africa.

“**Shareholders**” means the holders of Ordinary Shares.

“**Specified Date**” has the meaning provided in Conditions 6(b)(iv), (vi), (vii) and (viii).

“**Subsidiary**” bears the meaning assigned thereto in the Companies Act.

“**Tax Redemption Date**” has the meaning provided in Condition 7(c).

“**Tax Redemption Notice**” has the meaning provided in Condition 7(c).

“**U.S.\$**” and “**U.S. dollars**” means the lawful currency from time to time of the United States of America.

“**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 in good faith 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.

References to any act or statute or any provision of any act or statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment.

References to an accounting term not otherwise defined has the meaning assigned to it in accordance with IFRS.

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.

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 in good faith to be 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.

For the purposes of Conditions 6 (a), (b), (c), (h) and (i) and Condition 11 only, (a) references to the “**issue**” of Ordinary Shares or Ordinary Shares being “**issued**” 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 Subsidiaries (and which, in the case of Condition 6(b)(iv), do not rank for the relevant right or other entitlement) shall not be considered as or treated as “**in issue**” or “**issued**”, or entitled to receive the relevant Dividend, right or other entitlement.

#### **4 Registration and Transfer of Bonds**

##### *(a) Registration*

The Issuer will cause a register (the “**Register**”) to be kept at the specified office of the Registrar outside the United Kingdom on which will be entered the names and addresses of the holders of the Bonds and the particulars of the Bonds held by them and of all transfers, redemptions and conversions of Bonds. Bondholders will be entitled to receive only one certificate in respect of their respective holdings of Bonds.

##### *(b) Transfer*

Bonds may, subject to the terms of the Agency Agreement and to Conditions 4(c) and 4(d), be transferred in whole or in part in an authorised denomination by lodging the relevant Bond (with the form of application for transfer in respect thereof duly executed and duly stamped where applicable) at the specified office of the Registrar or any Paying, Transfer and Conversion Agent.

No transfer of a Bond will be valid unless and until entered on the Register. A Bond may be registered only in the name of, and transferred only to, a named person (or persons, not exceeding four in number).

The Registrar will within seven business days, in the place of the specified office of the Registrar, of any duly made application for the transfer of a Bond, register the relevant transfer and deliver a new Bond to the transferee (and, in the case of a transfer of part only of a Bond, deliver a Bond for the untransferred balance to the transferor) at the specified office of the Registrar or (at the risk and, if mailed at the request of the transferee or, as the case may be, the transferor otherwise than by ordinary mail, at the expense of the transferee or, as the case may be, the transferor) mail the Bond by uninsured mail to such address as the transferee or, as the case may be, the transferor may request.

(c) *Formalities Free of Charge*

Such transfer will be effected without charge subject to (i) the person making such application for transfer paying or procuring the payment of any taxes, duties and other governmental charges in connection therewith, (ii) the Registrar being satisfied with the documents of title and/or identity of the person making the application and (iii) such reasonable regulations as the Issuer may from time to time agree with the Registrar and the Trustee (and as initially set out in the Agency Agreement).

(d) *Closed Periods*

Neither the Issuer nor the Registrar will be required to register the transfer of any Bond (or part thereof) (i) during the period of 15 calendar days ending on and including the day immediately prior to the Final Maturity Date or any earlier date fixed for redemption of the Bonds pursuant to Condition 7(b) or 7(c); (ii) in respect of which a Conversion Notice has been delivered in accordance with Condition 6(h); (iii) in respect of which a Bondholder has exercised its right to require redemption pursuant to Condition 7(e); or (iv) during the period of 15 calendar days ending on (and including) any Record Date in respect of any payment of interest on the Bonds.

## 5 Interest

(a) *Interest Rate*

The Bonds bear interest from (and including) the Closing Date at the rate of 1.00 per cent. per annum calculated by reference to the principal amount thereof and payable semi-annually in arrear in equal instalments on 21 February and 21 August in each year (each an “**Interest Payment Date**”), commencing with the Interest Payment Date falling on 21 August 2013.

The amount of interest payable in respect of any period which is shorter than an Interest Period shall be calculated on the basis of a 360 day year consisting of 12 months of 30 days each and, in the case of an incomplete month, the number of days elapsed.

“**Interest Period**” means the period beginning on (and including) the Closing 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.

(b) *Accrual of Interest*

Each Bond will cease to bear interest (i) where the Conversion Right shall have been exercised by a Bondholder, from the Interest Payment Date immediately preceding the relevant Conversion Date or, if none, the Closing Date (subject in any such case as provided in Condition 6(j)) or (ii) where such Bond is redeemed or repaid pursuant to Condition 7 or Condition 10, 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 5(a) (both

before and after judgment) until whichever is the earlier of (a) the day on which all sums due in respect of such Bond up to that day are received by or on behalf of the relevant holder, and (b) the day seven calendar days after the Trustee or the Principal Paying, Transfer and Conversion Agent has notified Bondholders of receipt of all sums due in respect of all the Bonds up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders under these Conditions).

