

Listing Document dated 4 April 2017



**ROYAL BAFOKENG PLATINUM LIMITED**

*(Incorporated in South Africa with limited liability under registration number 2008/015696/06)*

*(the Issuer)*

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**Convertible Bond Listing**

**ISIN: ZAE000243853 Alpha Code: RBPCB Short Name: RBP CONV Long Name: Royal Bafokeng Platinum Limited Conv**

ZAR1,200,000,000 7% Senior Unsecured Convertible Registered Bonds due 2022 convertible into Ordinary Shares of the Issuer (subject to Shareholder approval)

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A total amount of ZAR 1,200,000,000 (or 120,000 bonds) 7% senior unsecured convertible registered bonds (the **Bonds**) were issued by the Issuer on 15 March 2017 (the **Issue Date**). The Bonds are subject to the terms and conditions (the "**Terms and Conditions**") set out in a debt instrument executed by or on behalf of the Issuer dated on 8 March 2017 and incorporated into this Listing Document in the section headed "**Terms and Conditions of the Bonds**".

Capitalised terms used below are defined in the section of this Listing Document headed "**Terms and Conditions of the Bonds**".

Each Bond which has not previously been redeemed or purchased and cancelled will, at the option of its holder and subject as provided herein, be convertible from 15 May 2017, to the close of business on the 7<sup>th</sup> (seventh) day prior to the Final Redemption Date (both days inclusive) (or, if the Bonds have been called for redemption prior to the Final Redemption Date, up to the close of business on the 7<sup>th</sup> (seventh) day preceding the relevant Redemption Date) into Ordinary Shares in the capital of the Issuer (the **Ordinary Shares**). The number of Ordinary Shares to be issued or transferred and delivered on such conversion shall be determined by dividing the Principal Amount of each Bond by the Conversion Price in effect on the relevant Conversion Date (each as defined herein). The Initial Conversion Price is ZAR 42.9438 per Ordinary Share, subject to adjustment in certain events as described in Condition 9.2.

**In accordance with Condition 9.14, Conversion Rights will be cash settled unless the Shareholders of the Issuer, excluding related parties, approve, by special authority, 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 the Terms and Conditions of the Bonds.**

Unless previously redeemed, converted or purchased by the Issuer and cancelled, the Bonds will mature on 16 March 2022.

For as long as the Bonds are in issue, interest on the Bonds is payable semi-annually in arrears on 16 March and 16 September of each year, subject to adjustment in terms of the business day convention as provided in the Terms and Conditions (each such day an **Interest Payment Date**), commencing with the Interest Payment Date falling on 16 September 2017. Interest on the Bonds will be calculated on the basis of a fixed rate determined in accordance with Condition 8 of the Bonds.

Payments in respect of the Bonds will be made without withholding for taxes unless such withholding is required by law, in which event the Issuer will be required to pay additional amounts in relation thereto, subject to customary exceptions, as described in Condition 12.2.

The Bonds will be listed on the JSE - Main Board under stock code number RBPCB. The application to list the Bonds was granted by the JSE on 4 April 2017 and the Bonds may be traded by or through members of the Main Board of the JSE in accordance with the rules and operating procedures for the time being of the JSE from 20 April 2017. The clearing and settlement of trades on the JSE shall take place in accordance with the electronic clearing and settlement procedures of the JSE and Strate Proprietary Limited.

The Issuer is not rated and the Bonds will not be rated.

**Particular attention is drawn to the section headed "Risk Factors".**

The Bonds and the Ordinary Shares to be issued upon conversion of the Bonds have not been and will not be registered under the United States Securities Act of 1933, as amended (the **Securities Act**) and may not be offered, sold or otherwise transferred in the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirement of the Securities Act. The Bonds will be offered and sold only in offshore transactions outside the United States in accordance with Regulation S and, subject to certain exceptions, may not be offered, sold or delivered within the United States. There will be no public offer of the Bonds or the Ordinary Shares in the United States or in any other jurisdiction. In addition, there are restrictions on the distribution of this Listing Document in South Africa, the European Economic Area and the United Kingdom. **Capitalised terms used in this Listing Document are defined in the section of this Listing Document headed "Terms and Conditions of the Bonds" unless separately defined in this Listing Document. Expressions defined in this Listing Document will bear the same meanings in any supplements to this Listing Document which do not themselves contain their own definitions.**

The Issuer accepts full responsibility for the accuracy of the information contained in this Listing Document and all documents incorporated by reference (see the section of this Listing Document headed "Documents Incorporated by Reference"). To the best of the knowledge and belief of the Issuer (who has taken all reasonable care to ensure that such is the case) the information contained in this Listing Document is in accordance with the facts and does not omit any fact which would make any statement false or misleading and all reasonable enquiries to ascertain such facts have been made. This Listing Document contains all information required by law and the debt listings requirements of the JSE.

The JSE takes no responsibility for the contents of this Listing Document or the annual reports of the Issuer (as amended or restated from time to time), makes no representations as to the accuracy or completeness of any of the foregoing documents and expressly disclaims any liability for any loss arising from or in reliance upon the whole or any part of this Listing Document, or the annual reports of the Issuer (as amended or restated from time to time).

The Issuer, having made all reasonable enquiries, confirms that this Listing Document contains or incorporates all information which is material in the context of the issue and the offering of the Bonds, that information contained or incorporated in this Listing Document is true and accurate in all material respects and is not misleading, that the opinions and the intentions expressed in this Listing Document are honestly held and that there are no other facts, the omission of which would make this Listing Document or any of the information or expression of any such opinions or intentions misleading in any material respect.

This Listing Document is to be read and construed with any amendment or supplement thereto (this document, as amended, restated or supplemented, the **Listing Document**) and in conjunction with all other documents which are deemed to be incorporated herein by reference (see the section headed "Documents Incorporated by Reference"). This Listing Document shall be read and construed on the basis that such documents are incorporated into and form part of this Listing Document. Any reference in this section to the Listing Document shall be read and construed as including such documents incorporated by reference.

The JSE Debt Sponsor or any of their respective subsidiaries or holding companies or a subsidiary of their holding companies (**Affiliates**), other professional advisers named herein and the JSE have not separately verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility is accepted by the JSE Debt Sponsor or any of their Affiliates or other professional advisers as to the accuracy or completeness of the information contained in this Listing Document or any other information provided by the Issuer. The JSE Debt Sponsor, any of their Affiliates and other professional advisers do not accept any liability in relation to the information contained in this Listing Document or any other information provided by the Issuer, the JSE Debt Sponsor or any of their Affiliates or other professional advisers.

No person has been authorized by the Issuer to give any information or to make any representation not contained in or inconsistent with this Listing Document or any other document entered into in relation to the Bonds or any other information supplied by the Issuer in connection with the Bonds and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the JSE Debt Sponsor nor any of their Affiliates or other professional advisers.

Neither this Listing Document nor any other information supplied in connection with the Bonds is intended to provide the basis of any credit or other evaluation, or should be considered as a recommendation by the JSE, the Issuer, the JSE Debt Sponsor, or any of their Affiliates and other professional advisers, that any recipient of this Listing Document or any other information supplied in connection with the Listing Document should subscribe for or purchase any Bonds.

Each person contemplating the subscription for, or purchase of, any of the Bonds, should determine for itself the relevance of the information contained in this Listing Document and should make its own independent investigation of the financial condition and affairs and its own appraisal of the creditworthiness of the Issuer and its subscription for, or purchase of, the Bonds should be based upon any such investigation as it deems necessary. Neither this Listing Document nor any other information supplied in connection with the Bonds constitutes an offer or invitation by or on behalf of the Issuer, the JSE Debt Sponsor, any of their Affiliates or other professional advisers to any Person to subscribe for or purchase any Bonds.

Neither the delivery of this Listing Document nor the offering, sale or delivery of any of the Bonds shall at any time imply that the information contained herein is correct at any time subsequent to the date hereof, or that any other financial statements or other information supplied in connection with the Bonds is correct at any time subsequent to the date indicated in the document containing the same. The JSE Debt Sponsor, any of their Affiliates and other professional advisers expressly do not undertake to review the financial condition or affairs of the Issuer during the life of the Bonds. Investors should review, inter alia, the most recent financial statements, if any, of the Issuer when deciding whether or not to subscribe for, or purchase, any Notes.

None of the Issuer or the Debt Sponsor makes any representation or warranties as to the settlement procedures of the Central Securities Depository or the JSE.

**This Listing Document does not constitute an offer or an invitation by or on behalf of the Issuer, the JSE Debt Sponsor or any of their Affiliates or professional advisers to any person to subscribe for or purchase any of the Bonds.** The distribution of this Listing Document and the offering of the Bonds in certain jurisdictions may be restricted by law. No representation is made by the Issuer, the JSE Debt Sponsor, or any of their Affiliates or professional advisers that this Listing Document may be lawfully distributed, or that the Bonds may be lawfully offered, in compliance with any applicable legislation or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder and none of them assumes any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the JSE Debt Sponsor, any of their Affiliates or any of their professional advisers, which would permit a public offering of the Bonds or distribution of this Listing Document in any jurisdiction where action for that purpose is required. Accordingly, the Bonds may not be offered or sold, directly or indirectly, and neither this Listing Document nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Listing Document comes are required by the Issuer, the JSE Debt Sponsor, any of their Affiliates and any of their professional advisers to inform themselves about and to observe any such restrictions.

The terms of this Listing Document, if sent to persons resident in jurisdictions outside South Africa, may be affected by the laws of the relevant jurisdiction. Such persons should inform themselves about and observe any applicable legal requirements in any such jurisdiction. It is the responsibility of any such person wishing to subscribe for or purchase the Bonds to satisfy itself as to the full observance of the laws of the relevant jurisdiction therewith. If and to the extent that this Listing Document is illegal in any jurisdiction, it is not made in such jurisdiction and this document is sent to persons in such jurisdiction for information purposes only.

References in this Listing Document to **Rand** or **ZAR** are to the lawful currency for the time being of South Africa.

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## DOCUMENTS INCORPORATED BY REFERENCE

*Capitalised terms used in this section headed "Documents Incorporated by Reference" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

The documents listed below are deemed to be incorporated into, and to form part of, this Listing Document and are available for inspection during normal office hours after the Issue Date, at the Specified Offices of the Issuer and the JSE Debt Sponsor:

1. the published consolidated audited annual financial statements of the Issuer (prepared in accordance with IFRS), together with such statements, reports and notes attached to or intended to be read with such financial statements, for the financial periods ended 31 December 2014, 31 December 2015 and 31 December 2016;
2. the published Integrated Report of the Issuer for the financial periods ended 31 December 2014, 31 December 2015 and 31 December 2016;
3. the Agency Agreement as amended, restated or supplemented from time to time;
4. The Conversion Agency Agreement as amended, restated or supplemented from time to time;
5. the Trust Deed as amended, restated or supplemented from time to time;
6. any amendment, restatement or supplement to this Listing Document circulated by the Issuer from time to time;
7. all information pertaining to the Issuer which is relevant to the Bonds which is electronically disseminated on the Stock Exchange News Service (**SENS**) to SENS subscribers;

Any statement contained in this Listing Document or in any document which is incorporated by reference into this Listing Document will be deemed to be modified or superseded for the purposes of this Listing Document to the extent that a statement contained in any subsequent document which is deemed to be incorporated by reference into this Listing Document modifies or supersedes such earlier statement (whether expressly, by implication or otherwise).

The Listing Document and any amendments or supplements thereto will be made available on the website of the JSE ([www.jse.co.za](http://www.jse.co.za)) (after the listing of the Bonds on the JSE). The Listing Document, any amendment, restatement or supplement thereto and the financial statements of the Issuer referred to above will be made available on the website of the Issuer (<http://www.bafokengplatinum.co.za/>). The Trust Deed, the Agency Agreement, the Conversion Agency Agreement, the Issuer's constitutional documents, the financial statements of the Issuer referred to above and the most recently obtained monthly beneficial disclosure report made available by the relevant Participants to the Central Securities Depository will also be available for inspection at the Specified Office of the Issuer.

## SUMMARY

The following summary sets out the principal features of the Bonds and does not purport to be complete and is taken from, and is qualified in its entirety by, the remainder of this Listing Document and, in particular, the Conditions. Words and expressions defined in the Conditions shall have the same meanings in this summary.

<b>Issuer:</b>	Royal Bafokeng Platinum Limited, a public company duly incorporated in accordance with the company laws of South Africa with registration number 2008/015696/06.
<b>JSE Debt Sponsor:</b>	Rand Merchant Bank, a division of FirstRand Bank Limited ( <b>RMB</b> ), a public company with limited liability and a registered bank duly incorporated in accordance with the company and banking laws of South Africa with registration number 1929/001225/06;
<b>Conversion Agent:</b>	RMB
<b>Transfer Agent:</b>	Computershare Investor Services Proprietary Limited, a private company duly incorporated in accordance with the company laws of South Africa with registration number 2004/003647/07.
<b>Trustee:</b>	TMF Corporate Services (South Africa) Proprietary Limited, a private company duly incorporated in accordance with the company laws of South Africa with registration number 2006/013631/07.
<b>Calculation Agent:</b>	RMB
<b>Issuer's Settlement Agent:</b>	RMB
<b>Auditor:</b>	PricewaterhouseCoopers Inc or such other firm of auditors as may be selected by the Issuer from time to time.
<b>Central Securities Depository:</b>	Strate Proprietary Limited a private company duly incorporated in accordance with the company laws of South Africa with registration number 1998/022242/07) or any additional or alternate depository approved by the Issuer and the JSE.
<b>Description of the Bonds</b>	
<b>Bonds:</b>	ZAR 1,200,000,000 7% Senior Unsecured Convertible Registered Bonds due 2022 (a total issuance of 120,000 Bonds).
<b>Size of issuance:</b>	Bonds with an aggregate Principal Amount of ZAR 1,200,000,000.
<b>Terms and Conditions:</b>	The terms and conditions of the Bonds are set out below in this Listing Document under the section " <i>Terms and Conditions of the Bonds</i> ".
<b>Currency:</b>	Rand, the lawful currency of South Africa.
<b>Denomination of Bonds:</b>	ZAR10,000 each. Bonds will not be offered to a single addressee acting as principal in an aggregate principal amount of less than ZAR2,000,000.
<b>Form of Bonds:</b>	Registered form, as described below in this Listing Document in the section " <i>Form of the Bonds</i> ".
<b>Status of the Bonds:</b>	The Bonds constitute direct, unconditional, unsubordinated and (subject to the negative pledge) 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.
<b>Interest Rate and Interest Payment</b>	

<b>Dates:</b>	From and including the Issue Date, interest will be payable semi-annually in arrears on 16 March and 16 September of each year (each such day an Interest Payment Date), at a rate per annum equal to 7%, commencing with the Interest Payment Date falling on 16 September 2017.
<b>Redemption:</b>	<p>Unless previously converted, redeemed or purchased and cancelled, the Issuer shall redeem the Bonds at their Principal Amount (together with accrued interest) on 16 March 2022.</p> <p>Save for optional redemption prior to the stated maturity of the Bonds (as described below) and early redemption following an Event of Default, early redemption of the Bonds will only be permitted for Tax reasons as described in Condition 10.3.</p> <p>At any time on or after 5 April 2021, all but not some of the Bonds may be redeemed at their Principal Amount together with accrued interest, to but excluding the Optional Redemption Date, before their stated maturity at the option of the Issuer, if the Volume Weighted Average Price of the Ordinary Shares exceeds 130% of the Conversion Price on no less than 20 out of 30 consecutive Dealing Days ending no earlier than the 5<sup>th</sup> (fifth) Dealing Day prior to the giving of the relevant Optional Redemption Notice, as described in Condition 10.2.</p> <p>At any time, all but not some of the Bonds may be redeemed at their Principal Amount plus accrued interest, to but excluding the date of redemption, before their stated maturity at the option of the Issuer, if Conversion Rights have been exercised and/or redemptions and/or purchases (and corresponding calculations) effected in respect of 85% or more in Principal Amount of the Bonds originally issued, as described in Condition 10.2.</p> <p>For so long as the Shareholder Resolutions have not been approved, the Issuer may at any time by giving notice no later than 10 Dealing Days prior to the Long Stop Date elect to redeem all but not some only of the Bonds, as described in Condition 10.2.</p> <p>If a Change of Control occurs, then Bonds may be redeemed at their Principal Amount together with accrued interest before their stated maturity at the option of the holders of the Bonds, as described in Condition 10.4. Alternatively, Bondholders will have the option to convert the Bonds into Ordinary Shares at a lower Conversion Price calculated in accordance with a pre-determined formula.</p> <p>If a Delisting Event occurs, Bonds may be redeemed at their Principal Amount plus accrued interest before their stated maturity at the option of the holders of the Bonds, as described in Condition 10.5.</p>
<b>Conversion Right:</b>	<p>Subject as provided below, the holder of each Bond shall have the right to convert such Bond into new and/or existing (as determined by the Issuer) Ordinary Shares in the capital of the Issuer, credited as fully paid up, on the condition that the issuance of such Ordinary Shares as may be required to be issued from time to time to satisfy the exercise of Conversion Rights is approved by the Shareholders of the Issuer.</p> <p>Conversion Rights will be cash settled until the Issuer's shareholders approve settlement in Ordinary Shares, and thereafter Conversion Rights will be settled in Ordinary Shares only.</p> <p>A Bondholder may exercise its Conversion Right by delivering a Conversion Notice to the Specified Office of the Conversion Agent. The Conversion Date will be the Business Day after the date of such delivery and payment.</p>
<b>Conversion Period:</b>	The Conversion Right in respect of any Bond shall be exercisable at any time from 15 May 2017, to (i) close of business on the 7 <sup>th</sup> (seventh) day prior to the Final Redemption Date or, (ii) if the Bonds have been