## 6 Conversion of Bonds

### (a) Conversion Period and Conversion Price

Subject as otherwise provided in these Conditions, each Bond shall entitle the holder to convert such Bond into new and/or existing Ordinary Shares as determined by the Issuer, credited as fully paid (a “**Conversion Right**”).

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.

The initial Conversion Price is USD 24.13 per Ordinary Share. The Conversion Price is subject to adjustment in the circumstances described in Condition 6(b).

A Bondholder may exercise the Conversion Right in respect of a Bond by delivering such Bond, together with a duly completed Conversion Notice, to the specified office of any Paying, Transfer and Conversion Agent in accordance with Condition 6(h) whereupon the Issuer shall (subject as provided in these 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 6.

Subject to and as provided in these 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 Maturity Date (both days inclusive) or, if such Bond is to be redeemed pursuant to Condition 7(b) or 7(c) prior to the Final Maturity Date, then up to (and including) the close of business (at the place aforesaid) on the seventh calendar day before the date fixed for redemption thereof pursuant to Condition 7(b) or 7(c), 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 (and including) 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 17 or, if earlier, the Final Maturity Date or, if the Final Maturity Date is not a New York business day, the immediately preceding New York business day; provided that, in each case, if such final date for the exercise of Conversion Rights is not a business day at the place aforesaid, then the period for exercise of Conversion Rights by Bondholders shall end on the immediately preceding business day at the place aforesaid.

Notwithstanding the foregoing, if a Change of Control occurs, the Conversion Right may be exercised prior to the Conversion Period Commencement Date.

Conversion Rights may not be exercised (i) following the giving of notice by the Trustee pursuant to Condition 17 or (ii) in respect of a Bond in respect of which the relevant Bondholder has exercised its right to require the Issuer to redeem that Bond pursuant to Condition 7(e).

Save where a notice of redemption is given by the Issuer in the circumstances provided in Condition 6(j), Conversion Rights may not be exercised by a Bondholder in circumstances where the relevant Conversion Date would fall during the period commencing on the Record Date in respect of any payment of interest on the Bonds and ending on the relevant Interest Payment Date (both days inclusive).

The period during which Conversion Rights may (subject as provided below) be exercised by a Bondholder is referred to as the “**Conversion Period**”.

Conversion Rights may only be exercised in respect of the whole of an authorised denomination.

Fractions of Ordinary Shares will not be issued or delivered on exercise of Conversion Rights or pursuant to Condition 6(c) and no cash payment or other adjustment will be made in lieu thereof. However, if the Conversion Right in respect of more than one Bond is exercised at any one time such that Ordinary Shares to be delivered on conversion or pursuant to Condition 6(c) 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.

The Issuer will procure that Ordinary Shares to be issued or delivered on exercise of Conversion Rights will be issued or delivered to the holder of the Bonds completing the relevant Conversion Notice or his nominee. Such Ordinary Shares will be deemed to be issued or delivered as of the relevant Conversion Date. Any Additional Ordinary Shares to be issued or transferred and delivered pursuant to Condition 6(c) will be deemed to be issued or delivered as of the relevant Reference Date.

If at any time the Conversion Price falls to be adjusted pursuant to Condition 6(b), 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.

(b) *Adjustment of Conversion Price*

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 Condition 6 (b)(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.

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

“**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 Condition 6(b)(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 6(b), including this subparagraph (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.

(A) 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.

(B) In making any calculations for the purposes of this Condition 6(b)(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 subdivision 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 per cent. 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 6(b)(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 6(b)(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 6(b)(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 6(b)(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 per cent. 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 Condition 6(b)(iv), Condition 6(b)(v) or Condition 6(b)(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 per cent. 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 6(b)(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 6(b)(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 6(b)(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 per cent. 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 paragraph or Condition 6(b)(vii) above;

provided that if at the time of such modification (as used in this Condition 6(b)(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 6(b)(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 Condition 6(b)(ii), Condition 6(b)(iii), Condition 6(b)(iv), Condition 6(b)(vi) or Condition 6(b)(vii) above or Condition 6(b)(x) below (or would fall to be so adjusted if the relevant issue or grant was at less than 95 per cent. of the Current Market Price per Ordinary Share on the relevant dealing day) or under Condition 6(b)(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:

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

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 Closing Date to but excluding the Final Maturity 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 6(b) (even if the relevant circumstance is specifically excluded from the operation of Condition 6(b)(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 6(b)(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.

Notwithstanding the foregoing provisions, where the events or circumstances giving rise to any adjustment pursuant to this Condition 6 (b) 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.

For the purpose of any calculation of the consideration receivable or price pursuant to Condition 6(b) (iv), (vi), (vii) and (viii), the following provisions shall apply:

- (a) the aggregate consideration receivable or price for Ordinary Shares issued for cash shall be the amount of such cash;
- (b) (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;
- (c) 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
- (d) 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.