	<p>called for redemption prior to the Final Redemption Date, up to close of business on the 7<sup>th</sup> (seventh) day preceding the relevant Redemption Date. The Conversion Right in respect of any Bond may not be exercised where the resulting Conversion Date would fall during the period commencing on the Last Day to Trade in respect of any payment of interest on the Bonds, and ending on the Interest Payment Date, both days inclusive.</p>
<b>Initial Conversion Price:</b>	The Initial Conversion Price is ZAR 42.9438 per Ordinary Share.
<b>Conversion Price:</b>	<p>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 relevant Bond by the Conversion Price in effect on the Conversion Date.</p> <p>The Conversion Price shall be adjusted upon the occurrence of certain events including, but not limited to, any alteration to the nominal value of the Ordinary Shares as the result of consolidation or subdivision, any rights or options issues and any Dividend, as described in Condition 9.2.</p> <p>Ordinary Shares to be allotted or transferred, as the case may be, on conversion will be issued or transferred and delivered, as the case may be, credited as fully paid and will rank <i>pari passu</i> with all other Ordinary Shares, save that they will not rank for any dividend or other distribution declared or paid or made by reference to a record date for the payment of a dividend or other distribution with respect to the Ordinary Shares prior to the relevant Registration Date.</p>
<b>Negative Pledge:</b>	Condition 6 of the Terms and Conditions provides for a negative pledge in favour of the holders of the Bonds in relation to the Relevant Indebtedness of the Issuer and any Material Subsidiary of the Issuer.
<b>Cross Acceleration:</b>	Bonds will have the benefit of a cross-acceleration to other debt of the Issuer and any Material Subsidiary of the Issuer above the threshold specified in Condition 13.
<b>Issue Price:</b>	100% of the Principal Amount of the Bonds.
<b>Listing:</b>	An application was made to list the Bonds on the JSE – Main Board under stock code number RBPCB and ISIN ZAE000243853. The application was granted on 4 April 2017 and the Bonds may be traded by and through members of the JSE from 20 April 2017.
<b>Credit Rating:</b>	The Bonds will not be rated.
<b>Payment:</b>	<p>The Bonds will be cleared and settled in accordance with the Applicable Procedures of the JSE and the Central Securities Depository. Euroclear Bank S.A./N.V. and Clearstream Banking, société anonyme will settle offshore transfers, if any, through their Participant.</p> <p>Participants will follow the electronic settlement procedures prescribed by the Applicable Procedures of the Central Securities Depository when making interest and principal payments. The Applicable Procedures are available on request from the Central Securities Depository.</p> <p>Principal and interest payments to the Bondholders will be made by electronic transfer.</p>
<b>Purchase of Bonds:</b>	The Issuer may purchase Bonds in the open market or otherwise.
<b>Method of Transfer:</b>	The method of transfer is by registration for transfer of Bonds to occur through the Register and by electronic book entry in the securities accounts of Participants or the Central Securities Depository, as the case may be, for transfers of Beneficial Interests in the Bonds, in all cases subject to the restrictions described in this Listing Document.
<b>Register:</b>	The register will be maintained by the Transfer Agent.

<b>Tax Status:</b>	A summary of applicable current South African Tax legislation appears under the section " <i>South African Taxation</i> ". The section does not constitute tax advice and investors should consult their professional advisers.
<b>Securities Transfer Tax:</b>	In terms of current South African legislation as at the Issue Date, no securities transfer tax is payable by the Issuer on the original issue of, or on the registration of transfer of, the Bonds. Any future securities transfer tax that may be introduced will be for the account of Bondholders. If Conversion occurs, securities transfer tax would be payable in relation to the issue or transfer of the Ordinary Shares.
<b>Withholding Tax:</b>	Under current taxation law in South Africa, all payments made under the Bonds to resident Bondholders will be made free of withholding for or on account of any taxes, duties, assessments or governmental charges. Withholding tax on interest in respect of certain debt instruments (which could include any Bonds issued) may be applicable to certain persons, who are regarded as non-resident for tax purposes in South Africa. The withholding tax is levied at a rate of 15%, but could be reduced by the relevant double taxation treaties or applicable exemptions. Exemptions include interest paid in respect of any debt instrument listed on a recognised exchange. The JSE Limited would qualify as such an exchange, and therefore, subject to any legislative changes, the interest paid on the Bonds will not be subject to interest withholding tax, from listing date onwards. In the event that such withholding is required by law, the Issuer will be obliged to pay additional amounts in relation thereto, subject to customary exceptions, as described in Condition 12.
<b>Blocked Rand:</b>	Blocked Rand may be used for the subscription for or purchase of Bonds, subject to South African Exchange Control Regulations, 1961, promulgated under the Currency and Exchanges Act, 1933 (the <b>Regulations</b> ).
<b>Governing Law:</b>	The Bonds will be governed by and construed in accordance with the laws of South Africa.

## **RISK FACTORS**

*Capitalised terms used in this section headed "Risk Factors" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

*The Issuer believes that the factors outlined below may affect its ability to fulfil its obligations under the Bonds. All of these factors are contingencies which may or may not occur and the Issuer is not in a position to express a view on the likelihood of any such contingency occurring. In addition, factors which are material for the purpose of assessing the market risks associated with the Bonds are also described below. The value of the Bonds could decline due to any of these risks, and investors may lose some or all of their investment.*

*The Issuer believes that the factors described below represent the principal risks inherent in investing in the Bonds, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with any Bonds may occur for other reasons which may not be considered significant risks by the Issuer based on information currently available to it, or which it may not currently be able to anticipate. Accordingly, the Issuer does not represent that the statements below regarding the risks of holding any Bonds are exhaustive.*

*Prospective investors should also read the detailed information set out elsewhere in this Listing Document as well as all documents incorporated by reference, including in particular the annual financial statements of the Issuer, to reach their own views prior to making any investment decision.*

*References below to a numbered "Condition" shall be to the relevant Condition under the Terms and Conditions.*

### **Risks Relating to the Bonds**

#### ***The Bonds may not be a suitable investment for all investors***

Each potential investor in any Bonds must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- have sufficient knowledge and experience to make a meaningful evaluation of the Bonds, the merits and risks of investing in the Bonds and the information contained or incorporated by reference in this Listing Document or any applicable supplement;
- have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Bonds and the impact such an investment will have on its overall investment portfolio;
- have sufficient financial resources and liquidity to bear all of the risks of an investment in the Bonds, including Bonds with principal or interest payable in one or more currencies, or where the currency for principal or interest payments is different from the potential investor's currency;
- understand thoroughly the terms of the Bonds and be familiar with the behaviour of any relevant indices and financial markets; and
- be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

#### ***There is no active trading market for the Bonds***

Bonds issued under the Listing Document will be new securities which may not be widely distributed and for which there is currently no active trading market. If the Bonds are traded after their initial issuance, they may trade at a discount to their initial offering price, depending upon prevailing interest rates, the market for similar securities, general economic conditions and the financial condition of the Issuer.

#### ***The Bonds may be redeemed prior to maturity***

Where the Terms and Conditions provide that the Bonds are redeemable at the Issuer's option, the Issuer may choose to redeem the Bonds at times when prevailing interest rates may be relatively low. In such circumstances an investor may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the relevant Bonds.

***Because Bonds listed on the JSE may be held by the Central Securities Depository, investors will have to rely on its procedures for transfer, payment and communication with the Issuer***

While the Bonds are held in the Central Securities Depository, investors will be able to trade their Beneficial Interests in such Bonds only through the Central Securities Depository.

While Bonds are held in the Central Securities Depository the Issuer will discharge its payment obligations under such Bonds by making payments to or to the order of the Central Securities Depository, for distribution to the holders of Beneficial Interests in such Bonds. A holder of a Beneficial Interest in Bonds must rely on the procedures of the Central Securities Depository and Participants to receive payments under such Bonds. The Issuer has no responsibility or liability for the records relating to, or payments made in respect of, Beneficial Interests.

***Risks related to Bonds generally***

*Modification and waivers*

The Terms and Conditions contain provisions for calling meetings of Bondholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Bondholders including Bondholders who did not attend and vote at the relevant meeting and Bondholders who voted in a manner contrary to the majority.

*Change of law*

No assurance can be given as to the impact of any possible judicial decision or change to South African law or other Applicable Law or administrative practice after the Issue Date.

***Legal investment considerations may restrict certain investments***

The investment activities of certain investors are subject to legal investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (1) Bonds are legal investments for it, (2) Bonds can be used as collateral for various types of borrowing and (3) other restrictions apply to its purchase or pledge of any Bonds. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of Bonds under any applicable risk-based capital or similar rules.

***Risks Relating to the Issuer's Business***

Please refer to pages 88 to 90 for a detailed description of the risks relating to the business of the Issuer see the section headed "*Description of the Issuer*".

## **FORM OF THE BONDS**

### **Bonds issued in uncertificated form**

Bonds listed on the JSE – Main Board will, subject to Applicable Law and Applicable Procedures, be issued in uncertificated form in terms of section 33 of the Financial Markets Act.

Bonds issued in uncertificated form will not be represented by any certificate or written instrument. Bonds issued in uncertificated form will be held in the Central Securities Depository.

### **Beneficial Interests**

The Central Securities Depository will hold the Bonds issued in uncertificated form, subject to the Financial Markets Act and the Applicable Procedures. All amounts to be paid and all rights to be exercised in respect of Bonds held in the Central Securities Depository will be paid to and may be exercised only by the relevant Participant for the holders of Beneficial Interests in such Bonds.

The Central Securities Depository maintains central securities accounts only for Participants. As at the Issue Date, the Participants are Citibank N.A. South African Branch, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited, Standard Chartered Bank, Johannesburg Branch, Société Générale, Johannesburg Branch and the South African Reserve Bank. Beneficial Interests which are held by Participants will be held directly through the Central Securities Depository, and the Central Securities Depository will hold such Beneficial Interests, on behalf of such Participants, through the central securities accounts maintained by the Central Securities Depository for such Participants.

The Participants are in turn required to maintain securities accounts for their clients. Beneficial Interests which are held by clients of Participants will be held indirectly through such Participants, and such Participants will hold such Beneficial Interests, on behalf of such clients, through the securities accounts maintained by such Participants for such clients. The clients of Participants may include the holders of Beneficial Interests in the Bonds or their custodians. The clients of Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Bonds held by them in the Central Securities Depository only through their Participants. Euroclear Bank S.A./N.V. as operator of the Euroclear System (**Euroclear**) and Clearstream Banking, société anonyme, (Clearstream Luxembourg) (**Clearstream**) may hold Bonds through their Participant.

In relation to each person shown in the records of the Central Securities Depository or the relevant Participant, as the case may be, as the holder of a Beneficial Interest in a particular outstanding Principal Amount of Bonds, a certificate or other document issued by the Central Securities Depository or the relevant Participant, as the case may be, as to the outstanding Principal Amount of such Bonds standing to the account of such person shall be *prima facie* proof of such Beneficial Interest.

Subject to Applicable Laws, title to Beneficial Interests held by Participants directly through the Central Securities Depository will be freely transferable and pass on transfer thereof by electronic book entry in the central securities accounts maintained by the Central Securities Depository for such Participants. Subject to Applicable Laws, title to Beneficial Interests held by clients of Participants indirectly through such Participants will be freely transferable and pass on transfer thereof by electronic book entry in the security accounts maintained by such Participants for such clients. Beneficial Interests may be transferred only in accordance with the Applicable Procedures. Holders of Beneficial Interests vote in accordance with the Applicable Procedures. Beneficial Interests in the Bonds may be exchanged, without charge by the Issuer, for Bonds in definitive registered form only in accordance with Condition 15.1 of the Conditions. Such Certificates will not be issuable in bearer form. The Bonds represented by the Certificates will be registered in the name of the individual Bondholders in the Register of Bondholders maintained by the Transfer Agent. The Issuer shall regard the Register as the conclusive record of title to the Bonds. The relevant Participant shall be recognised by the Issuer as the owner of the Bonds issued in uncertificated form and registered holders of Certificates shall be recognised by the Issuer as the owners of the Bonds represented by such Certificates.

The Issuer shall regard the Register as the conclusive record of title to the Bonds.

### **Certificates**

The Bonds represented by Certificates will be registered in the name of the individual Bondholders in the Register of Bondholders.

Payments of interest and principal in respect of Bonds represented by Certificates will be made in accordance with Condition 11 to the person reflected as the registered holder of such Certificates in the Register at 17h00 (South African time) on the Record Date, and the Issuer will be discharged by proper payment to or to the order of the registered holder of the Certificate in respect of each amount so paid.

**The JSE Guarantee Fund**

Claims against the JSE Guarantee Fund may only be made in respect of the trading of Bonds listed on the Main Board of the JSE and in accordance with the rules of the JSE Guarantee Fund.

## Terms and Conditions of the Bonds

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

**Royal Bafokeng Platinum Limited** (incorporated in South Africa with limited liability under registration number 2008/015696/06) (the "**Issuer**")

Issue of ZAR 1,200,000,000 7.00 per cent. Senior Unsecured Convertible Registered Bonds due 2022 convertible into Ordinary Shares of Royal Bafokeng Platinum Limited

- (a) The issue of ZAR 1,200,000,000 7.00 per cent. Senior Unsecured Convertible Registered Bonds due 2022 (the "**Bonds**") was authorised by a resolution of the board of the Issuer passed on or about 7 March 2017.
- (b) The terms and conditions of the Bonds (the "**Terms and Conditions**") are constituted as set out below, as read together with the Trust Deed.
- (c) TMF Corporate Services (South Africa) Proprietary Limited (the "**Trustee**") has been appointed in terms of a trust deed (the "**Trust Deed**") between the Trustee and the Issuer, to act as trustee on behalf of and for the benefit of the Bondholders.

### It is agreed:

#### 1. Interpretation

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

"**Additional Cash Settlement Amount**" has the meaning provided in Condition 9.14;

"**Additional Ordinary Shares**" has the meaning provided in Condition 9.3;

"**Agency Agreement**" means the agreement concluded between the Issuer, the Calculation Agent, the Paying Agent and the Transfer Agent (or any separate agreement between the Issuer and any such agent), in terms of which the agents agree to provide calculation, paying and transfer services to the Issuer;

"**Applicable Law**" means in relation to a person, all and any:

- (a) statutes and subordinate legislation;
- (b) treaties, regulations, ordinances, decrees and directives;
- (c) by-laws;
- (d) codes of practice, circulars, guidance notices, judgements and decisions of any competent authority;

- (e) any present or future common law; and
- (f) other similar provisions, from time to time;

**"Applicable Procedures"** means the rules and operating procedures for the time being of the Central Securities Depository, Settlement Agents and the JSE, as the case may be;

**"Beneficial Interest"** means in relation to a Bond, an interest as beneficial owner of a Bond held in uncertificated form, in accordance with the Financial Markets Act;

**"Bonds"** means the 7.00 per cent. senior unsecured convertible registered bonds due 2022, in an aggregate Principal Amount of ZAR 1,200,000,000, with a minimum denomination on the Issue Date of ZAR 10,000 each, issued by the Issuer under these Terms and Conditions and for the time being outstanding;

**"Bondholder"** or **"holder"** means the person in whose name a Bond is registered in the Register;

**"Business Day"** means a day (other than a Saturday, Sunday or official South African public holiday within the meaning of the Public Holidays Act, 1994, as amended), which is a day on which commercial banks settle ZAR payments in Johannesburg;

**"Calculation Agent"** means Rand Merchant Bank, a division of FirstRand Bank Limited or such other person with whom the Issuer has entered into a Calculation Agent Agreement or any additional agent appointed to perform any particular function assigned to it;

**"Calculation Agent Agreement"** means the agreement concluded between the Issuer and the Calculation Agent (which may be incorporated into the Agency Agreement), in terms of which the Calculation Agent agrees to provide calculation services to the Issuer;

**"Cash Settlement Amount"** means an amount calculated by the Calculation Agent in accordance with the following formula and which shall be payable to a Bondholder upon the exercise of Conversion Rights, where the relevant Conversion Date falls prior to the Physical Settlement Date:

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

where:

CSA = the Cash Settlement Amount;

S = the Reference Shares;

$P_n$  = the Volume Weighted Average Price of an Ordinary Share on the  $n^{th}$  Dealing Day of the Cash Settlement Calculation Period; and

N = 20, being the number of Dealing Days in the Cash Settlement 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 Settlement 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 Settlement 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 Settlement Calculation Period"** means the period of 20 consecutive Dealing Days commencing on the relevant Conversion Date (or the next Dealing Day if such date is not a Dealing Day);

**"Central Securities Depository"** means Strate Proprietary Limited (registration number 1998/022242/07), or its nominee, a central securities depository operating in terms of the Financial Markets Act, or any additional or alternate depository approved by the Issuer;

**"Certificate"** means as contemplated in these Terms and Conditions, a single individual certificate for Bonds, registered in the name of the relevant Bondholder;

**"Change of Control"** has the meaning provided in Condition 9.2(a)(x);

**"Change of Control Notice"** has the meaning provided in Condition 9.7;

**"Change of Control Period"** means the period commencing on the occurrence of a Change of Control and ending 60 days following the Change of Control or, if later, 60 days following the date on which a Change of Control Notice is given to Bondholders as required by Condition 9.7;

**"Change of Control Put Date"** has the meaning provided in Condition 10.4(b);

**"Change of Control Put Exercise Notice"** has the meaning provided in Condition 10.4(b);

**"Companies Act"** means the Companies Act, 2008;

**"Condition"** means a numbered term or condition of the Bonds forming part of these Terms and Conditions (and reference to a particular numbered Condition shall be construed as a reference to the corresponding condition in these Terms and Conditions);

**"Conversion Agent"** means Rand Merchant Bank, a division of FirstRand Bank Limited;

**"Conversion Agency Agreement"** means the agreement concluded between the Issuer and the Conversion Agent, in terms of which the Conversion Agent agrees to provide conversion agent services to the Issuer;

**"Conversion Date"** has the meaning provided in Condition 9.8(e);

"**Conversion Notice**" has the meaning provided in Condition 9.8(a);

"**Conversion Period**" has the meaning provided in Condition 9.1(j);

"**Conversion Period Commencement Date**" has the meaning provided in Condition 9.1(e);

"**Conversion Price**" has the meaning provided in Condition 9.1(b);

"**Conversion Right**" has the meaning provided in Condition 9.1(a);

"**Current Market Price**" means in respect of an Ordinary Share on a particular date, the average of the daily Volume Weighted Average Price of an Ordinary Share on each of the 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, in any such case, determined by the Calculation Agent on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit; 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, in any such case, determined by the Calculation Agent on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit;

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, in any such case, determined by the

Calculation Agent on a gross basis and disregarding any withholding or deduction required to be made for or on account of tax, and disregarding any associated tax credit;

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;

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 (i) for the purposes of the definition of "Fair Bond Value Calculation Period" in Condition 10.2(b), a day on which the JSE or such other stock exchange pursuant to Condition 14.1(i) is open for business and on which the Bonds may be dealt in (other than a day on which the JSE or such other stock exchange is scheduled to or does close prior to its regular weekday closing time) and (ii) in all other cases 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);

"**De-Listing Event**" has the meaning provided in Condition 10.5;

"**De-Listing Event Notice**" has the meaning provided in Condition 10.5;

"**De-Listing Event Period**" means the period commencing on the occurrence of the De-Listing Event and ending 60 days following the De-Listing Event or, if later, 60 days following the date on which a De-Listing Event Notice is given.