(c) *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 6(b)(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 6(b)(ii), (iii) (iv), (v) or (ix), or after any such issue or grant as is mentioned in Condition 6(b)(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 6(b) (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.

(d) *Decision of an Independent Financial Adviser/Calculation of Calculation Agent*

If any doubt shall arise as to whether an adjustment falls 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 given in good faith in respect thereof shall be conclusive and binding on all parties, save in the case of manifest error. If any adjustment falls to be made to the Conversion Price which shall be calculated by the Calculation Agent as provided in Condition 6(a), such calculation shall be conclusive and binding on all parties, save in the case of manifest error.

(e) *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.

(f) *Rounding Down and Notice of Adjustment to the Conversion Price*

(i) 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.

- (ii) Notice of any adjustments to the Conversion Price shall be given by the Issuer to Bondholders in accordance with Condition 17 and to the Trustee promptly after the determination thereof.
- (iii) The Conversion Price shall not in any event be reduced to below the nominal value of the Ordinary Shares.

*(g) Change of Control*

- (i) Within 14 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 17 (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 7(e).
- (ii) The Change of Control Notice shall also specify:
  - (A) all information material to Bondholders concerning the Change of Control;
  - (B) the Conversion Price immediately prior to the occurrence of the Change of Control and the Conversion Price applicable pursuant to Condition 6(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;
  - (C) 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;
  - (D) the last day of the Change of Control Period;
  - (E) the Change of Control Put Date; and
  - (F) such other information relating to the Change of Control as the Trustee may reasonably require.
- (iii) 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.

*(h) Procedure for exercise of Conversion Rights*

Conversion Rights may be exercised by a Bondholder during the Conversion Period by delivering the relevant Bond to the specified office of any Paying, Transfer and 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 any Paying, Transfer and 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 Paying, Transfer and Conversion Agent to whom the relevant Conversion Notice is delivered is located.

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 relevant Paying, Transfer and Conversion Agent, such

delivery shall be deemed for all purposes of these Conditions to have been made on the next following such business day.

Any determination as to whether any Conversion Notice has been duly completed and properly delivered shall be made by the relevant Paying, Transfer and Conversion Agent and shall, save in the case of manifest error, be conclusive and binding on the Issuer, the Trustee, the Paying, Transfer and Conversion Agents and the relevant Bondholder.

Conversion Rights may only be exercised in respect of an authorised denomination. Where Conversion Rights are exercised in respect of part only of a Bond, the old Bond shall be cancelled and a new Bond 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 and the Registrar will within seven business days, in the place of the specified office of the Registrar, following the relevant Conversion Date deliver such new Bond to the Bondholder at the specified office of the Registrar 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 the new Bond by uninsured mail to such address as the Bondholder may request.

A Conversion Notice, once delivered, shall be irrevocable.

The conversion date in respect of a Bond (the “**Conversion Date**”) shall be the business day in Johannesburg immediately following the date of the delivery of the relevant Bond and the Conversion Notice as provided in this Condition 6(h).

A Bondholder exercising Conversion Rights must pay directly to the relevant authorities any capital, stamp, issue, registration and transfer taxes and duties arising on such exercise (other than any capital, stamp, 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 in respect of such exercise (including any Additional Ordinary Shares), which shall be paid by the Issuer). If the Issuer shall fail to pay any taxes and capital, stamp, issue and registration and transfer taxes and duties payable for which it is responsible as provided above, the relevant holder shall be entitled to tender and pay the same and the Issuer as a separate and independent stipulation, covenants to reimburse and indemnify each Bondholder in respect of any payment thereof and any penalties payable in respect thereof.

The Trustee shall not be responsible for determining whether any 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.

Such Bondholder must also pay all, if any, taxes imposed on it and arising by reference to any disposal or deemed disposal of a Bond or interest therein in connection with the exercise of Conversion Rights by it. Ordinary Shares to be issued or delivered on exercise of Conversion Rights (including any Additional Ordinary Shares) will be issued or delivered 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. Where Ordinary Shares are to be issued or delivered through Strate, they will be delivered to the account specified by the relevant Bondholder in the relevant Conversion Notice by not later than 15 Johannesburg business days following the relevant Conversion Date (or, in the case of any Additional Ordinary Shares, not later than 15 Johannesburg business days following the Reference Date).

In addition, a Bondholder exercising Conversion Rights 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.

The Issuer shall be entitled at its option to deliver newly issued or previously issued Ordinary Shares upon an exercise of Conversion Rights.

(i) *Ordinary Shares*

- (i) Ordinary Shares (and Additional Ordinary Shares) issued or transferred and delivered on exercise of Conversion Rights 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 Conversion Date or, as the case may be, the relevant Registration Date.
- (ii) 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 pursuant to these Conditions), the Issuer will pay to the relevant Bondholder 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 a shareholder of record in respect of such Ordinary Shares on that date and will make the relevant payment of the Equivalent Amount to the relevant Bondholder at the same time that it makes payment of the relevant Dividend or other distribution to Shareholders generally.
- (iii) Save as provided in Condition 6(j), no payment or adjustment shall be made on exercise of Conversion Rights 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 (or, if such Conversion Date falls before the first Interest Payment Date, since the Closing Date).