"**De-Listing Event Put Date**" has the meaning provided in Condition 10.5;

"**De-Listing Event Put Exercise Notice**" has the meaning provided in Condition 10.5;

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

- (a) (i) where a Dividend in cash is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the issue or delivery of Ordinary Shares or other property or assets, or where a capitalisation of profits

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

(ii) if there shall be any issue of Ordinary Shares by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) where such issue is or is expressed to be in lieu of a Dividend (whether or not a cash Dividend equivalent or amount is announced or would otherwise be payable to Shareholders, whether at their election or otherwise), the capitalisation in question shall be treated as a cash Dividend of an amount equal to the Current Market Price of such Ordinary Shares as at the first date on which the Ordinary Shares are traded ex- the relevant capitalisation on the Relevant Stock Exchange or, if later, the date on which the number of Ordinary Shares to be issued or transferred and delivered is determined;

(b) any issue of Ordinary Shares falling within Condition 9.2(a)(ii) shall be disregarded;

(c) a purchase or redemption or buy back of share capital of the Issuer by or on behalf of the Issuer or any of its Subsidiaries shall not constitute a Dividend unless, in the case of a purchase or redemption or buy back of Ordinary Shares by or on behalf of the Issuer or any of its Subsidiaries, the weighted average price per Ordinary Share (before expenses) on any one day (a "**Specified Share Day**") in respect of such purchases or redemptions or buy backs (translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such day) exceeds by more than five per cent. the average of the closing prices of the Ordinary Shares on the Relevant Stock Exchange (as published by or derived from the Relevant Stock Exchange) on the 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), as the case may be, in which case such purchase,

redemption or buy back shall be deemed to constitute a Dividend in the Relevant Currency to the extent that the aggregate price paid (before expenses) in respect of such Ordinary Shares purchased, redeemed or bought back by the Issuer or, as the case may be, any of its Subsidiaries (translated where appropriate into the Relevant Currency as provided above) exceeds the product of (i) 105 per cent. of the average closing price of the Ordinary Shares determined as aforesaid and (ii) the number of Ordinary Shares so purchased, redeemed or bought back;

- (d) if the Issuer or any of its Subsidiaries shall purchase, redeem or buy back any depositary or other receipts or certificates representing Ordinary Shares, the provisions of paragraph (c) 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; and
- (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 Terms and 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 Terms and Conditions shall be construed accordingly,

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

**"Enforcement Notice"** a notice delivered pursuant to Condition 13.2(b) following an Event of Default under the Bonds;

**"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"** means in relation to any Bonds, any of the events specified as such in Condition 13 of these Terms and Conditions;

**"Exempt Newco Scheme"** means a Newco Scheme where immediately after completion of the relevant Scheme of Arrangement, the Ordinary Shares of Newco are (a) admitted to trading on the Relevant Stock Exchange or (b) admitted to listing on such other regulated, regularly operating, recognised stock exchange or securities market as the Issuer or Newco may determine;

**"Existing Shareholders"** shall bear the meaning defined in the definition of "Newco Scheme";

**"Extraordinary Resolution"** means a resolution passed at a properly constituted meeting of Bondholders by a majority consisting of not less than 66.67 per cent. of the votes cast at a poll by Bondholders, present in person or by proxy;

**"Fair Bond Value"** has the meaning provided in Condition 10.2(b);

**"Fair Bond Value Calculation Period"** has the meaning provided in Condition 10.2(b);

**"Fair Market Value"** means, on any date, (i) in the case of a Dividend in cash, the amount of such Dividend; (ii) in the case of any other cash amount, the amount of such cash; (iii) in the case of Securities, Spin-Off Securities, options, warrants or other rights or assets which are publicly traded in a market of adequate liquidity (as determined by the Calculation Agent), (a) in the case of Securities or Spin-Off Securities, the arithmetic mean of the daily Volume Weighted Average Prices of such Securities or Spin-Off Securities and (b) in the case of options, warrants or other rights or assets, the arithmetic mean of the daily closing prices of such options, warrants or other rights or assets, 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 or assets are publicly traded) or such shorter period as such Spin-Off Securities, options, warrants or other rights or assets are publicly traded; (iv) in the case of Securities, Spin-Off Securities, options, warrants or other rights or assets which are not publicly traded (as aforesaid), the Fair Market Value of such Securities, Spin-Off Securities, options, warrants or other rights or assets shall be determined by an Independent Financial Adviser, on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate, including the market price per Ordinary Share, the dividend yield of an Ordinary Share, the volatility of such market price, prevailing interest rates and the terms of such Securities, Spin-Off Securities, options, warrants or other rights or assets, 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 relevant 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, all as determined by the Calculation Agent. 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;

**"Fair Value Redemption Date"** has the meaning provided in Condition 10.2(b);

**"Fair Value Redemption Notice"** has the meaning provided in Condition 10.2(b);

**"Final Redemption Date"** means 16 March 2022;

**"Financial Markets Act"** means the Financial Markets Act, 2012;

**"Group"** means the Issuer and its Subsidiaries from time to time;

**"IFRS"** means International Financial Reporting Standards and the interpretation of those standards as adopted by the International Accounting Standards Board;

**"Independent Financial Adviser"** means an independent financial institution of international repute or independent financial adviser with appropriate expertise, which may (without limitation) be the Calculation Agent, appointed at its own expense by the Issuer and (except where the initial Calculation Agent is appointed) approved in writing by the Trustee or, if the Issuer fails to make such appointment and such failure continues for a reasonable period (as determined by the Trustee in its sole discretion) and the Trustee is indemnified and/or secured and/or prefunded to its satisfaction against the costs, fees and expenses of such adviser and otherwise in connection with such appointment, appointed by the Trustee following notification to the Issuer;

**"Initial Conversion Price"** means ZAR 42.9438 per Ordinary Share;

**"Interest Amount"** means the amount of interest payable in respect of each Bond, as determined in accordance with these Terms and Conditions;

**"Interest Commencement Date"** means in relation to each Bond, the Issue Date;

**"Interest Payment Date(s)"** means 16 March and 16 September of each year, commencing with the Interest Payment Date falling on 16 September 2017;

**"Interest Period"** means each period in respect of which interest accrues on the Bonds, commencing on (and including) the Issue Date and ending on (but excluding) the first Interest Payment Date, and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date;

**"Interest Rate"** means the rate of 7.00 per cent. per annum calculated by reference to the Principal Amount of a Bond;

**"Issue Date"** means 15 March 2017;

**"Issuer"** means Royal Bafokeng Platinum Limited, a public company incorporated in accordance with the laws of South Africa, registration number 2008/015696/06;

**"JSE"** means the JSE Limited (Registration Number 2005/022939/06), licensed as an exchange in terms of the Financial Markets Act, or any exchange which operates as a successor exchange to the JSE in terms of the Financial Markets Act;

**"Last Day to Trade"** means 5:00 p.m., Johannesburg time, on the day that is three Dealing Days before the Record Date, or such later day prior to the Record Date as determined in accordance with the rules and procedures of the JSE or of such other stock exchange on which the Bonds may be dealt in;

**"Listing Document"** means the document used in respect of the application for listing of the Bonds on the JSE main board, incorporating the Terms and Conditions of the Bonds, as amended or supplemented from time to time;

**"Market Price"** means the Volume Weighted Average Price of an Ordinary Share on the relevant Reference Date, *provided that* if any Dividend or other entitlement in respect of the Ordinary Shares is announced on or prior to the relevant Conversion Date in circumstances where the record date or other due date for the establishment of entitlement in respect of such dividend or other entitlement shall be on or after the Conversion Date and if, on the relevant Reference Date, the Volume Weighted Average Price of an Ordinary Share is based on a price ex-Dividend or ex-any other entitlement, then such price shall be increased by an amount equal to the Fair Market Value of such dividend or entitlement per Ordinary Share as at the date of first public announcement of such Dividend or entitlement (or if that is not a Dealing Day, the immediately preceding Dealing Day);

**"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*

- (i) 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



- (ii) a certificate signed by two directors of the Issuer that in their opinion a Subsidiary of the Issuer is or is not, or was or was not, at any time or throughout any specified period a Material Subsidiary shall, in the absence of manifest or proven error, be conclusive and binding;

**"Newco Scheme"** means a scheme of arrangement or analogous proceeding ("**Scheme of Arrangement**") which effects the interposition of a limited liability company ("**Newco**") between the Shareholders of the Issuer immediately prior to the Scheme of Arrangement (the "**Existing Shareholders**") and the Issuer; *provided that* (i) only Ordinary Shares of Newco are issued to Existing Shareholders; (ii) immediately after completion of the Scheme of Arrangement the only shareholders of Newco are Existing Shareholders; (iii) immediately after completion of the Scheme of Arrangement, Newco is (or one or more Wholly-Owned Subsidiaries of Newco are) the only shareholder of the Issuer; (iv) all Subsidiaries of the Issuer immediately prior to the Scheme of Arrangement (other than Newco, if Newco is then a Subsidiary of the Issuer) are Subsidiaries of the Issuer (or of Newco) immediately after completion of the Scheme of Arrangement; and (v) immediately after completion of the Scheme of Arrangement the Issuer (or Newco) holds, directly or indirectly, the same percentage of the ordinary share capital and equity share capital of those Subsidiaries as was held by the Issuer immediately prior to the Scheme of Arrangement;

**"Optional Redemption Date"** has the meaning provided in Condition 10.2(a);

**"Optional Redemption Notice"** has the meaning provided in Condition 10.2(a);

**"Ordinary Shares"** means fully paid ordinary shares in the share capital of the Issuer;

**"outstanding"** means, in relation to the Bonds, all the Bonds issued other than (i) those which have been redeemed in accordance with these Terms and Conditions, (ii) those in respect of which Conversion Rights have been exercised and the Issuer's obligations in relation thereto have been duly performed, (iii) those in respect of which the date for redemption in accordance with the Terms and Conditions has occurred and the redemption moneys (including all interest accrued on such Bonds to the date for such redemption and any interest payable under Condition 8 after such date) have been duly paid to the relevant Bondholder or on its behalf or to the Trustee and remain available for payment against presentation and surrender of Bonds, (iv) those which have become void or those in respect of which claims have become prescribed under Condition 22, (v) Bonds, the Certificates in respect of which have been mutilated or defaced Bonds and which Certificates have been surrendered in exchange for replacement Bonds pursuant to Condition 15, (vi) (for the purpose only of determining how many Bonds are outstanding and without prejudice to their status for any other purpose) those Bonds alleged to have been lost, stolen or destroyed and in respect of which replacement Bonds have been issued pursuant to Condition 15, (vii) those which have been purchased and cancelled as provided in Condition 10.7; *provided that* for the purposes of (a) ascertaining the right to attend and vote at any meeting of the Bondholders, (b) the determination of how many Bonds are outstanding for the purposes of Conditions 13, 20 and 26

and (c) the exercise of any discretion, power or authority which the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the Bondholders, those Bonds (if any) which are beneficially held by, or are held on behalf of, the Issuer or any of its respective Subsidiaries and not yet cancelled shall be deemed not to remain outstanding;

**"Participant"** a person that holds in custody and administers securities or an interest in securities and that has been accepted by the Central Securities Depository as a participant in terms of the Financial Markets Act;

**"Paying Agent"** means Rand Merchant Bank, a division of FirstRand Bank Limited or such other person with whom the Issuer has entered into a Paying Agent Agreement or any additional agent appointed to perform any particular function assigned to it;

**"Paying Agent Agreement"** means the agreement concluded between the Issuer and the Paying Agent (which may be incorporated into the Agency Agreement), in terms of which the Paying Agent agrees to provide paying agent services to the Issuer;

**"Potential Event of Default"** means any event or circumstance specified in Condition 13.1 which would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing) be an Event of Default;

**"Physical Settlement Date"** means the date specified in a notice given by the Issuer to the Trustee and to the Bondholders of the passing of the Shareholder Resolutions;

**"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 12:00 p.m. (South African time) on that date as appearing on or derived from the Relevant Page or if such a rate cannot be determined at such time, the rate prevailing as at or about 12:00 p.m. (South African time) on the immediately preceding day on which such rate can be so determined, all as determined by the Calculation Agent, 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;

**"Principal Amount"** means in relation to a Bond, the nominal amount of that Bond, being an amount equal to its authorised denomination in accordance with Condition 3.1;

**"R"** or **"Rand"** or **"ZAR"** means the lawful currency of South Africa, being South African Rand, or any successor currency;

**"Rand Equivalent"** means, with respect to any monetary amount in a currency other than Rand, at any time for the determination thereof (which shall be at or about 12:00 p.m., Johannesburg time unless the context otherwise permits), the amount of Rand obtained by converting such foreign currency involved in such computation into Rand at the spot rate for the purchase of Rand with the applicable foreign currency, as derived from the Relevant Page or, if such rate cannot be obtained at such time, on the immediately preceding day on which

such rate can be so determined, as determined by the Calculation Agent on the date two Business Days prior to such determination;

**"Record Date"** means the date on which the Register must be in final form, being the Friday immediately prior to each Interest Payment Date or Redemption Date, as the case may be, or if such Friday is not a Business Day, the last Business Day of the week preceding the Interest Date or Redemption Date, as the case may be;

**"Redemption Date"** means each date on which any Bonds are to be redeemed, partially or finally, as the case may be, pursuant to these Terms and Conditions;

**"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;

**"Reference Shares"** means, in respect of the exercise of Conversion Rights by a Bondholder, the number of Ordinary Shares (rounded down, if necessary, to the nearest whole number) determined by the Calculation Agent by dividing the aggregate Principal Amount of the Bonds which are the subject of the relevant exercise of Conversion Rights by the Conversion Price in effect on the relevant Conversion Date;

**"Register"** means the register of Bondholders maintained by the Transfer Agent, including the Issuer's uncertificated securities register administered and maintained by a Participant or the Central Securities Depository, in accordance with the Companies Act, the Financial Markets Act and the rules of the Central Securities Depository;

**"Registration Date"** means the date on which the Ordinary Shares (or any Additional Ordinary Shares) to be issued or delivered pursuant to Condition 9.8 (or Condition 9.3) are entered in the securities register of the Issuer and credited to the converting Bondholder as provided in Condition 9.8 (or Condition 9.3);

**"Regulator"** means any government or governmental, administrative, fiscal or judicial authority, body, court, department, commission, tribunal, registry, or any other state-owned or controlled authority which principally performs governmental actions;

**"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 the date on which a payment first becomes due and payable in accordance with these Terms and Conditions, except that in relation to moneys payable to the Central Securities Depository or the relevant Participant in accordance with these Terms and Conditions, the claim in respect of any payment under the Bonds will prescribe three years after the date on which (i) the full amount of such moneys have been received by the Central Securities Depository or the relevant Participant, (ii) such moneys are available for payment to

the holders of Beneficial Interests, and (iii) notice to that effect has been duly given to such holders in accordance with the Applicable Procedures;