(j) *Interest on Conversion*

If any notice requiring the redemption of the Bonds is given pursuant to Condition 7(b) on or after the fifteenth London business day prior to a record date which has occurred since the last Interest Payment Date (or in the case of the first Interest Period, since the Closing 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 calendar days after the Interest Payment Date next following such record date, interest shall accrue at the rate provided in Condition 5(a) 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 Closing Date) to but excluding such Conversion Date. The Issuer shall pay any such interest by not later than 14 calendar days after the relevant Conversion Date by transfer to a U.S. dollar account with a bank in New York City in accordance with instructions given by the relevant Bondholder in the relevant Conversion Notice.

(k) *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.

(l) *No Duty to Monitor*

The Trustee shall not be under any duty to monitor whether any event or circumstance has happened or exists or may happen or exist and which requires or may require an adjustment to be made to the Conversion Price and will not be responsible or liable to any person for any loss arising from any failure by it to do so, nor shall the Trustee be responsible or liable to any person for any determination of whether or not an adjustment to the Conversion Price is required or should be made nor as to the determination or calculation of any such adjustment.

(m) *Cash Settlement*

(i) 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 6(j). The Issuer will pay the Cash Alternative Amount, together with any other amount as aforesaid by not later than five New York business days following the last day of the Cash Alternative Calculation Period (the "**Cash Alternative Payment Date**") by transfer to a U.S. dollar account with a bank in New York in accordance with the instructions contained in the relevant Conversion Notice.

(ii) 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 6(b)(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 6(b)(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 6(b)(vi) and (vii) or of the terms of any such modification as is mentioned in Condition 6(b)(viii), in circumstances where the relevant Conversion Date falls before the relevant adjustment to the Conversion Price becomes effective under Condition 6(b) (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 five New York business days following the relevant Reference Date by transfer to a U.S. dollar account with a bank in New York in accordance with the instructions contained in the relevant Conversion Notice.

(n) *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 17 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 6(n) will apply, mutatis mutandis to any subsequent consolidations, amalgamations, mergers, sales of transfers.

## 7 **Redemption and Purchase**

(a) *Final Redemption*

Unless previously purchased and cancelled, redeemed or converted as herein provided, the Bonds will be redeemed at their principal amount on the Final Maturity Date. The Bonds may only be redeemed at the option of the Issuer prior to the Final Maturity Date in accordance with Condition 7(b) or 7(c).

(b) *Redemption at the Option of the Issuer*

On giving not less than 30 nor more than 60 calendar days’ notice (an “**Optional Redemption Notice**”) to the Trustee and to the Bondholders in accordance with Condition 17, the Issuer may redeem all but not some only of the Bonds on the date (the “**Optional Redemption Date**”) specified in the Optional Redemption Notice at their principal amount, together with accrued but unpaid interest to such date:

- (i) at any time on or after 14 March 2016 (the “**First Call Date**”), if on more than 20 out of 30 consecutive dealing days ending not earlier than 7 calendar days prior to the giving of the relevant Optional Redemption Notice, the Parity Value shall have exceeded U.S.\$260,000 on each such dealing day; or

- (ii) at any time if, prior to the date the relevant Optional Redemption Notice is given, Conversion Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or redemptions effected in respect of 85 per cent. or more in principal amount of the Bonds originally issued (which shall for this purpose include any Further Bonds).

(c) *Redemption for Taxation Reasons*

At any time, for so long as the Bonds are admitted to trading, the Issuer may, having given not less than 45 nor more than 60 days' notice (a "**Tax Redemption Notice**") to the Bondholders redeem (subject to the second following paragraph) all but not some only of the Bonds for the time being outstanding on the date (the "**Tax Redemption Date**") specified in the Tax Redemption Notice at their principal amount, together with accrued but unpaid interest to such date, if (i) the Issuer satisfies the Trustee immediately prior to the giving of such notice that the Issuer has or will become obliged to pay additional amounts in respect of payments of interest on the Bonds pursuant to Condition 9 as a result of any change in, or amendment to, the laws or regulations of the South Africa or any political subdivision or any authority thereof or therein having power to tax, or any change in the general application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after Closing Date, and (ii) such obligation cannot be avoided by the Issuer taking reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Bonds then due. Prior to the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Trustee (a) a certificate signed by two directors of the Issuer stating that the obligation referred to in (i) above cannot be avoided by the Issuer taking reasonable measures available to it and (b) an opinion of independent legal or tax advisers of recognised international standing to the effect that such change or amendment has occurred and that the Issuer has or will be obliged to pay such additional amounts as a result thereof (irrespective of whether such amendment or change is then effective) and the Trustee shall accept without any liability for so doing such certificate and opinion as sufficient evidence of the matters set out in (i) and (ii) above in which event it shall be conclusive and binding on the Bondholders.

On the Tax Redemption Date the Issuer shall (subject to the next following paragraph) redeem the Bonds at their principal amount, together with accrued interest to such date.

If the Issuer gives a Tax Redemption Notice, each Bondholder will have the right to elect that its Bonds shall not be redeemed and that the provisions of Condition 9 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 9 and payment of all amounts of such interest on such Bonds shall be made subject to the deduction or withholding of any South Africa 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 any Paying, Transfer and Conversion Agent a duly completed and signed notice of election, in the form for the time being current, obtainable from the specified office of any Paying, Transfer and Conversion Agent together with the relevant Bonds on or before the day falling 10 days prior to the Tax Redemption Date.

(d) *Optional Redemption and Tax Redemption Notices*

Any Optional Redemption Notice or Tax Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Optional Redemption Date or, as the case may be, the Tax Redemption Date which shall be a New York 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 or, as the case may be, the Tax Redemption Notice and (iii) the last day on which Conversion Rights may be exercised by Bondholders.

(e) *Redemption at the Option of Bondholders Upon a Change of Control*

Following the occurrence of a Change of Control, the holder of each Bond will have the right to require the Issuer to redeem that Bond on the relevant Put Date at its principal amount, together with accrued and unpaid interest to (but excluding) such date. To exercise such right, the holder of the relevant Bond must deliver such Bond to the specified office of any Paying, Transfer and Conversion 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 any Paying, Transfer and Conversion Agent (a “**Change of Control Put Exercise Notice**”), at any time during the Change of Control Period, as the case may be. The “**Change of Control Put Date**” shall be the fourteenth New York business day after the expiry of the Change of Control Period.

Payment in respect of any such Bond shall be made by transfer to a U.S. dollar account with a bank in New York City as specified by the relevant Bondholder in the relevant Put Exercise Notice.

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

(f) *Purchase*

Subject to the requirements (if any) of any stock exchange on which the Bonds may be admitted to listing and trading at the relevant time and subject to compliance with Applicable Laws and regulations, the Issuer may at any time purchase any Bonds in the open market or otherwise at any price.

(g) *Cancellation*

All Bonds which are redeemed or in respect of which Conversion Rights are exercised will be cancelled and may not be reissued or resold. Bonds purchased by the Issuer or any of its Subsidiaries may be held, reissued, resold or, at the option of the Issuer, surrendered to the Principal Paying, Transfer and Conversion Agent for cancellation.

(h) *Multiple Notices*

If more than one notice of redemption is given pursuant to this Condition 7, the first of such notices to be given shall prevail.

## 8 **Payments**

(a) *Principal*

Payment of principal and interest in respect of the Bonds will be made to the persons shown in the Register at the close of business on the Record Date.

(b) *Other amounts*

Payments of all amounts other than as provided in Condition 8(a) will be made as provided in these Conditions.

(c) *Record Date*

“**Record Date**” means the fifth business day, in the place of the specified office of the Registrar, before the due date for the relevant payment.

(d) *Payments*

Each payment in respect of the Bonds pursuant to Condition 8(a) and (b) will be made by transfer to a U.S. dollar account maintained by the payee with a bank in New York City.

(e) *Payments subject to fiscal laws*

All payments in respect of the Bonds are subject in all cases to any applicable fiscal or other laws and regulations in the relevant place of payment, but without prejudice to Condition 9.

(f) *Delay in payment*

Bondholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due as a result of the due date not being a New York business day.

(g) *Paying, Transfer and Conversion Agents, etc.*

The initial Paying, Transfer and Conversion Agents and Registrar and their initial specified offices are listed below. The Issuer reserves the right under the Agency Agreement at any time, with the prior written approval of the Trustee, to vary or terminate the appointment of any Paying, Transfer and Conversion Agent and Registrar and appoint additional or other Paying, Transfer and Conversion Agents, provided that it will (i) maintain a Principal Paying, Transfer and Conversion Agent, (ii) maintain a Paying, Transfer and Conversion Agent (which may be the Principal Paying, Transfer and Conversion Agent) with a specified office in a European Union member state that will not be obliged to withhold or deduct tax pursuant to any law implementing European Council Directive 2003/48/EC or any other European Union Directive implementing the conclusions of the ECOFIN council meeting of 26-27 November 2000 and (iii) maintain a Registrar with a specified office outside the United Kingdom. Notice of any change in the Paying, Transfer and Conversion Agents or the Registrar or their specified offices will promptly be given by the Issuer to the Bondholders in accordance with Condition 17.

(h) *No charges*

Neither the Registrar nor the Paying, Transfer and Conversion Agents shall make or impose on a Bondholder any charge or commission in relation to any payment or conversion in respect of the Bonds.