**"Relevant Indebtedness"** means:

- (a) for the purposes of Condition 6, any present or future capital market indebtedness, being indebtedness in the form of, or represented by, bonds, notes, debentures, loan stock or other securities which for the time being are, or are intended to be (with the consent of the person issuing the same), quoted, listed or ordinarily dealt in on any stock exchange, over-the-counter or other securities market and having an original maturity of more than one year from its date of issue; and
- (b) for the purposes of Condition 13, any present or future indebtedness (whether being principal, interest or other amounts), for or in respect of (i) moneys borrowed or raised, or (ii) liabilities under any acceptance or acceptance credit, or (iii) any bonds, notes, debentures, loan stock or other debt securities; or (iv) any guarantees or indemnities given for indebtedness of another person described in (i), (ii) or (iii) above, 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, admitted to trading or quoted or dealt in;

**"Retroactive Adjustment"** has the meaning provided in Condition 9.3;

**"Scheme of Arrangement"** shall bear the meaning defined in the definition of **"Newco Scheme"**;

**"Securities"** means any securities as defined in the section 1 of the Companies Act including, without limitation, Ordinary Shares and any other shares in the capital of the Issuer, and options, warrants or other rights to subscribe for or purchase or acquire Ordinary Shares or any other shares in the capital of the Issuer;

**"Security Interest"** means any mortgage, charge, pledge, lien or other encumbrance, 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;

**"Settlement Agents"** means those Participants which are approved by the JSE or any other relevant financial exchange from time to time, in terms of the Applicable Procedures of the JSE, as settlement agents to perform electronic settlement of funds and scrip on behalf of market participants;

**"Shareholders"** means the holders of Ordinary Shares;

**"Shareholders' Meeting"** has the meaning provided in Condition 14.1(k);

**"Shareholder Resolutions"** means the approval at a general meeting of the Shareholders of the Issuer of such resolutions as are required to enable the issuance of, or transfer and delivery of, such number of Ordinary Shares as may be required to be issued, or as the case may be, transferred and delivered from time to time upon the exercise of Conversion Rights pursuant to these Terms and Conditions;

**"South Africa"** means the Republic of South Africa;

**"Specified Date"** has the meaning provided in Conditions 9.2(a)(vii) and 9.2(a)(viii);

**"Specified Office"** in relation to each of the Issuer, the Trustee, the Calculation Agent, the Paying Agent, the Transfer Agent, the Conversion Agent, the registered office of such entity or, once listed, the address of the office specified in respect of such entity at the end of the Listing Document, or such other address as is notified by such entity (or, where applicable, a successor to such entity) to the Bondholders in accordance with these Terms and Conditions;

**"Spin-Off"** means:

- (a) distribution of Spin-Off Securities by the Issuer to Shareholders as a class; or
- (b) any issue, transfer or delivery of any property or assets (including cash or shares or securities of or in or issued or allotted by any entity) by any entity (other than the Issuer) to Shareholders as a class or, in the case of or in connection with a Newco Scheme, Existing Shareholders as a class (but excluding the issue and allotment of Ordinary Shares by Newco to Existing Shareholders as a class), pursuant in each case to any arrangements with the Issuer or any of its Subsidiaries;

**"Spin-Off Securities"** means equity share capital of an entity other than the Issuer or options, warrants or other rights to subscribe for or purchase equity share capital of an entity other than the Issuer;

**"Strate"** bears the meaning assigned thereto in Condition 9.8(g);

**"Subsidiary"** means, in respect of any entity, any undertaking which is for the time being a subsidiary undertaking of that entity within the meaning of Section 1 of the Companies Act or a juristic person or other undertaking that would have been a subsidiary of that entity, as defined in Section 1 of the Companies Act, but for the fact that it is incorporated outside of the Republic of South Africa;

**"Tax Redemption Date"** bears the meaning assigned thereto in Condition 10.3(a);

**"Tax Redemption Notice"** bears the meaning assigned thereto in Condition 10.3(a);

**"Terms and Conditions"** or **"Conditions"** means the terms and conditions of the Bonds set out in this debt instrument;

**"Transfer Agent"** means Computershare Investor Services (Proprietary) Limited or such other person with whom the Issuer has entered into a Transfer Agent Agreement;

**"Transfer Agent Agreement"** means the agreement concluded between the Issuer and the Transfer Agent (which may be incorporated into the Agency Agreement), in terms of which the Transfer Agent agrees to provide note registry services to the Issuer;

**"Transfer Form"** in relation to the transfer of a Bond as contemplated in these Terms and Conditions, means a form of transfer in the usual form or in such other form approved by the Transfer Agent;

**"Trust Deed"** means the trust deed under which the Issuer appoints the Trustee, to act as trustee for the Bondholders;

**"Trustee"** means the trustee for the time being appointed under the Trust Deed, which shall initially be TMF Corporate Services (South Africa) Proprietary Limited; and

**"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 RBP SJ Equity HP (setting Weighted Average) or (in the case of a Security (other than an Ordinary Share) 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 the Calculation Agent or an Independent Financial Adviser on such Dealing Day, *provided that* if on any such Dealing Day such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of an Ordinary Share, Security or a Spin-Off Security, as the case may be, in respect of such Dealing Day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined, all as calculated by the Calculation Agent, or, if such price cannot be so calculated as aforesaid, calculated by an Independent Financial Adviser in such manner as it might otherwise determine in good faith to be appropriate.

1.2 In these Terms and Conditions:

- (a) one gender includes a reference to the others;
- (b) the singular includes the plural and vice versa;
- (c) natural persons include juristic persons and vice versa;

- (d) **"person"** means any individual, company, partnership, joint venture, association, trust, unincorporated organisation or government or any agency or political subdivision thereof;
- (e) any agreement or instrument is a reference to that agreement or instrument as amended, supplemented, varied, novated, restated or replaced from time to time, and **"amended"** or **"amendment"** will be construed accordingly;
- (f) a provision of law is a reference to that provision as amended or re-enacted, and includes any subordinate legislation;
- (g) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (h) **"assets"** includes present and future properties, revenues and rights of every description;
- (i) **"disposal"** means a sale, transfer, grant, lease or other disposal (whether voluntary or involuntary);
- (j) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent, excluding double-counting;
- (k) an **"authorisation"** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
- (l) days is a reference to calendar days, unless expressly stated otherwise;
- (m) a Party or any other person includes that person's permitted successor, transferee, assignee, cessionary and/or delegate;
- (n) a time of day is a reference to South African time;
- (o) if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect must be given to it as if it were a substantive provision in the body of the agreement, notwithstanding that it is contained in the interpretation clause;
- (p) headings are inserted for the sake of convenience only and do not in any way affect the interpretation of these Terms and Conditions;
- (q) the use of the word **"including"** followed by specific examples will not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule

must not be applied in the interpretation of such general wording or such specific examples;

- (r) an accounting term not otherwise defined has the meaning assigned to it in accordance with IFRS;
- (s) 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;
- (t) in making any calculation or determination of Current Market Price or Volume Weighted Average Price, such adjustments (if any) shall be made as the Calculation Agent or an Independent Financial Adviser considers appropriate to reflect any consolidation or sub-division of the Ordinary Shares or any issue of Ordinary Shares by way of capitalisation of profits or reserves, or any like or similar event;
- (u) for the purposes of Conditions 9.2, 9.3 and 9.8 and Condition 14 only, (a) references to the "issue" of Ordinary Shares shall include the transfer and/or delivery of Ordinary Shares, whether newly issued and allotted or previously existing or held by or on behalf of the Issuer or any of its Subsidiaries, and (b) Ordinary Shares held by or on behalf of the Issuer or any of its respective Subsidiaries (and which, in the case of Condition 9.2(a)(iv) and 9.2(a)(vi), do not rank for the relevant right or other entitlement) shall not be considered as or treated as "in issue".

## **2. Issue**

An aggregate Principal Amount of ZAR 1,200,000,000 Bonds will be issued by the Issuer.

## **3. Form and Denomination**

- 3.1 The Bonds are fixed rate senior unsecured convertible Bonds with a denomination on the Issue Date of ZAR 10,000 each. Bonds will not be offered to a single addressee acting as principal in an aggregate Principal Amount of less than ZAR 2,000,000 (i.e. 200 Bonds of ZAR10,000 each).
- 3.2 The Bonds will be issued in the form of registered Bonds, not represented by a Certificate, and held in uncertificated form in the Central Securities Depository in terms of section 33 of the Financial Markets Act. The Central Securities Depository will hold the Bonds subject to the Financial Markets Act and the Applicable Procedures.



#### **4. Title**

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

#### **5. Status of Bonds**

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

#### **6. Negative Pledge**

- 6.1 So long as any of the Bonds remain outstanding the Issuer will not, and will not permit any Material Subsidiary to, create or permit to subsist any Security Interest upon the whole or any part of its undertaking, assets or revenues, present or future to secure any Relevant Indebtedness, or to secure any guarantee of or indemnity in respect of any Relevant Indebtedness, of the Issuer or any Material Subsidiary unless, at the same time or prior thereto, the Issuer's obligations under the Bonds, either:
- (a) are secured equally and rateably therewith and any instrument creating or permitting to subsist such Security Interest shall expressly provide therefor, or
  - (b) have the benefit of such other security, guarantee, indemnity or other arrangement as the Trustee in its absolute discretion shall deem to be not materially less beneficial to the interests of Bondholders or as shall be approved by an Extraordinary Resolution.
- 6.2 Condition 6.1 does not apply to any Security Interest:

- (a) upon, or with respect to, any assets of any company which becomes a Subsidiary of the Issuer after the Issue Date, where such Security Interest was created prior to the date on which that company becomes a Subsidiary of the Issuer, if:
  - (i) the Security Interest was not created in contemplation of that company becoming a Subsidiary of the Issuer; and
  - (ii) the principal amount secured by the Security Interest has not increased in contemplation of or since that company becoming a Subsidiary of the Issuer;
- (b) upon, or with respect to, any assets acquired by the Issuer or a Subsidiary of the Issuer after the Issue Date, where the Security Interest is created prior to the date on which the relevant asset was acquired, if:
  - (i) the Security Interest was not created in contemplation of the acquisition of that asset by the Issuer or relevant Subsidiary of the Issuer; and
  - (ii) the principal amount secured by the Security Interest has not been increased in contemplation of or since the acquisition of that asset by the Issuer or relevant Subsidiary of the Issuer; and
- (c) in respect of any Relevant Indebtedness ("**New Relevant Indebtedness**") created to refinance any Relevant Indebtedness in respect of which any Security Interest referred to in paragraphs (a) or (b) above exists ("**Existing Relevant Indebtedness**"), provided that (A) the principal amount of such New Relevant Indebtedness does not exceed the principal amount of the Existing Relevant Indebtedness, (B) the Security Interest does not extend to any assets of the Issuer or any Subsidiary of the Issuer which were not subject to the Security Interest in respect of the Existing Relevant Indebtedness; and (C) the New Relevant Indebtedness is issued (x) in the case of Condition 6.2(a), by the issuer of the Existing Relevant Indebtedness and (y) in the case of Condition 6.2(b), by the transferee of the relevant asset or assets, and in any such case does not benefit from any other Security Interest or any other guarantee or indemnity from any other person unless the Existing Relevant Indebtedness benefitted from such other Security Interest, guarantee or indemnity.

## **7. Conversion Agent, Calculation Agent, Paying Agent and Transfer Agent**

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

## **8. Interest**

### **8.1 Interest on Bonds**

#### **(a) Interest Rate**

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

#### **(b) Interest Payment Dates**

The interest due in respect of each Interest Period will be payable in arrear on the Interest Payment Date in respect of such Interest Period. The first payment of interest will be made on the Interest Payment Date following the Interest Commencement Date, and the amount of interest payable on the first Interest Payment Date will be ZAR 354.79 in respect of each Bond per Principal Amount (while the amount of interest payable on each subsequent Interest Payment Date will be ZAR 350.00 in respect of each Bond in per Principal Amount). If any Interest Payment Date falls upon a day which is not a Business Day, the provisions of Condition 11.3 shall determine the date of payment of interest due upon such Interest Payment Date.

#### **(c) Calculation of Interest Amount**

If interest is required to be calculated for a period of other than six months (in the case of semi-annual interest payments), such interest shall be calculated on the basis of a 365 day year and the actual number of days elapsed in such period.

### **8.2 Accrual of Interest**

Each Bond will cease to bear interest:

- (a) where the Conversion Right has been exercised by a Bondholder, from the Interest Payment Date immediately preceding the relevant Conversion Date (subject in any such case as provided in Condition 9.10); or
- (b) where such Bond is redeemed or repaid pursuant to Condition 10 or Condition 13, from the Final Redemption Date or repayment thereof unless, upon due presentation thereof, payment of principal is improperly withheld or refused, in which event interest will continue to accrue at the rate specified in Condition 8.1(a) (both before and after judgment) on the amounts due in terms of such Bond until whichever is the earlier of (a) the day on which such sums due are received by or on behalf of the relevant holder and (b) the day seven days after the Trustee or the Paying 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 Terms and Conditions).

### 8.3 **Publication of Interest Amount**

The Issuer will, or will procure that the Calculation Agent (acting on the basis of information provided by the Issuer) will, in relation to the Bonds, at least two Business Days before each Interest Payment Date, cause the aggregate Interest Amount payable for the relevant Interest Period in respect of the Bonds to be notified to the Bondholders (in the manner set out in Condition 18), the Issuer and the Relevant Stock Exchange.

### 8.4 **Calculations Final and Limitation of Liability**

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained by the Calculation Agent pursuant to the exercise or non-exercise by it of its powers, duties and discretions under these Terms and Conditions, will, in the absence of wilful deceit, negligence, bad faith, or manifest error, be binding on the Issuer and the Bondholders, and the Calculation Agent will not have any liability to the Issuer or the Bondholders in connection therewith.

## 9. **Conversion of Bonds**

### 9.1 **Conversion Period and Conversion Price**

- (a) Except as otherwise provided in these Terms and Conditions, each Bond shall entitle the holder to convert such Bond into new and/or existing, as determined by the Issuer, Ordinary Shares credited as fully paid (a "**Conversion Right**").
- (b) Subject to the provisions of Condition 9.14, 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, and accordingly Ordinary Shares issued on exercise of a Conversion Right will be issued at such Conversion Price.
- (c) The Conversion Price as at the Issue Date is the Initial Conversion Price. The Conversion Price is subject to adjustment in the circumstances described in Condition 9.2.
- (d) A Bondholder may exercise the Conversion Right in respect of a Bond that has not already been redeemed or repurchased and cancelled by delivering the Certificate, if any, in respect of such Bond and a duly completed Conversion Notice to the Specified Office of the Conversion Agent in accordance with Condition 9.8 whereupon the Issuer shall (subject as provided in these Terms and Conditions) procure the delivery, to or as directed by the relevant Bondholder, of Ordinary Shares credited as paid up in full as provided in this Condition 9.
- (e) Subject to and as provided in these Terms and Conditions, the Conversion Right in respect of a Bond may be exercised, at the option of the holder thereof, at any time (subject to any applicable fiscal or other laws or regulations and as hereinafter

provided) from 15 May 2017 (the "**Conversion Period Commencement Date**") to the close of business (at the place where the relevant Bond is delivered for conversion) on the date falling 7 days prior to the Final Redemption Date (both days inclusive) or, if such Bond is to be redeemed pursuant to Condition 10.2 or 10.3 prior to the Final Redemption Date, then up to the close of business (at the place aforesaid) on the seventh day before the date fixed for redemption thereof pursuant to Condition 10.2 or 10.3, unless there shall be a default in making payment in respect of such Bond on such date fixed for redemption, in which event the Conversion Right shall extend up to the close of business (at the place aforesaid) on the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given in accordance with Condition 18 or, if earlier, the Final Redemption Date; *provided that*, in each case, if the final such date for the exercise of Conversion Rights is not a Business Day, then the period for exercise of Conversion Rights by Bondholders shall end on the immediately preceding Business Day.

- (f) Notwithstanding the foregoing, if a Change of Control occurs, the Conversion Rights may be exercised prior to the Conversion Period Commencement Date.
- (g) Conversion Rights may not be exercised (i) following the giving of notice by the Trustee pursuant to Condition 13 or (ii) in respect of a Bond in respect of which the relevant Bondholder has exercised its right to require the Issuer to redeem pursuant to Conditions 10.4 or 10.5.
- (h) Save where a notice of redemption is given by the Issuer in the circumstances provided in Condition 9.10, Conversion Rights may not be exercised by a Bondholder in circumstances where the relevant Conversion Date would fall during the period commencing on the Last Day to Trade in respect of any payment of interest on the Bonds and ending on the relevant Interest Payment Date (both days inclusive).
- (i) The period during which Conversion Rights may (subject as provided below) be exercised by a Bondholder is referred to as the "**Conversion Period**".
- (j) Conversion Rights may only be exercised in respect of the whole of a Bond.
- (k) Fractions of Ordinary Shares will not be issued or transferred and delivered on conversion or pursuant to Condition 9.3 and no cash payment or other adjustment will be made *in lieu* thereof. Any fractions of Ordinary Shares will be rounded down to the nearest whole number of Ordinary Shares. However, if the Conversion Rights in respect of more than one Bond are exercised at any one time such that the Ordinary Shares to be delivered on conversion or pursuant to Condition 9.3 are to be registered in the same name, the number of such Ordinary Shares to be delivered in respect thereof shall be calculated on the basis of the aggregate Principal Amount of such Bonds being so converted and rounded down to the nearest whole number of Ordinary Shares as determined by the Calculation Agent.