(i) *Fractions*

When making payments to Bondholders, if the relevant payment is not of an amount which is a whole multiple of the smallest unit of the relevant currency in which such payment is to be made, such payment will be rounded down to the nearest unit.

*The Bonds on issue will be represented by a global Bond (the “**Global Bond**”) registered in the name of, and held by a nominee on behalf of, a common depositary for Euroclear Bank SA/NV (“**Euroclear**”) and/or Clearstream Banking, société anonyme (“**Clearstream, Luxembourg**”). All payments in respect of Bonds represented by the Global Bond will be made to, or to the order of, the person whose name is entered in the Register at the close of business on the Clearing System Business Day immediately prior to the date of payment, where “**Clearing System Business Day**” means Monday to Friday inclusive except 25 December and 1 January.*

## 9 Taxation

All payments made by on or behalf of the Issuer in respect of the Bonds will be made free from any restriction or condition and be made without deduction or withholding for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature (“**Taxes**”) imposed or levied by

or on behalf of the South Africa or any political subdivision or any authority thereof or therein having power to tax, unless deduction or withholding of such Taxes is required to be made by law.

If any such withholding or deduction is required to be made, the Issuer will pay such additional amounts as will result in the receipt by the Bondholders of the amounts which would otherwise have been receivable had no such withholding or deduction been required, except that no such additional amount shall be payable in respect of interest on any Bond:

- (a) to a holder (or to a third party on behalf of a holder) who is subject to such Taxes in respect of such Bond by reason of his having some connection with the South Africa otherwise than merely by holding the Bond or by the receipt of amounts in respect of the Bond; or
- (b) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive.

Where a withholding or deduction is in respect of Taxes levied or imposed, the exclusions in this Condition 9 will only apply if the Bonds have been (even if they no longer remain) admitted to trading (provided that such admission to listing and trading affords an exemption from any requirement to withhold or deduct in respect of any such taxes).

References in these Conditions to principal and/or interest and/or any other amounts payable in respect of the Bonds shall be deemed also to refer to any additional amounts which may be payable under this Condition 9 or any undertaking or covenant given in addition thereto or in substitution therefor pursuant to the Trust Deed.

The provisions of this Condition 9 shall not apply in respect of any payments of interest which fall due after the relevant Tax Redemption Date in respect of any Bonds which are the subject of a Bondholder election pursuant to Condition 7(c).

## 10 Events of Default

If any of the following events (each an “**Event of Default**”) occurs and is continuing, the Trustee at its discretion may, and if so requested by the holders of at least one-quarter in principal amount of the Bonds then outstanding or if so directed by an Extraordinary Resolution and provided in each case that it is indemnified and/or secured and/or prefunded to its satisfaction shall, give notice in writing to the Issuer at its registered office that the Bonds are, and they shall accordingly immediately become due and repayable at their principal amount together with accrued interest (if any) to the date of payment:

- (a) *Non-payment*: the Issuer fails to pay any amount of principal, interest or any other amount (including any Cash Alternative Amount, any Additional Cash Alternative Amount or any equivalent 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
- (b) *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
- (c) *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 Johannesburg business days after written notice thereof has been delivered by the Trustee to the Issuer; or

(d) *Cross-default or security enforced:*

- (i) 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
- (ii) 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
- (iii) 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
- (iv) 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 or currencies).

For the purposes of Condition 10(d) and 10(e), any indebtedness which is in a currency other than Rand shall be translated into the Rand at the Prevailing Rate on the date of such Event of Default.

(e) *Judgment:* any final judgment or arbitration award (“**judgment**”) 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 within 10 Johannesburg business days of the final judgment being granted; or

- (i) if such judgment is appealable, fails to appeal against such judgment within the time limits prescribed by law or fails to diligently prosecute such appeal thereafter or ultimately fails in such appeal; and/or
- (ii) if such judgment 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
- (iii) if such judgment 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

(f) *Insolvency:* an Insolvency Event occurs in respect of the Issuer or any Material Subsidiary.

For the purposes of this Condition 11(f), “**Insolvency Event**” means the occurrence of any of the following events:

- (i) 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
- (ii) 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
  - (iii) 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
  - (iv) 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
  - (v) the Issuer or any Material Subsidiary committing an act which would be an act of insolvency, in terms of the Insolvency Act, 1936 of South Africa, if committed by a natural person; or
  - (vi) 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
  - (vii) 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
  - (viii) 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 paragraphs (i) to (vii) above.
- (g) *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 Johannesburg business days after it came to the attention of the Issuer or such Material Subsidiary; or
- (h) *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.

If an Event of Default occurs in relation to the Bonds, the Issuer will forthwith inform the Bondholders and the Trustee thereof.

## 11 Undertakings

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:

- (a) allot, issue, register and deliver Ordinary Shares on exercise of Conversion Rights in accordance with these 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;
- (b) 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:
  - (i) 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
  - (ii) 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
  - (iii) 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
  - (iv) 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 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 6(f) relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price;

- (c) 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 Condition 11(b) shall prevent:
  - (i) any consolidation, reclassification or subdivision of the Ordinary Shares; or
  - (ii) 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
  - (iii) any issue of equity share capital where the issue of such equity share capital results, or would, but for the provisions of Condition 6(f) relating to roundings or the carry forward of adjustments or, where comprising Ordinary Shares, the fact that the consideration per Ordinary Share receivable therefor is at least 95 per cent. of the Current Market Price per Ordinary Share, otherwise result, in an adjustment to the Conversion Price; or

- (iv) 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 in good faith 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);
- (d) 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 per cent. 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 6(f) 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;
- (e) 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;
- (f) not reduce its issued share capital, share premium account, or any uncalled liability in respect thereof, or any non-distributable reserves, except:
  - (i) pursuant to the terms of issue of the relevant share capital; or
  - (ii) by means of a purchase or redemption of share capital of the Issuer to the extent permitted by Applicable Law; or
  - (iii) pursuant to a Newco Scheme; or
  - (iv) by way of transfer to reserves as permitted under Applicable Law; or
  - (v) where the reduction is permitted by Applicable Law and the Trustee is advised by an Independent Financial Adviser in good faith, acting as an expert, that the interests of the Bondholders will not be materially prejudiced by such reduction; or
  - (vi) where the reduction is permitted by Applicable Law and results in (or would, but for the provisions of Condition 6(f) 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;

- (g) 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;

- (h) 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) subject to and as provided in the Trust Deed; 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 or units or the equivalent in Newco *mutatis mutandis* in accordance with and subject to these Conditions and the Trust Deed and (ii) the ordinary shares or units or the equivalent of Newco are:
- (A) admitted to the Relevant Exchange; or
  - (B) admitted to listing on another regulated, regularly operating, recognised stock exchange or securities market; and
- (i) for so long as any Bond remains outstanding, use its reasonable endeavours to maintain the listing of its issued Ordinary Shares on the JSE;
- (j) make or cause to be made an application for the Bonds to be admitted to trading on an internationally recognised, regularly operating, regulated or non-regulated stock exchange within 90 days following the Closing Date and to maintain such Admission for so long as any of the Bonds remain outstanding; and
- (k) 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.

The Issuer undertakes to give notice to the Bondholders and the Trustee within 2 days of satisfaction of the Conversion Condition.

The Issuer has undertaken in the Trust Deed 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 absolutely and shall not be obliged to independently monitor compliance by the Issuer with the undertakings set forth in this Condition 11 or the other provisions of the Conditions, nor be liable to any person for not so doing.

## 12 Prescription

Claims against the Issuer for payment in respect of the Bonds shall be prescribed and become void unless made within 10 years (in the case of principal) or five years (in the case of interest) from the appropriate Relevant Date in respect of such payment.

Claims in respect of any other amounts payable in respect of the Bonds shall be prescribed and become void unless made within 10 years following the due date for payment thereof.

### **13 Replacement of Bonds**

If any Bond is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of any Paying, Transfer and Conversion Agent subject to all applicable laws and stock exchange requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence and indemnity as the Issuer may require. Mutilated or defaced Bonds must be surrendered before replacements will be issued.

### **14 Meetings of Bondholders, Modification and Waiver, Substitution**

#### *(a) Meetings of Bondholders*

The Trust Deed contains provisions for convening meetings of Bondholders to consider matters affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions or any provisions of the Trust Deed. Such a meeting may be convened by the Issuer or the Trustee and shall be convened by the Issuer if requested in writing by Bondholders holding not less than 10 per cent. in principal amount of the Bonds for the time being outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution will be one or more persons holding or representing a clear majority in principal amount of the Bonds for the time being outstanding, or at any adjourned meeting one or more persons being or representing Bondholders whatever the principal amount of the Bonds so held or represented, unless the business of such meeting includes consideration of proposals, *inter alia*, (i) to change the Final Maturity Date or the First Call Date (other than deferring the First Call Date) or the dates on which interest is payable in respect of the Bonds, (ii) to modify the circumstances in which the Issuer or Bondholders are entitled to redeem the Bonds pursuant to Condition 7(b), (c) or (e), (iii) to reduce or cancel the principal amount of, or interest on, the Bonds or to reduce the amount payable on redemption of the Bonds, (iv) to modify the basis for calculating the interest payable in respect of the Bonds, (v) to modify the provisions relating to, or cancel, the Conversion Rights (other than pursuant to or as a result of any amendments to these Conditions and the Trust Deed made pursuant to and in accordance with the provisions of Condition 11(g) (“**Newco Scheme Modification**”), and other than a reduction to the Conversion Price), (vi) to increase the Conversion Price (other than in accordance with these Conditions or pursuant to a Newco Scheme Modification), (vii) to change the currency of the denomination or any payment in respect of the Bonds, (viii) to change the governing law of the Bonds, the Trust Deed or the Agency Agreement, or (ix) to modify the provisions concerning the quorum required at any meeting of Bondholders or the majority required to pass an Extraordinary Resolution, in which case the necessary quorum will be one or more persons holding or representing not less than two-thirds, or at any adjourned meeting not less than one-quarter, in principal amount of the Bonds for the time being outstanding. Any Extraordinary Resolution duly passed shall be binding on Bondholders (whether or not they were present at the meeting at which such resolution was passed).