- (l) The Issuer will procure that Ordinary Shares to be issued or transferred and delivered on conversion will be issued or transferred and delivered to the relevant holder of the Bonds or his nominee as specified in the relevant Conversion Notice. Any Additional Ordinary Shares to be issued or transferred and delivered pursuant to Condition 9.3 will be deemed to be issued or delivered as of the relevant Reference Date. The relevant Cash Settlement Amount in respect of an exercise of Conversion Rights shall be paid by the Issuer to the relevant Bondholder in accordance with Condition 9.14(a).
- (m) If at any time the Conversion Price is required to be adjusted pursuant to Condition 9.3, 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.
- (n) Upon exercise of Conversion Rights by a Bondholder, the Issuer shall:
  - (i) if the relevant Conversion Date falls prior to the Physical Settlement Date, make payment to the relevant Bondholder of the relevant Cash Settlement Amount; and
  - (ii) if the relevant Conversion Date falls on or after the Physical Settlement Date, issue or transfer and deliver to the relevant Bondholder such number of Ordinary Shares as is equal to the Reference Shares.

9.2 **Adjustment of Conversion Price**

- (a) Upon the happening of any of the events described below, the Conversion Price shall be adjusted by the Calculation Agent 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 Dividend 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 Dividend attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Dividend by the number of Ordinary Shares entitled to receive the relevant Dividend (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 Dividend is capable of being determined as provided herein.

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

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

(B) 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.

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



- (iv) If and whenever the Issuer shall issue Ordinary Shares to Shareholders as a class by way of rights or issue or grant to Shareholders as a class by way of rights, options, warrants or other rights to subscribe for or purchase any Ordinary Shares, in each case at a price per Ordinary Share which is less than 95 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 or, if later, the Dealing Day following the record date or other date for establishing the entitlement of Shareholders to participate in the relevant issue or grant. For the purpose of this Condition 9.2(a)(iv), "**Effective Date**" means the first date on which the Ordinary Shares are traded ex-rights, ex-options, or ex-warrants on the Relevant Stock Exchange.

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

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

where:

A is the Current Market Price of one Ordinary Share immediately preceding the Effective Date; and

B is the Fair Market Value on the Effective Date of the portion of the rights attributable to one Ordinary Share.

Such adjustment shall become effective on the Effective Date or, if later, the Dealing Day following the record date or other date for establishing the entitlement of Shareholders to participate in the relevant issue or grant.

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

(vi) If and whenever the Issuer shall issue (otherwise than as mentioned in Condition 9.2(a)(iv) above) wholly for cash or for no consideration any Ordinary Shares (other than Ordinary Shares issued on conversion of the Bonds or on the exercise of any rights of conversion into, or exchange or subscription for or purchase of Ordinary Shares) or issue or grant (otherwise than as mentioned in Condition 9.2(a)(iv) above) wholly for cash or for no consideration any options, warrants or other right to subscribe for or purchase any Ordinary Shares (other than the Bonds) in each case at a price per Ordinary Share which is less than 95 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 Conditions 9.2(a)(iv), 9.2(a)(v) or 9.2(a)(vi) above) shall issue wholly for cash or for no consideration any Securities (other than the Bonds), which by their terms of issue carry (directly or indirectly) rights of conversion into or exchange or subscription for, Ordinary Shares (or shall grant any such rights in respect of existing Securities so issued) or Securities which by their terms might be reclassified as Ordinary Shares, and the consideration per Ordinary Share receivable upon conversion, exchange, subscription or reclassification 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 reclassification 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 reclassification,

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

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

(viii) If and whenever there shall be any modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to any such Securities (other than the Bonds) as are mentioned in Condition 9.2(a)(vii) above (other than in accordance with the terms (including terms as to adjustment) applicable to such Securities upon issue) so that following such modification the consideration per Ordinary Share receivable has been reduced and is less than 95 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 the Calculation Agent shall consider appropriate for any previous adjustment under this sub-paragraph or sub-paragraph (b)(vii) above;

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

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

- (ix) If and whenever the Issuer or any Subsidiary of the Issuer or (at the direction or request of or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity shall offer any Securities in connection with which Shareholders as a class are entitled to participate in arrangements whereby such Securities may be acquired by them (except where the Conversion Price is required to be adjusted under Conditions 9.2(a)(ii), 9.2(a)(iii), 9.2(a)(iv), 9.2(a)(vi) or 9.2(a)(vii) above or

9.2(a)(x) below (or would fall to be so adjusted if the relevant issue or grant was at less than 95 per cent. of the Current Market Price per Ordinary Share on the relevant Dealing Day) or under Condition 9.2(a)(v) above) the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the making of such offer by the following fraction:

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

where:

- A is the Current Market Price of one Ordinary Share on the Dealing Day immediately preceding the date on which the terms of such offer are first publicly announced (or, if such date is not a Dealing Day, the immediately preceding Dealing Day); and
- B is the Fair Market Value on the date of such announcement (or, if that is not a Dealing Day, the immediately preceding Dealing Day) of the portion of the relevant offer attributable to one Ordinary Share.

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

(x) If any of the events referred to in (A) or (B) 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,

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

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

where:

COCCP = means the Change of Control Conversion Price;

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

CP = means 30 per cent. (expressed as fraction);

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

t = means the number of days from and including the Issue Date to but excluding the Final Redemption Date.

(xi) If the Issuer determines that an adjustment should be made to the Conversion Price as a result of one or more circumstances not referred to above in this Condition 9.2 (even if the relevant circumstance is specifically excluded from the operation of Conditions 9.2(a)(i) to (x) above), the Issuer shall, at its own expense and acting reasonably, request an Independent Financial Adviser to determine as soon as practicable what adjustment (if any) to the Conversion Price is fair and reasonable to take account thereof and the date on which such adjustment (if any) should take effect and upon such determination such adjustment (if any) shall be made and shall take effect in accordance with such determination, *provided that* an adjustment shall only be made pursuant to this Condition 9.2(a)(xi) if such Independent Financial Adviser is so requested to make such a determination not more than 21 days after the date on which the relevant circumstance arises and if the adjustment would result in a reduction to the Conversion Price.

(b) Notwithstanding the foregoing provisions, where the events or circumstances giving rise to any adjustment pursuant to this Condition 9.2 have already resulted or will result in an adjustment to the Conversion Price or where the events or circumstances giving rise to any adjustment arise by virtue of any other events or circumstances which have already given or will give rise to an adjustment to the Conversion Price or where more than one event which gives rise to an adjustment to the Conversion Price occurs within such a short period of time that, in the opinion of the Issuer, a modification to the operation of the adjustment provisions is required to give the intended result, such modification shall be made to the operation of the adjustment provisions as may be advised by an Independent Financial Adviser to be in its opinion appropriate to give the intended result.

- (c) Such modification shall be made to the operation of these provisions as determined by an Independent Financial Adviser in good faith to be appropriate (i) to ensure that an adjustment to the Conversion Price or the economic effect thereof shall not be taken into account more than once and (ii) to ensure that the economic effect of a Dividend is not taken into account more than once.
- (d) For the purpose of any calculation of the consideration receivable or price pursuant to Conditions 9.2(a)(iv), (vi), (vii) and (viii), the following provisions shall apply:
- (i) the aggregate consideration receivable or price for Ordinary Shares issued for cash shall be the amount of such cash;
  - (ii) (x) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the conversion or exchange of any Securities shall be deemed to be the consideration or price received or receivable for any such Securities and (y) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the exercise of rights of subscription attached to any Securities or upon the exercise of any options, warrants or rights shall be deemed to be that part (which may be the whole) of the consideration or price received or receivable for such Securities or, as the case may be, for such options, warrants or rights which are attributed by the Issuer to such rights of subscription or, as the case may be, such options, warrants or rights or, if no part of such consideration or price is so attributed, the Fair Market Value of such rights of subscription or, as the case may be, such options, warrants or rights as at the date of the first public announcement of the terms of issue of such Securities or, as the case may be, such options, warrants or rights, plus in the case of each of (x) and (y) above, the additional minimum consideration receivable or price (if any) upon the conversion or exchange of such Securities, or upon the exercise of such rights or subscription attached thereto or, as the case may be, upon exercise of such options, warrants or rights and (z) the consideration receivable or price per Ordinary Share upon the conversion or exchange of, or upon the exercise of such rights of subscription attached to, such Securities or, as the case may be, upon the exercise of such options, warrants or rights shall be the aggregate consideration or price referred to in (x) or (y) above (as the case may be) divided by the number of Ordinary Shares to be issued upon such conversion or exchange or exercise at the initial conversion, exchange or subscription price or rate, all as determined by the Calculation Agent;
  - (iii) if the consideration or price determined pursuant to (i) or (ii) above (or any component thereof) shall be expressed in a currency other than the Relevant Currency, it shall be converted by the Calculation Agent into the Relevant Currency at the Prevailing Rate on the date of the first public announcement



of the terms of issue of such Ordinary Shares or, as the case may be, Securities;  
and

- (iv) in determining the consideration or price pursuant to the above, no deduction shall be made for any commissions or fees (howsoever described) or any expenses paid or incurred for any underwriting, placing or management of the issue of the relevant Ordinary Shares or Securities or options, warrants or rights, or otherwise in connection therewith.

### 9.3 **Retroactive Adjustments**

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

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

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

in Condition 9.2, such calculation shall be conclusive and binding on all parties, save in the case of manifest error.

#### 9.5 **Share or Option Schemes**

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

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

- (a) On any adjustment, the resultant Conversion Price, if not an integral multiple of ZAR 0.01, shall be rounded down to the nearest whole multiple of ZAR 0.01. No adjustment shall be made to the Conversion Price where such adjustment (rounded down if applicable) would be less than one per cent of the Conversion Price then in effect. Any adjustment not required to be made and/or any amount by which the Conversion Price has been rounded down, shall be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment shall be made on the basis that the adjustment not required to be made had been made at the relevant time and/or, as the case may be, that the relevant rounding down had not been made.
- (b) Notice of any adjustments to the Conversion Price shall be given by the Issuer to Bondholders in accordance with Condition 18 and to the Trustee promptly after the determination thereof.
- (c) The Issuer undertakes that it shall not take any action, and shall procure that no action is taken, that would otherwise result in an adjustment to the Conversion Price to below any minimum level permitted by Applicable Laws.

#### 9.7 **Change of Control**

- (a) Within 14 (fourteen) days after the Issuer has become aware of a Change of Control, the Issuer shall give notice thereof to the Trustee and to the Bondholders in accordance with Condition 18 (a "**Change of Control Notice**"). Such notice shall contain a statement informing Bondholders of their entitlement to exercise their Conversion Rights as provided in these Terms and Conditions and their entitlement to exercise their rights to require redemption of their Bonds pursuant to Condition 10.4.
- (b) The Change of Control Notice shall also specify:
  - (i) all information material to Bondholders concerning the Change of Control;

- (ii) the Conversion Price immediately prior to the occurrence of the Change of Control and the Conversion Price applicable pursuant to Condition 9.2(a)(x) above during the Change of Control Period on the basis of the Conversion Price in effect immediately prior to the occurrence of the Change of Control;
  - (iii) the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange as at the latest practicable date prior to the publication of the Change of Control Notice;
  - (iv) the last day of the Change of Control Period;
  - (v) the Change of Control Put Date; and
  - (vi) such other information relating to the Change of Control as the Trustee may reasonably require.
- (c) The Trustee shall not be required to monitor or take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur and will not be responsible or liable to Bondholders or any other person for any loss arising from any failure by it to do so.

#### 9.8 Procedure for Exercise of Conversion Rights

- (a) Conversion Rights may be exercised by a Bondholder during the Conversion Period by delivering the Certificate, if any, in respect of relevant Bond to the Specified Office of the Conversion Agent, during its usual business hours, accompanied by a duly completed and signed notice of conversion (a "**Conversion Notice**") in the form (for the time being current) obtainable from the Conversion Agent. Conversion Rights shall be exercised subject in each case to any applicable fiscal or other laws or regulations applicable in the jurisdiction in which the Specified Office of the Conversion Agent to whom the relevant Conversion Notice is delivered is located.
- (b) If such delivery is made after the end of normal business hours or on a day which is not a Business Day in the place of the Specified Office of the Conversion Agent, such delivery shall be deemed for all purposes of these Terms and Conditions to have been made on the next following Business Day.
- (c) Conversion Rights may only be exercised in respect of a whole Bond. Where Conversion Rights are exercised in respect of some only of the Bonds represented by a single Certificate, the old Certificate shall be cancelled and a new Certificate for the balance thereof shall be issued in lieu thereof without charge but upon payment by the holder of any taxes, duties and other governmental charges payable in connection therewith in the place of the Specified Office of the Transfer Agent, and the Transfer Agent will within seven Business Days following the relevant Conversion Date, deliver such new Certificate to the Bondholder at the Specified Office of the Transfer Agent or (at the risk and, if mailed (at the request of the Bondholder) otherwise

than by ordinary mail, at the expense of the Bondholder) mail a new Certificate by uninsured mail to such address as the Bondholder may request.

- (d) A Conversion Notice, once delivered, shall be irrevocable.
- (e) The conversion date in respect of a Bond (the "**Conversion Date**") shall be the Business Day immediately following the date of the delivery of the Certificate, if any, in respect of the Bonds and the Conversion Notice, and (if applicable) the making of any payment to be made by the relevant Bondholder as provided in Condition 9.8(f) below.
- (f) A Bondholder exercising a Conversion Right must pay directly to the relevant authorities any taxes imposed on such Bondholder and that may be payable arising on conversion and redemption of a Bond and any capital, stamp, issue and registration and transfer taxes and duties arising on conversion of a Bond (but subject to and without prejudice to the provisions of Condition 12 below); *provided that* the Issuer shall be liable for any stamp duties, issue and registration and transfer taxes and duties payable in South Africa in respect of the issue or transfer and delivery of any Ordinary Shares on such conversion (including any Additional Ordinary Shares). Such Bondholder must also pay all, if any, taxes imposed on such Bondholder arising by reference to any disposal or deemed disposal of a Bond or interest therein in connection with such conversion. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether such taxes or capital, stamp, issue and registration and transfer taxes and duties are payable or the amount thereof and neither the Trustee nor the Conversion Agent shall be responsible or liable for any failure by the Issuer to pay such taxes or capital, stamp, issue and registration and transfer taxes and duties.
- (g) Ordinary Shares to be issued on exercise of Conversion Rights will be issued in uncertificated form through the securities trading system operated by Strate Proprietary Limited ("**Strate**"), or any successor licensed clearance and settlement facility (applicable to the Ordinary Shares) of Strate.
- (h) The Issuer will procure the delivery of the Ordinary Shares to the Strate account specified by the relevant Bondholder in the relevant Conversion Notice as soon as possible and in any event within 15 Business Days after the relevant Conversion Date (or, in the case of any Additional Ordinary Shares, not later than 15 Business Days following the Reference Date).
- (i) In addition, a Bondholder exercising Conversion Rights for delivery into Strate will be required to certify, represent and agree in the relevant Conversion Notice either:
  - (i) that such Bondholder is not a resident of South Africa within the meaning of the Exchange Control Regulations 1961 (as may be amended from time to time) of South Africa promulgated under the Currency and Exchanges

Act, 1933 (as amended) of South Africa and that all exchange control approvals required under Applicable Laws of South Africa in connection with the exercise of Conversion Rights by such Bondholder and the issue or transfer of Ordinary Shares to such Bondholder upon such exercise have been obtained and are in full force and effect; or

- (ii) that no exchange control approvals are required under Applicable Laws of South Africa in connection with the exercise of such Conversion Rights by such Bondholder and the issue or transfer of Ordinary Shares to such Bondholder upon such exercise,

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

#### 9.9 **Ranking**

- (a) Ordinary Shares (or any Additional Ordinary Shares) issued or transferred and delivered upon conversion of the Bonds will be fully paid and will in all respects rank *pari passu* with the fully paid Ordinary Shares in issue on the relevant Registration Date, except in any such case for any right excluded by mandatory provisions of Applicable Law and except that such Ordinary Shares or, as the case may be, Additional Ordinary Shares will not rank for (or, as the case may be, the relevant holder shall not be entitled to receive) any rights, distributions or payments, the record date or other due date for the establishment of entitlement for which falls prior to the relevant Registration Date.
- (b) If the record date or other due date for establishment or entitlement for the payment of any dividend or other distribution in respect of the Ordinary Shares to be issued on conversion of the Bonds is on or after the Conversion Date in respect of any Bond but before the Registration Date (other than and to the extent that it results in any adjustment (retroactive or otherwise) to the number of Ordinary Shares to which a converting Bondholder is entitled under Condition 9.2(a)), the Issuer will pay to the Bondholder who has exercised his Conversion Right in lieu of such dividend or distribution an amount in ZAR (the "**Equivalent Amount**") equal to any such dividend or other distribution to which such Bondholder would have been entitled had he on that record date or other due date for establishment of entitlement been such a shareholder of record of such Ordinary Shares on that date and will make the relevant payment to the relevant Bondholder at the same time that it makes payment of the dividend or other distribution.
- (c) Save as provided in Condition 9.10, no payment or adjustment shall be made on conversion for any interest which otherwise would have accrued on the relevant Bonds since the last Interest Payment Date preceding the Conversion Date relating to such Bonds.

#### 9.10 **Interest on Conversion**

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

#### 9.11 **Purchase or Redemption of Ordinary Shares**

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

#### 9.12 **No Duty to Monitor**

Neither the Trustee nor the Calculation Agent shall be under any duty to monitor whether any event or circumstance has happened or exists which may require an adjustment to be made to the Conversion Price and neither of them shall be responsible or liable to the Bondholders for any loss arising from any failure by it to do so.