The Trust Deed provides that a resolution in writing signed by or on behalf of the holders of not less than 90 per cent. of the aggregate principal amount of Bonds outstanding shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Bondholders duly convened and held. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Bondholders.

No consent or approval of Bondholders shall be required in connection with any Newco Scheme Modification.

*(b) Modification and Waiver*

The Trustee may agree, without the consent of the Bondholders, to (i) any modification of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions which in the Trustee's opinion is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of law, and (ii) any other modification to the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach, of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bonds or these Conditions which is, in the opinion of the Trustee, not materially prejudicial to the interests of the Bondholders. The Trustee may, without the consent of the Bondholders, determine any Event of Default or a Potential Event of Default (as defined in the Trust Deed) should not be treated as such, provided that in the opinion of the Trustee, the interests of Bondholders will not be materially prejudiced thereby. Any such modification, authorisation, waiver or determination shall be binding on the Bondholders and, if the Trustee so requires, shall be notified to the Bondholders promptly in accordance with Condition 17.

*(c) Entitlement of the Trustee*

In connection with the exercise of its functions (including but not limited to those referred to in this Condition) 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 consequence of any such exercise upon individual Bondholders.

## **15 Enforcement**

The Trustee may at any time, at its discretion and without notice, take such steps, actions or proceedings against the Issuer as it may think fit to enforce the provisions of the Trust Deed and the Bonds, but it shall not be bound to take any such steps, actions or 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 the holders of at least one-quarter in principal amount of the Bonds then 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 unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

## **16 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, financial institution or other expert, 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 may accept and shall be entitled to rely on any such report, confirmation or certificate or advice and such report, confirmation or certificate or advice shall be binding on the Issuer, the Trustee and the Bondholders.

## **17 Notices**

All notices regarding the Bonds will be valid if published in one leading daily newspaper in the United Kingdom (which is expected to be the *Financial Times*) or, if this is not possible, in one other leading English language newspaper with general circulation in Europe. The Issuer shall also ensure that all notices are duly published in a manner which complies with the rules and regulations of any stock exchange or other relevant authority on which the Bonds are for the time being listed. Any such notice shall be deemed to have been given on the date of such publication or, if required to be published in more than one newspaper or in more than one manner, on the date of the first such publication in all the required newspapers or in each required manner. If publication as provided above is not practicable, notice will be given in such other manner, and shall be deemed to have been given on such date, as the Trustee may approve.

## **18 Further Issues**

The Issuer may from time to time without the consent of the Bondholders create and issue further notes, bonds or debentures either having the same terms and conditions in all respects as the outstanding notes, bonds or debentures of any series (including the Bonds) or in all respects except for the first payment of interest on them and the first date on which Conversion Rights may be exercised and so that such further issue shall be consolidated and form a single series with the outstanding notes, bonds or debentures of any series (including the Bonds) or upon such terms as to interest, conversion, premium, redemption and otherwise as the Issuer may determine at the time of their issue. Any further notes, bonds or debentures forming a single series with the outstanding notes, bonds or debentures of any series (including the Bonds) constituted by the Trust Deed or any deed supplemental to it shall, and any other notes, bonds or debentures may, with the consent of the Trustee, be so constituted. The Trust Deed contains provisions for convening a single meeting of the Bondholders and the holders of notes, bonds or debentures of other series in certain circumstances where the Trustee so decides.

## **19 Contracts (Rights of Third Parties) Act 1999**

No person shall have any right to enforce any term or condition of the Bonds under the Contracts (Rights of Third Parties) Act 1999.

## **20 Governing Law and Jurisdiction**

### *(a) Governing Law*

The Trust Deed, the Agency Agreement and the Bonds and any non-contractual obligations arising out of or in connection with them are governed by, and shall be construed in accordance with, English law.

### *(b) Jurisdiction*

The courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Trust Deed or the Bonds and accordingly any legal action or proceedings arising out of or in connection with the Trust Deed or the Bonds (“**Proceedings**”) may be brought in such courts. The Issuer has in the Trust Deed irrevocably submitted to the jurisdiction of such courts and has waived any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of the Trustee and each of the Bondholders and shall not limit the right of any of them to

take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

(c) *Agent for Service of Process*

The Issuer has irrevocably appointed St James's Corporate Services Limited (registered in England No 3566623) at its registered office for the time being, currently at 6 St James's Place, London SW1A 1NP as its agent in England to receive service of process in any Proceedings in England. Nothing herein or in the Trust Deed shall affect the right to serve process in any other manner permitted by law.