#### 9.13 **Consolidation, Amalgamation or Merger**

In the case of any consolidation, amalgamation or merger of the Issuer with any other company (other than a consolidation, amalgamation or merger in which the Issuer is the continuing company), or in the case of any sale or transfer of all or the greater part of the undertaking or assets of the Issuer, the Issuer will forthwith give notice thereof to the Trustee and to the Bondholders in accordance with Condition 18 of such event and take such steps as shall be required by the Trustee (including the execution of a deed supplemental to or amending the Trust Deed) to ensure that each Bond then outstanding will (during the period in which Conversion Rights may be exercised) be convertible into the class and amount of shares and other securities and property receivable upon such consolidation, amalgamation, merger, sale or transfer by a holder of the number of Ordinary Shares which would have become liable to

be issued or transferred and delivered upon exercise of Conversion Rights immediately prior to such consolidation, amalgamation, merger, sale or transfer. The above provisions of this Condition 9.13 will apply, *mutatis mutandis* to any subsequent consolidations, amalgamations, mergers, sales of transfers.

#### 9.14 **Cash Settlement before the Physical Settlement Date**

- (a) Notwithstanding any other provision of these Terms and Conditions, upon exercise of Conversion Rights by a Bondholder in respect of which the Conversion Date falls prior to the Physical Settlement Date, 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 Settlement Amount, together with any other amount payable by the Issuer to such Bondholder pursuant to these Terms and Conditions in respect of or relating to the relevant exercise of Conversion Rights, including any interest payable pursuant to Condition 9.10. The Issuer will pay the Cash Settlement Amount, together with any other amount as aforesaid by not later than five Business Days following the last day of the Cash Settlement Calculation Period by transfer to a Rand account in accordance with instructions given by the relevant Bondholder in the relevant Conversion Notice.
- (b) If there is a Retroactive Adjustment to the Conversion Price following the exercise of Conversion Rights by a Bondholder, in circumstances where the Conversion Date falls prior to the Physical Settlement Date, the Issuer shall pay to the relevant Bondholder an additional amount (the "**Additional Cash Settlement Amount**") calculated by the Calculation Agent equal to the product of (i) the Market Price and (ii) the number of Additional Ordinary Shares that would have been required to be issued or transferred and delivered to the relevant Bondholder if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date and on the assumption (whether or not in fact so) that such Conversion Date fell on or after the Physical Settlement Date.
- (c) The Issuer will pay the Additional Cash Settlement Amount not later than five Business Days following the relevant Reference Date by transfer to a Rand account of the payee in accordance with the instructions specified by the relevant Bondholder contained in the relevant Conversion Notice.

## 10. **Redemption and Purchases**

### 10.1 **Final Redemption**

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

## 10.2 Redemption at the Option of the Issuer

- (a) On giving not less than 40 nor more than 60 days' (the "**Notice Period**") notice (an "**Optional Redemption Notice**") to the Trustee and to the Bondholders in accordance with Condition 18, the Issuer may redeem all but not some only of the Bonds then outstanding on the date (the "**Optional Redemption Date**") specified in the Optional Redemption Notice at their Principal Amount together with accrued unpaid interest up to but excluding the Optional Redemption Date:
- (i) at any time on or after 5 April 2021, if on no less than 20 out of 30 consecutive Dealing Days ending not earlier than the fifth Dealing Day prior to the giving of the relevant Optional Redemption Notice, the Volume Weighted Average Price of an Ordinary Share for each such Dealing Day exceeds 130 per cent. of the Conversion Price in effect (or deemed to be in effect) on such Dealing Day;
  - (ii) at any time if, prior to the date on which the relevant Optional Redemption Notice is given, Conversion Rights shall have been exercised and/or redemptions and/or purchases (and corresponding cancellations) effected in respect of 85 per cent. or more in Principal Amount of the Bonds originally issued; or
- (b) For so long as the Shareholder Resolutions have not been approved, the Issuer may at any time by giving notice to the Bondholders in accordance with Condition 18 no later than 10 Dealing Days prior to the Long Stop Date (a "**Fair Value Redemption Notice**"), elect to redeem all but not some only of the Bonds on the date falling fifteen Dealing Days after the end of the Fair Bond Value Calculation Period (the "**Fair Value Redemption Date**") at the greater of (i) 102 per cent. of the Principal Amount of the Bonds, together with accrued but unpaid interest to (but excluding) the Fair Value Redemption Date and (ii) 102 per cent. of the Fair Bond Value of the Bonds together with accrued but unpaid interest to (but excluding) the Fair Value Redemption Date, whereupon the Bonds will be redeemed, on the Fair Value Redemption Date.

"**Fair Bond Value**" means:

- (i) the arithmetic average of the Bloomberg Generic price (mid/last) as derived from Bloomberg page RBP SJ Corp HP (or any relevant replacement page, following the listing of the Bonds) as at the close of business on such Dealing Day (or, if such Bloomberg page is not available, as derived from any substitute Bloomberg page or from any successor to Bloomberg or derived from any other public source providing substantially similar data to such Bloomberg page) on each Dealing Day during the Fair Bond Value Calculation Period, as determined by the Calculation Agent; or



- (ii) if no such price is available from the relevant Bloomberg page or such other source as aforesaid, the arithmetic average of the price of the Bonds as at the close of business on each Dealing Day during the Fair Bond Value Calculation Period as derived from such other source displaying trading prices in respect of the Bonds provided by leading dealers as an Independent Financial Adviser shall consider appropriate, or if no such price is available from such other source as aforesaid, the value determined by an Independent Financial Adviser on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate.

**"Fair Bond Value Calculation Period"** means the period of ten consecutive Dealing Days commencing on the Dealing Day following the date of the Fair Value Redemption Notice.

**"Long Stop Date"** means 15 June 2017.

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

### 10.3 **Optional Redemption for Tax Reasons**

- (a) The Issuer may redeem all but not some only of the Bonds on the occasion of the next payment due under the Bonds (the **"Tax Redemption Date"**), on giving not less than 40 nor more than 60 days' notice (a **"Tax Redemption Notice"**) to the Trustee and the Bondholders prior to such redemption, in accordance with Condition 18 (which notice shall be irrevocable), if the Issuer is of the reasonable opinion that:
  - (i) the Issuer has or will become obliged to withhold or deduct from any payment in respect of the Bonds any amounts for or on account of any South African taxes as provided for or referred to in Condition 12 as a result of any change in, or amendment to, the laws or regulations of South Africa or any other Applicable Law or any political subdivision of, or any authority in, or of, South Africa having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date; and
  - (ii) such obligation cannot be avoided by the Issuer taking reasonable measures available to it.

- (b) From the date of publication of any notice of redemption pursuant to this Condition 10.3, the Issuer shall make available at its Specified Office, for inspection by any holder of Bonds so redeemed, a certificate signed by two authorised signatories of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers to the effect that the Issuer has or will become obliged to make such withholding as a result of such change or amendment.
- (c) If the Issuer gives a Tax Redemption Notice, each Bondholder will have the right to elect that his Bonds shall not be redeemed and that the provisions of Condition 12 shall not apply in respect of any payment on such Bonds which falls due after the relevant Tax Redemption Date, whereupon no additional amounts shall be payable in respect thereof pursuant to Condition 12 and payment of all amounts on such Bonds shall be made subject to the withholding of any South African withholding taxes required to be withheld. To exercise such right, the holder of the relevant Bond must complete, sign and deposit at the Specified Office of the Transfer Agent a duly completed and signed notice of election, in the form for the time being current, obtainable from the Specified Office of the Transfer Agent together with the relevant Bonds on or before the day falling 10 days prior to the Tax Redemption Date.
- (d) Bonds redeemed for tax reasons pursuant to this Condition 10.3 will be redeemed at their Principal Amount, together with accrued unpaid interest (if any) from (and including) the immediately preceding Interest Payment Date to (but excluding) the date of redemption.
- (e) Any Tax Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Tax Redemption Date which shall be a Business Day, (ii) the Conversion Price, (iii) the aggregate Principal Amount of the Bonds outstanding and (iv) the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange, in each case as at the latest practicable date prior to the publication of the Tax Redemption Notice.

#### 10.4 **Redemption at the Option of Bondholders: Change of Control**

- (a) Following the occurrence of a Change of Control, the holder of each Bond will have the right to require the Issuer to redeem, in cash, that Bond on the Change of Control Put Date at its Principal Amount, together with accrued and unpaid interest to such date.
- (b) To exercise such right, the holder of the relevant Bond must deliver such Bond to the Specified Office of the Transfer Agent, together with a duly completed and signed notice of exercise in the form for the time being current obtainable from the Specified Office of the Transfer Agent (a "**Change of Control Put Exercise Notice**"), at any time during the Change of Control Period. The "**Change of Control Put Date**" shall be the fourteenth day after the expiry of the Change of Control Period.

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

#### 10.5 **Redemption at the Option of Bondholders: De-Listing**

- (a) Following the occurrence of a De-Listing Event, the holder of each Bond will have the right to require the Issuer to redeem, in cash, that Bond on the De-Listing Event Put Date at its Principal Amount, together with accrued and unpaid interest to such date.

A "**De-Listing Event**" shall occur if:

- (i) the Ordinary Shares at any time cease to be admitted to trading and listing on the JSE or the JSE announces that the Ordinary Shares will cease to be admitted to trading and listing on the JSE unless the Ordinary Shares are immediately admitted to trading and/or listing on another internationally recognised, regularly operating and regulated stock exchange; or
  - (ii) trading of the Ordinary Shares on the JSE (or, if the Ordinary Shares at any time cease to be admitted to trading and listing on the JSE and the Ordinary Shares at the relevant time are admitted to trading and/or listing on another internationally recognised, regularly operating and regulated stock exchange, trading of the Ordinary Shares on such exchange) is suspended for a period of ten consecutive Dealing Days or more, provided that trading of the Ordinary Shares shall not be considered to be suspended on any Dealing Day on which a general suspension of trading on the relevant stock exchange has occurred.
- (b) To exercise such right, the holder of the relevant Bond must deliver such Bond to the Specified Office of the Transfer Agent, together with a duly completed and signed notice of exercise in the form for the time being current obtainable from the Specified Office of the Transfer Agent (a "**De-Listing Event Put Exercise Notice**"), at any time during the De-Listing Event Period.

The "**De-Listing Event Put Date**" shall be the fourteenth day after the expiry of the De-Listing Event Period.

- (c) A De-Listing Event Put Exercise Notice, once delivered, shall be irrevocable and the Issuer shall redeem all the Bonds that are subject to De-Listing Event Put Exercise Notices delivered as aforesaid on the De-Listing Event Put Date.
- (d) The Issuer shall give notice to the Bondholders ("**De-Listing Event Notice**") within seven days of the first day on which it becomes aware of the occurrence of a De-Listing Event. The De-Listing Event Notice shall contain a statement informing the 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 this Condition 10.5. The De-Listing Event Notice shall also specify:

- (i) the Conversion Price and the Volume Weighted Average Price of an Ordinary Share as at the latest practicable date prior to the publication of such notice;
- (ii) the last day of the De-Listing Event Period;
- (iii) the De-Listing Event Put Date; and
- (iv) such other information relating to the De-Listing Event as the Bondholders may require.

#### 10.6 **Mandatory Redemption Following Delivery of an Enforcement Notice**

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

#### 10.7 **Purchases**

Subject to (i) the requirements (if any) of any stock exchange on which the Bonds may be admitted to trading and listing from time to time and (ii) compliance with applicable laws and regulations, the Issuer may at any time purchase Bonds at any price in the open market or otherwise. In the event of the Issuer purchasing Bonds, such Bonds shall be held, resold or at the option of the Issuer, cancelled.

#### 10.8 **Cancellation**

All Bonds which are redeemed in full or in respect of which Conversion Rights are exercised will forthwith be cancelled. All Bonds so cancelled and the Bonds purchased and cancelled pursuant to Condition 10.7 cannot be re-issued or resold. Where a portion of the Bonds represented by a Certificate are cancelled, the Transfer Agent shall deliver a Certificate to such Bondholder in respect of the balance of the Bonds. The Issuer shall notify the Central Securities Depository and the Relevant Stock Exchange, of any cancellation or partial redemption of the Bonds so that such entity can record the reduction in the aggregate Principal Amount of the Bonds in issue.

#### 10.9 **Multiple Notices**

If more than one notice of redemption is given pursuant to this Condition 10, the first of such notices to be given shall prevail.

### 11. **Payment**

#### 11.1 **Method of payment**

- (a) Payments of interest and principal in respect of Bonds held in uncertificated form in the Central Securities Depository will be made to the Central Securities Depository, in accordance with the Applicable Procedures, which in turn will transfer such funds, via the Participants, to the holders of Beneficial Interests. Each of the persons reflected in

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

- (b) The Issuer shall pay the interest and principal payable in respect of each Bond, in immediately available and freely transferable funds, in Rand by electronic funds transfer, to the bank account of the Bondholder as set forth in the Register at 5:00 p.m. (South African time) on the Record Date preceding the relevant Interest Payment Date or Redemption Date, as the case may be, or, in the case of joint Bondholders, the account of that one of them who is first named in the Register in respect of that Bond. If several persons are entered into the Register as joint Bondholders, then without affecting the previous provisions of this condition, payment to any one of them of any moneys payable on or in respect of the Bond shall be an effective and complete discharge by the Issuer of the amount so paid, notwithstanding any notice (express or otherwise) which the Issuer may have of the right, title, interest or claim of any other person to or in any Bond or interest therein.
- (c) If the Issuer is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with the preceding paragraph (whether by reason of strike, lockout, fire, explosion, floods, riot, war, accident, act of God, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or disturbances, cessation of labour, government interference or control or any other cause or contingency beyond the control of the Issuer) such inability shall not constitute an Event of Default and the Issuer shall give notice to the Bondholders within three Business Days of such inability arising. Upon receipt of such notice any Bondholder may request the Issuer in writing to make payment of any such amounts by way of cheque (or by such number of cheques as may be required in accordance with applicable banking law and practice). Such notice shall specify the address of the payee entitled to payment in respect of the Bond, and if the Bondholder so desires, a request to make such cheque available for collection during business hours

by a Bondholder or its duly authorised representative at the registered office of the Issuer.

- (d) All moneys so payable by cheque shall, save if the Bondholder requests that the cheque be made available for collection as set out above (unless such cheque is not so collected within two Business Days of being made available for collection), be sent by post within two Business Days of the receipt by the Issuer of the notice from a Bondholder referred to in the preceding paragraph to:
  - (i) the address of that Bondholder as set forth in the Register at 5:00 p.m. (South African time) on the relevant Record Date; or
  - (ii) in the case of joint Bondholders, the address set forth in the Register of that one of them who is first named in the Register in respect of that Bond.

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

- (e) Only Bondholders, or, in the case of joint Bondholders, the one of them who is first named in the Register in respect of that Bond, reflected in the Register at 5:00 p.m. (South African time) on the relevant Record Date will be entitled to payments of interest and/or principal in respect of Bonds.
- (f) Payments will be subject in all cases to any taxation or other laws, directives and regulations applicable to such payment in the place of payment without prejudice to Condition 12. Payments will be subject in all cases to any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), or otherwise imposed pursuant to Sections 1471 through 1474 of the Code and any regulations or agreements thereunder or official interpretations thereof ("**FATCA**") or any law implementing an intergovernmental approach to FATCA.
- (g) Payment of all amounts other than interest and principal in respect of the Bonds, will be made as provided in these Terms and Conditions.

## 11.2 **Surrender of Certificates**

- (a) On or before the Last Day to Trade prior to any Redemption Date, the holder of a Certificate, in respect of a Bond to be redeemed (in part or in whole, as the case may be) shall deliver to the Transfer Agent the Certificates to be redeemed. This will enable the Transfer Agent to endorse the partial redemption thereon or, in the case of final redemption, to cancel the relevant Certificates.
- (b) Should the holder of a Certificate refuse or fail to surrender the Certificate for endorsement or cancellation on or before a Redemption Date, the amount payable to him in respect of such redemption, including any accrued unpaid interest, shall be

retained by the Issuer for such Bondholder, at the latter's risk, until the Bondholder surrenders the necessary Certificate, and interest shall cease to accrue to such Bondholder from the Redemption Date in respect of the amount redeemed.

- (c) Documents required to be presented and/or surrendered to the Transfer Agent in accordance with these Terms and Conditions will be so presented and/or surrendered at the Specified Office of the Transfer Agent.
- (d) In the case of the Bonds held in uncertificated form in the Central Securities Depository, redemptions in part will be handled in accordance with the Applicable Procedures.

### 11.3 **Payment Date**

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

### 11.4 **Calculation and Notice of Principal Payments**

The Issuer will calculate the aggregate amount of principal due and payable by the Issuer for each Bond on each date that payment is due and payable. The Issuer will, at least two Business Days before each such date, cause such aggregate amount of principal to be notified to the Bondholders (in the manner set out in Condition 18) and the Relevant Stock Exchange.

## 12. **Taxation**

- 12.1 All payments (whether in respect of principal, interest or otherwise) in respect of the Bonds will be made without withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by the Republic of South Africa or any political sub-division or any authority therein or thereof having power to tax, unless such withholding or deduction is required by Applicable Law.
- 12.2 If any such withholding or deduction is required by Applicable Law in respect of any Bonds, the Issuer will, subject to the Issuer's rights to redeem such Bonds in terms of Condition 10.3, make such payments after such withholding or deduction has been made and will account to the relevant authorities for the amount so required to be withheld or deducted. The Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the Bondholders after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in respect of the Bonds, as the case may be, in the absence of such withholding, except that no such additional amounts shall be payable with respect to any Bond:

- (a) held by or on behalf of a Bondholder, who is liable for such taxes in respect of such Bond by reason it is having some connection with South Africa other than the mere holding of such Bond or the receipt of principal or interest in respect thereof; or
- (b) held by or on behalf of a Bondholder which would not be liable or subject to the withholding by complying with any statutory requirement or by making a declaration of non-residence or other similar claim for exemption to the relevant tax authority; or
- (c) where such withholding is in respect of taxes levied or imposed on the relevant payment only by virtue of the inclusion of such payments in the Taxable Income or Taxable Gains (each as defined below) of any Bondholder; or
- (d) where (in the case of any payment of principal or interest which is conditional on surrender of the relevant Certificate in accordance with these Terms and Conditions) the relevant Certificate is surrendered for payment more than 30 days after the Relevant Date except to the extent that the relevant Bondholder would have been entitled to an additional amount on presenting the Certificate for payment on such thirtieth day; or
- (e) if such withholding arises through the exercise by revenue authorities of special powers in respect of tax defaulters; or
- (f) where the Bondholder is entitled to claim a tax reduction, credit or similar benefit in respect of such withholding or deduction in terms of the Bondholder's domestic tax laws or applicable double tax treaty, and such tax reduction, credit or similar benefit is actually granted to the Bondholder.

The provisions of this Condition 12.2 shall not apply in respect of any payments in respect of any Bonds the subject of a valid election pursuant to Condition 10.3(c).

12.3 Notwithstanding any other provision of these Terms and Conditions, in no event will the Issuer be required to pay any additional amounts in respect of the Bonds for, or on account of, any withholding or deduction required pursuant to FATCA (including pursuant to any agreement described in Section 1471(b) of the Code) or any law implementing an intergovernmental approach to FATCA.

12.4 For the purposes of this Condition 12:

- (a) "**Taxable Income**" means any "taxable income" as defined in section 1 of the Income Tax Act;
- (b) "**Taxable Gain**" means any "taxable capital gain" as defined in paragraph 1 of Schedule 8 to the Income Tax Act; and
- (c) "**Income Tax Act**" means the South African Income Tax Act, 1962.



### **13. Events of Default**

#### **13.1 Events of Default Relating to the Bonds**

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

(a) **Non-Payment**

the Issuer fails to pay any amount of principal, interest or any other amount (including any Cash Settlement Amount or any Additional Cash Settlement Amount) in respect of any Bonds on the due date for payment thereof and such failure remains unremedied for 7 days; or

(b) **Non-delivery of Ordinary Shares**

subject to the provisions of Condition 9.14, the Issuer fails to issue or transfer and deliver Ordinary Shares as provided in these Terms and 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 14 days after written notice thereof has been delivered by the Trustee on behalf of any Bondholder to the Issuer; or

(d) **Cross-acceleration or security enforced**

(i) if any Relevant Indebtedness of the Issuer or any Material Subsidiary is declared to be due and repayable before its stated maturity by reason of an event of default (however described); or

(ii) 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

*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 50,000,000 (or its equivalent in any other currency).

For the purposes of this Condition 13.1(d) and 13.1(e), any indebtedness which is in a currency other than South African Rand shall be translated into the Rand Equivalent on the date of such Event of Default; or

(e) **Judgement**

any final judgement or arbitration award ("**judgement**") in respect of a claim of more than ZAR 50,000,000 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 14 days of the final judgment being granted; or

- (i) if such judgement is appealable, the Issuer or such Material Subsidiary fails to appeal against such judgement within the time limits prescribed by law or fails to diligently prosecute such appeal thereafter or ultimately fails in such appeal; and/or
- (ii) if such judgement is a default judgment, the Issuer or such Material Subsidiary 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 judgement is reviewable, the Issuer or such Material Subsidiary 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 13.1 (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 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, 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 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 13.1(f)(i) to 13.1(f)(vii) above; or

(g) **Attachment of assets**

any attachment in execution of a judgment in respect of a claim for more than ZAR 50,000,000 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 14 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**

- (i) the management of the Issuer or any Material Subsidiary is wholly or partially displaced or the authority of the Issuer or any Material Subsidiary in the

conduct of its business is wholly or partially taken over by a legitimate government or any authority of such legitimate government; or

- (ii) all or a majority of the issued shares of the Issuer or any Material Subsidiary or a material part of its revenues or assets is seized, nationalised or compulsorily acquired.

### 13.2 **Steps Following an Event of Default**

- (a) If an Event of Default occurs in relation to the Bonds:
  - (i) the Issuer will forthwith inform the Bondholders, the Trustee and the Relevant Stock Exchange thereof; and
  - (ii) the Trustee will, as soon as such Event of Default comes to its notice (whether as a result of having been informed by the Issuer thereof pursuant to Condition 13.2(a)(i) or otherwise), forthwith call a meeting of the Bondholders.
- (b) If any Event of Default has occurred and is continuing, then the Trustee at its discretion may, and if so directed by an Extraordinary Resolution of the Bondholders or in writing by Bondholders holding at least one-quarter of the aggregate Principal Amount of the Bonds for the time being outstanding, it shall, give written notice to the Issuer that the Bonds are, and they shall accordingly become immediately due and payable at their Principal Amount together with accrued unpaid interest (if any) thereon to the date of payment.

## 14. **Undertakings**

14.1 Whilst any Conversion Right remains exercisable, the Issuer will, save with the approval of an Extraordinary Resolution:

- (a) allot, issue, register and deliver Ordinary Shares on exercise of Conversion Rights in accordance with these Terms and Conditions and the Trust Deed and at all times keep available for issue free from pre-emptive or other similar rights out of its authorised but unissued ordinary share capital such number of Ordinary Shares as would enable it to issue in full such number of Ordinary Shares as are required to be issued by it upon exercise of Conversion Rights and all other rights of subscription and exchange for and conversion into Ordinary Shares;
- (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 of its Subsidiaries or any associated company or to trustees or nominees to be held for the benefit of any such person, in any such case pursuant to an employee, director or executive share or option scheme whether for all employees, directors, or executives or any one or more of them,

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

- (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 this Condition 14.1(c) shall prevent:
  - (i) the issue of any equity share capital to employees (including directors holding or formerly holding executive or non-executive office or the personal service company of any such person) whether of the Issuer or associated companies by virtue of their office or employment or any consultant of the Issuer or any of the Issuer's Subsidiaries or associated companies pursuant to any scheme or plan approved by the Issuer or which is established pursuant to such a scheme or plan which is or has been so approved; or
  - (ii) any consolidation, reclassification or subdivision of the Ordinary Shares; or
  - (iii) 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
  - (iv) any issue of equity share capital where the issue of such equity share capital results, or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments or, where comprising Ordinary Shares, the fact that the consideration per Ordinary Share receivable therefore is at

least 95 per cent. of the Current Market Price per Ordinary Share, otherwise result, in an adjustment to the Conversion Price; or

- (v) any issue of equity share capital or modification of rights attaching to the Ordinary Shares, where prior thereto the Issuer shall have instructed an Independent Financial Adviser to determine what (if any) adjustments should be made to the Conversion Price as being fair and reasonable to take account thereof and such Independent Financial Adviser shall have determined either that no adjustment is required or that an adjustment resulting in a decrease in the Conversion Price is required and, if so, the new Conversion Price as a result thereof and the basis upon which such adjustment is to be made and, in any such case, the date on which the adjustment shall take effect (and so that the adjustment shall be made and shall take effect accordingly);
  - (vi) any alteration to the memorandum of incorporation of the Issuer made in connection with the matters described in this Condition 14 or which is supplemental or incidental to any of the foregoing (including any amendment made to enable or facilitate procedures relating to such matters and any amendment dealing with the rights and obligations of holders of Securities, including Ordinary Shares, dealt with under such procedures); or
  - (vii) the amendment of the memorandum of incorporation of the Issuer following a Change of Control to ensure that any Bondholder exercising its Conversion Right where the Conversion Date falls on or after the occurrence of a Change of Control will receive the same consideration in respect of any Ordinary Shares required to be issued or transferred and delivered to it in respect of such exercise as it would have received in respect of such Ordinary Shares had such Ordinary Shares been entitled to participate in the relevant Scheme of Arrangement or tendered in the relevant offer;
- (d) except as part of any employee, director or executive share or option or incentive scheme, 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 9.6 relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price and that at no time shall there be in issue Ordinary Shares of differing nominal values, save where such Ordinary Shares have the same economic rights;

- (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, 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 9.6 relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is otherwise taken into account for the purposes of determining whether such an adjustment should be made,

*provided that*, without prejudice to the other provisions of these Terms and 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 Issuer 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); 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 Terms and Conditions and the Trust Deed as are necessary, in the opinion of the Trustee, to ensure that the Bonds may be converted into or exchanged for Ordinary Shares in Newco *mutatis mutandis* in accordance with and subject to these Terms and Conditions and the Trust Deed and (ii) the Ordinary Shares of Newco are:
    - (i) admitted to the Relevant Stock Exchange; or
    - (ii) 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) apply for the Bonds to be admitted to trading and listing on the JSE main board within 90 days of the Issue Date. If the Issuer is unable to maintain the inclusion of the Bonds to trading as aforesaid, the Issuer undertakes to use all reasonable endeavours to obtain and maintain a listing and/or admission to trading for the Bonds on such other stock exchange as the Issuer may from time to time determine and as may be approved by the Trustee, and the Issuer will forthwith give notice to the Bondholders in accordance with Condition 18 of the listing or delisting of the Bonds by any of such stock exchanges; and
  - (k) use its best endeavours to convene a meeting of Shareholders by 15 May 2017 (the "**Shareholders' Meeting**") for the purpose of considering and if thought fit, passing such resolutions as are required to enable the issuance of such number of Ordinary Shares as may be required to be issued from time to time to satisfy the exercise of Conversion Rights.
- 14.2 The Issuer undertakes to give notice to the Bondholders and the Trustee within five days of the passing of the Shareholder Resolutions.
- 14.3 The Issuer undertakes to deliver to the Trustee annually, within 120 days of each financial year end of the Issuer, a certificate of the Issuer, signed by two directors of the Issuer, as to there not having occurred, as far as the board of directors of the Issuer is aware, an Event of Default or Potential Event of Default since the date of the last such certificate or if such event has occurred as to the details of such event. The Trustee will be entitled to rely on such certificate



and shall not be obliged to independently monitor compliance by the Issuer or the Issuer with the undertakings set forth in this Condition 14 or the other provisions of the Terms and Conditions, nor be liable to any person for not so doing.

## 15. Exchange of Beneficial Interests and Replacement of Bonds

### 15.1 Exchange

- (a) The holder of a Beneficial Interest in Bonds may, in terms of the Applicable Procedures and subject to section 41 of the Financial Markets Act, by written notice to the holder's nominated Participant (or, if such holder is a Participant, the Central Securities Depository), request that such Beneficial Interest be exchanged for Bonds in definitive form represented by a Certificate (the "**Exchange Notice**"). The Exchange Notice shall specify (i) the name, address and bank account details of the holder of the Beneficial Interest and (ii) the day on which such Beneficial Interest is to be exchanged for a Certificate; *provided that* such day shall be a Business Day and shall fall not less than 30 (thirty) days after the day on which such Exchange Notice is given ("**Exchange Date**").
- (b) The holder's nominated Participant will, following receipt of the Exchange Notice, through the Central Securities Depository, notify the Transfer Agent that it is required to exchange such Beneficial Interest for Bonds represented by a Certificate. The Transfer Agent will, as soon as is practicable but within 14 days after receiving such notice, in accordance with the Applicable Procedures, procure that a Certificate is prepared, authenticated and made available for delivery, on a Business Day falling within the aforementioned 14 day period, to the holder of the Beneficial Interest at the Specified Office of the Transfer Agent; *provided that* joint holders of a Beneficial Interest shall be entitled to receive only one Certificate in respect of that joint holding, and delivery to one of those joint holders shall be delivery to all of them.
- (c) In the case of the exchange of a Beneficial Interest in Bonds issued in uncertificated form:
  - (i) the Central Securities Depository shall, prior to the Exchange Date, will surrender (through the Central Securities Depository system) such uncertificated Bonds to the Transfer Agent at its Specified Office; and
  - (ii) the Transfer Agent will obtain the release of such uncertificated Bonds from the Central Securities Depository in accordance with the Applicable Procedures.
- (d) A Certificate shall, in relation to a Beneficial Interest in any number of Bonds issued in uncertificated form of a particular aggregate Principal Amount standing to the account of the holder thereof, represent that number of Bonds of that aggregate Principal Amount, and shall otherwise be in such form as may be agreed between the Issuer and the Transfer Agent; *provided that* if such aggregate Principal Amount is

equivalent to a fraction of the minimum denomination of the Bonds or a fraction of any multiple thereof, such Certificate shall be issued in accordance with, and be governed by, the Applicable Procedures.

**15.2 Costs**

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

**15.3 Replacement**

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

**15.4 Death and Sequestration or Liquidation of Bondholder**

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

**16. Transfer of Bonds**

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

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

16.3 Transfers of Beneficial Interests to and from clients of Participants occur, in terms of existing law and practice, by way of electronic book entry in the securities accounts maintained by the Participants for their clients. Transfers of Beneficial Interests among Participants occur through electronic book entry in the central securities accounts maintained by the Central Securities Depository for the Participants. Beneficial Interests may be transferred only in accordance with these Terms and Conditions, and the Applicable Procedures.

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

## **17. Register**

- 17.1 The Register will be kept at the Specified Office of the Transfer Agent. The Register will contain the name, address and bank account details of the registered Bondholders. The Register will set out the Principal Amount of the Bonds issued to any Bondholder and will show the date of

such issue and the date upon which the Bondholder became registered as such. The Register will show the serial numbers of the Certificates issued. The Register will be open for inspection during the normal business hours of the Transfer Agent to any Bondholder or any person of proven identity authorised in writing by any Bondholder. The Issuer and the Transfer Agent will not be bound to enter any trust into the Register or to take any notice of or to accede to the execution of any trust (express, implied or constructive) to which any Bond may be subject.

- 17.2 To be recorded in the Register on the Record Date, the trade must take place on the Last Day to Trade.
- 17.3 The Transfer Agent will alter the Register in respect of any change of name, address or bank account number of any of the Bondholders of which it is notified in accordance with Condition 18.

## **18. Notices**

- 18.1 Subject to Condition 18.2, all notices (including all demands or requests under these Terms and Conditions) to the Bondholders will be valid if mailed by registered post or delivered by hand to their addresses appearing in the Register or published in a leading English language daily newspaper of general circulation in South Africa. Each such notice will be deemed to have been given on the day of first publication or delivery by hand or on the 14<sup>th</sup> day after the day on which it is mailed, as the case may be.
- 18.2 For so long as the Bonds are held in their entirety by the Central Securities Depository, notice as contemplated in Condition 18.1 may be substituted with the delivery of the relevant notice to the Central Securities Depository, the Participants and the JSE for communication by them to the holders of Beneficial Interests in the Bonds, in accordance with the Applicable Procedures.
- 18.3 Where any provision of these Terms and Conditions requires notice to be given to the Bondholders of any matter other than a meeting of Bondholders, such notice will be given *mutatis mutandis* as set out in Condition 18.1 and Condition 18.2, respectively, subject to compliance with any other time periods prescribed in the provision concerned.
- 18.4 All notices (including all communications, demands and/or requests under these Terms and Conditions) to be given by any Bondholder to the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, will be in writing and given by delivering the notice, by hand or by registered post, together with a certified copy of the relevant Certificate, if any, to the Specified Office of the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, and marked for the attention of the chief executive officer. Any notice to the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, will be deemed to have been received by the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, on the second Business Day after being delivered by hand to the Specified Office of the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, or on the fourteenth day after the day on which it is mailed by registered post to the Specified Office of

the Issuer, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be.

18.5 Whilst any of the Bonds are held in uncertificated form, notices to be given by any holder of a Beneficial Interest to the Issuer shall be given by such holder through such holder's relevant Participant in accordance with the Applicable Procedures.

18.6 While the Bonds are listed on the JSE, any notices to Bondholders, including of meetings and any amendments to these Terms and Conditions, shall be published on the Stock Exchange News Service (SENS) of the JSE.

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

19.1 The Trustee may agree to any amendment to these Terms and Conditions which in the opinion of the Trustee is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the Applicable Law. Any such amendment will be binding on Bondholders and such amendment will be notified to Bondholders in accordance with Condition 18 as soon as practicable thereafter and, while the Bonds are listed on the JSE, to the JSE.

19.2 In respect of an amendment that is not of a formal, minor or technical nature, such amendment may be made only with the prior authorisation of an Extraordinary Resolution of the Bondholders, in accordance with Condition 20.13. The Issuer will call a meeting of all of the Bondholders. Such meeting or meetings will be regulated by the provisions set out in Condition 20. No proposed amendment will be made to these Terms and Conditions until such amendment has been approved by Extraordinary Resolution at such meeting. While the Bonds are listed on the JSE, the Issuer shall first obtain formal approval from the JSE on the notice to Bondholders incorporating such proposed amendments in compliance with the JSE Debt Listings Requirements prior to delivery of such notice to Bondholders.

## **20. Meetings of Bondholders**

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

### **20.1 Convening of Meetings**

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

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

- (c) Whenever the Issuer wishes to convene a meeting, it will forthwith give notice in writing to the Bondholders in the manner prescribed in Condition 18 and to the Trustee in accordance with the provisions of the Trust Deed of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.
- (d) Whenever the Trustee wishes or is obliged to convene a meeting it will forthwith give notice in writing to the Bondholders and the Issuer in the manner prescribed in Condition 18, of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.
- (e) All meetings of the Bondholders will be held in Johannesburg.

#### 20.2 **Requisition**

- (a) A requisition notice will state the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting and will be deposited at the Specified Office of the Issuer or the Trustee, as the case may be.
- (b) A requisition notice may consist of several documents in like form, each signed by one or more requisitionists.

#### 20.3 **Convening of Meetings by Requisitionists**

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

#### 20.4 **Notice of Meeting**

- (a) Unless the holders of at least 90 per cent. of the aggregate Principal Amount of the Bonds for the time being outstanding, agree in writing to a shorter period, at least 15 days' written notice, specifying the place, day and time of the meeting, the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting, will be given to each Bondholder, to the Issuer and to the Trustee.
- (b) The accidental omission to give such notice to any Bondholder, to the Issuer or to the Trustee, as the case may be, or the non-receipt of any such notice, will not invalidate the proceedings at a meeting.

## 20.5 **Quorum**

- (a) A quorum at a meeting shall for the purposes of considering any resolution, including a resolution in respect of the dismissal of the Trustee and approval of the appointment of any new Trustee in accordance with the provisions of the Trust Deed or an Extraordinary Resolution, consist of Bondholders present in person or by proxy and holding in the aggregate not less than a clear majority of the aggregate Principal Amount of the Bonds for the time being outstanding; *provided that* at any meeting the business of which includes any of the matters specified in the proviso to Condition 20.13, the quorum shall be one or more persons present in person holding Bonds or being proxies or representatives and holding in the aggregate not less than three-quarters in Principal Amount of the Bonds for the time being outstanding.
- (b) No business will be transacted at a meeting of the Bondholders unless a quorum is present at the time when the meeting proceeds to business.
- (c) If, within 15 minutes from the time appointed for the meeting, a quorum is not present, the meeting will, if it was convened on the requisition of the Bondholders be dissolved. In every other case the meeting will stand adjourned to the same day in the third week thereafter, at the same time and place, or if that day is not a Business Day, the next succeeding Business Day. If at such adjourned meeting a quorum is not present the Bondholders present, in person or by proxy, will constitute a quorum for the purpose of considering any resolution, including an Extraordinary Resolution; *provided that* at any adjourned meeting at which is to be proposed an Extraordinary Resolution for the purpose of effecting any of the modifications specified in the proviso to Condition 20.13, the quorum shall be one or more persons so present holding Bonds or being proxies or representatives and holding in the aggregate not less than one-half in Principal Amount of the Bonds for the time being outstanding.

## 20.6 **Chairman**

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

## 20.7 **Adjournment**

- (a) Subject to the provisions of this Condition 20, the chairman may, with the consent of, and will on the direction of, the meeting adjourn the meeting from time to time and from place to place.
- (b) No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) At least 14 days written notice of the place, day and time of an adjourned meeting will be given by the Issuer or the Trustee, as the case may be, to the Issuer, the Trustee and each Bondholder. In the case of a meeting adjourned in terms of Condition 20.7(c),

the notice will state that the Bondholders present in person or by proxy at the adjourned meeting will constitute a quorum.

20.8 **How Questions are Decided**

- (a) At a meeting, a resolution put to the vote will be decided on a poll.
- (b) In the case of an equality of votes, the chairman will not be entitled to a casting vote in addition to the vote, if any, to which he is entitled.

20.9 **Votes**

Voting shall only take place on a poll and not on a show of hands. On a poll every Bondholder, present in person or by proxy, will be entitled to one vote in respect of each ZAR10,000.00 in Principal Amount of the Bonds held. In relation to joint Bondholders, the vote may be exercised only by that Bondholder whose name appears first on the Register in the event that more than one of such Bondholders is present, in person or by proxy, at the meeting. The Bondholder in respect of Bonds held in the Central Securities Depository in uncertificated form shall vote at any such meeting on behalf of the holders of Beneficial Interests in such Bonds in accordance with the instructions to the Central Securities Depository from the holders of Beneficial Interests conveyed through the Participants in accordance with the Applicable Procedures.

20.10 **Proxies and Representatives**

- (a) Bondholders, present either in person or by proxy, may vote on a poll. A Bondholder, may by an instrument in writing (a "**proxy form**") signed by the Bondholder (or his duly authorised agent) or, in the case of a juristic person, signed on its behalf by a duly authorised officer of the juristic person, appoint any person (a "**proxy**" or "**proxies**") to act on his or its behalf in connection with any meeting or proposed meeting.
- (b) A person appointed to act as proxy need not be a Bondholder.
- (c) The proxy form will be deposited at the Specified Office of the Issuer or at the Specified Office of the Transfer Agent, as the case may be, not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in such proxy proposes to vote.
- (d) No proxy form will be valid after the expiration of 6 months from the date named in it as the date of its execution.
- (e) Notwithstanding Condition 20.10(d), a proxy form will be valid for any adjourned meeting, unless the contrary is stated thereon.
- (f) A vote given in accordance with the terms of a proxy form will be valid notwithstanding the previous death or incapacity of the principal or revocation or amendment of the proxy form or of any of the instructions of the Bondholder, pursuant



to which the proxy form was executed or of the authority under which the proxy form was executed or the transfer of Bonds or in respect of which the proxy was given, *provided that* no intimation in writing of such death, incapacity, revocation or amendment shall have been received by the Issuer at its Specified Office or the Transfer Agent at its Specified Office, as the case may be, more than, and that the transfer has been given effect to less than, 12 hours before the commencement of the meeting or adjourned meeting at which the proxy is to be used.

- (g) Any Bondholder which is a juristic person may authorise any person to act as its representative in connection with any meeting or proposed meeting of the Bondholders, by resolution of the directors or other governing body of the juristic person. Any reference in these Terms and Conditions to a Bondholder or any other member of the Bondholders present in person, includes the duly authorised representative of a Bondholder or any other member of the Bondholders, as the case may be, which is a juristic person.

#### 20.11 **Minutes**

- (a) The Issuer will cause minutes of all resolutions and proceedings of meetings to be duly entered in the minute books of the Issuer.
- (b) Any such minutes as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings held or by the chairman of the next succeeding meeting, will be receivable in evidence without any further proof, and until the contrary is proved, a meeting of the Bondholders in respect of the proceedings of which minutes have been so made will be deemed to have been duly held and convened and all resolutions passed thereat, or proceedings held, to have been duly passed and held.

#### 20.12 **Written Resolutions**

A resolution in writing signed by Bondholders holding not less than 66.67 per cent. in Principal Amount of the Bonds within 15 Business Days after the written resolution was submitted to such Bondholders shall be as valid and effective as an Extraordinary Resolution as if it had been passed at a meeting duly convened and constituted and shall be deemed (unless a statement to the contrary is made in that resolution) to have been passed on the last day on which that resolution is signed by any one or more of the Bondholders. That resolution may consist of two or more documents in the same form each of which is signed by one or more of the Bondholders.

#### 20.13 **Powers of Bondholders by Extraordinary Resolution**

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

- (a) to sanction any proposal by the Issuer or the Trustee for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Bondholders against the Issuer or against any of its property whether such rights shall arise under the Trust Deed or otherwise;
- (b) to sanction any scheme or proposal for the exchange, substitution or sale of the Bonds for, or the conversion of the Bonds into, or the cancellation of the Bonds in consideration of, shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any other body corporate formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration of cash;
- (c) to assent to any modification of the Trust Deed or the Terms and Conditions that relate to the rights appertaining to the Bonds which shall be proposed by the Issuer or the Trustee;
- (d) to authorise anyone to concur in and do all such things as may be necessary to carry out and to give any authority, direction or sanction which under the Trust Deed or the Bonds is required to be given by Extraordinary Resolution;
- (e) to appoint any persons (whether Bondholders or not) as a committee or committees to represent the interests of the Bondholders and to confer upon such committee or committees any powers or discretions which the Bondholders could themselves exercise by Extraordinary Resolution;
- (f) to approve the substitution of any entity for the Issuer (or any previous substitute) as principal debtor under the Trust Deed; and
- (g) to discharge or exonerate the Trustee from any liability in respect of any act or omission for which it may become responsible under the Trust Deed or the Bonds;

*provided that* the special quorum provisions contained in the proviso to Condition 20.5(a) and, in the case of an adjourned meeting, in the proviso to Condition 20.5(c), shall apply in relation to any Extraordinary Resolution for the purpose of Condition 20.13(b) or 20.13(f) or for the purpose of making any modification to the provisions contained in the Trust Deed or the Bonds which would have the effect of:

- (i) changing the Final Redemption Date or the dates on which interest is payable in respect of the Bonds; or
- (ii) modifying the circumstances in which the Issuer or Bondholders are entitled to redeem the Bonds pursuant to Condition 10.2, 10.3, 10.4 or 10.5; or
- (iii) reducing or cancelling the Principal Amount of, or interest on, the Bonds or reducing the amount payable on redemption of the Bonds or reducing the

interest rate, or to modify the basis for calculating the interest payable in respect of the Bonds; or

- (iv) modifying or cancelling the Conversion Rights; or
- (v) increasing the Conversion Price other than in accordance with the Terms and Conditions; or
- (vi) changing the currency of any payment in respect of the Bonds or the due date or dates for any payment in respect of the Bonds; or
- (vii) changing the governing law of the Bonds, the Trust Deed or the Agency Agreement; or
- (viii) modifying the quorum required at any meeting of Bondholders or the majority required to pass an Extraordinary Resolution; or
- (ix) amending this proviso.

**21. No Voting Rights on Bonds held by the Issuer or any Subsidiary**

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

**22. Prescription**

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

**23. The Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including relieving it from taking proceedings unless indemnified and/or secured and/or prefunded to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit. The Trustee may rely without liability to Bondholders on a report, confirmation or certificate or any advice of any accountants, financial advisers or investment bank, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee shall be obliged to accept and be entitled to rely on any such report, confirmation or certificate or advice where the Issuer procures delivery of the same pursuant to its obligation to do so under any provision of these Terms and Conditions or the Trust Deed and such report, confirmation or certificate or advice shall be binding on the Issuer, the Trustee and the Bondholders in the absence of manifest error.

**24. Entitlement of the Trustee**

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

**25. Enforcement**

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

**26. Governing Law**

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

**27. 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.

**Signature**

**Signed** at Johannesburg this 4<sup>th</sup> day of April 2017

For and on behalf of

**Royal Bafokeng Platinum Limited**

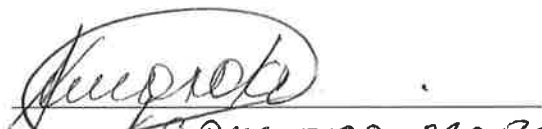
(Registration Number 2008/015696/06)



Name: D. S. Mkhize

Capacity: Director

Who warrants his authority hereto



Name: K. S. MOKOENA

Capacity: Director

Who warrants his authority hereto

**USE OF PROCEEDS**

*Capitalised terms used in this section headed "Use of Proceeds" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

The Issuer will use the proceeds from the Bonds to fund its 67% share of the Bafokeng Rasimone Mine JV funding requirement for the completion of the Styldrift I Project and for general corporate purposes.

## DESCRIPTION OF THE ISSUER

Capitalised terms used in this section headed "Description of the Issuer" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

### 1. INTRODUCTION

Royal Bafokeng Platinum Limited (the **Issuer**), incorporated on 1 July 2008, is a JSE listed, independently operated and managed, Black Economic Empowered (**BEE**) controlled mid-tier platinum group metals producer whose current mining operations and planned expansion projects are based on the Bushveld Igneous Complex (the **Bushveld Complex**) in the North West Province, South Africa, the largest source of platinum group metals in the world.

### 2. REVIEW OF OPERATIONS/DESCRIPTION OF BUSINESS

- 2.1 The Issuer's key asset is a 67 percent participation interest in the Bafokeng Rasimone Platinum Mine Joint Venture (the **BRPM JV**). The BRPM JV is an unincorporated joint venture between the Issuer (through its wholly-owned subsidiary, Royal Bafokeng Resources Proprietary Limited and Rustenburg Platinum Mines Limited (**RPM**), a wholly-owned subsidiary of Anglo American Platinum Limited (**Amplats**), established to mine platinum group metals in the Merensky and UG2 reefs on the BRPM Properties located 120 kilometres from Johannesburg and 30 kilometres from Rustenburg. The BRPM JV's business consists of an underground mine (the **BRPM Mine**) and concentrator plant situated on the Boschkoppie farm as well as the Styldrift project situated on the Styldrift and Frischgewaagd farms (collectively the **BRPM Properties**).
- 2.2 The BRPM JV's assets are the only significant shallow high grade Merensky resources and reserves still available on the Western Limb of the Bushveld Complex in South Africa and include:
- 2.2.1 BRPM Mine, a productive underground mine currently operating at a depth of less than 500 metres, accessed by two decline shafts – North and South Shafts. This mine is producing at steady state production of approximately 200,000 tonnes of milled ore per month, yielding approximately 180,000 platinum ounces in concentrate per annum; and
- 2.2.2 Styldrift, which includes Styldrift I and Styldrift II:
- 2.2.2.1 Styldrift I project holds high quality Merensky assets at a shallow depth with a life of mine in excess of 60 years. The Styldrift I twin vertical shaft system is the shallowest new shaft in the industry at 758 metres. Steady state production at 230 000 tonnes a month is expected.
- 2.2.2.2 Styldrift II has a resource area of approximately 24 million m<sup>2</sup> and comprises approximately 40% of the BRPM JV resource base. A pre-feasibility study has been completed during 2014.

- 2.3 BRPM JV concentrate is currently produced at a concentrator plant situated on the BRPM JV Property, which has been contributed to the BRPM JV for the life of the joint venture by Amplats. The Issuer has long-term offtake arrangements with Amplats' subsidiary, RPM, for the Issuer's share of concentrate.
- 2.4 Royal Bafokeng Resources Proprietary Limited is the partner to the BRPM JV and its business is its 67% participation interest in the BRPM JV.

### 3. ISSUER GROUP STRUCTURE

The Issuer's group structure as at 31 December 2016 is set out immediately below:

### 4. OWNERSHIP AND CONTROL

As at 31 December 2016, to the best of the Issuer's knowledge and belief, the following shareholders, were beneficially interested in 5% or more of the issued share capital of the Issuer.

	Number of Shares held	Percentage held (%)*
Royal Bafokeng Platinum Holdings Limited	101 333 105	51.74
Rustenburg Platinum Mines Limited	22 404 550	11.44
Kagiso Asset Management Proprietary Limited	14 514 797	7.41
Total	138 252 452	70.59

### 5. MANAGEMENT STRATEGY

- 5.1 The Issuer continually measures its performance against four strategic pillars, as set out immediately below, by annually setting key financial and non-financial performance indicators. The four strategic pillars have been in place since the Issuer took over operational control of the BRPM JV in 2010. Every year the board of directors of the Issuer and the executives review the Issuer's strategy and key material issues that need to be addressed if the Issuer is to achieve its strategic objectives.

#### 5.1.1 First Strategic Pillar: *Towards operational excellence*

The Issuer has identified a number of key issues that need to be addressed in its quest to achieve operational excellence, namely: achieving zero harm; optimising volumes; optimising unit costs; labour stability; community stability; and meeting Mining Charter commitments.

#### 5.1.2 Second Strategic Pillar: *Build flexibility*

The Issuer is of the view that building flexibility into its business will increase its sustainability and support productivity improvements. The Issuer has identified three key issues that will provide this flexibility in the short, medium and long term: (i) maintaining its immediately stoppable reserves (IMS) panel ratio; (ii) leveraging UG2 mining platform; and (iii) additional processing capacity.



5.1.3 Third Strategic Pillar: *Grow organically*

The Issuer also holds the view that by growing organically and using cash flows from existing operations, it will be able to exploit existing resources for the benefit of all its stakeholders. The Issuer has identified current and future issues that could affect its delivery against this strategy, which are (i) completing Styldriff I; and (ii) Styldriff II exploration.

5.1.4 Fourth Strategic Pillar: *Pursue value enhancing opportunities*

In order to pursue value enhancing opportunities, the Issuer envisages seeking out possible synergies with other potential partners in the platinum industry through, for example, mergers and acquisitions and royalty agreements with Impala Platinum Limited.

6. **RISK MANAGEMENT**

The board of directors of the Issuer sets the direction for how the Issuer approaches and addresses risk. The Issuer has an enterprise risk management (**ERM**) framework which is closely aligned with the Issuer's strategy, processes, people, technology and knowledge with the purpose of evaluating and managing the uncertainties it faces in protecting and creating shareholder value. The risk governance structures and processes (including oversight, management and assurance of risk management) are based on the three lines of defence model and a combined assurance model. This enables an effective internal control environment, supports the integrity of information used for internal decision-making strategy development and planning by management, the board of directors and its committees.

In line with King IV, the Issuer's board of directors has ultimate responsibility for risk management including the development of risk appetite and setting and monitoring risk tolerance levels.

The Issuer's main strategic risks are as follows:

Risk description, root cause and potential impact	Response to risk
Potential for operating costs to escalate above the Consumer Price Index.	Increased focus on improving productivity and cost reduction across our operations and corporate office.
Adverse platinum group metals ( <b>PGM</b> ) price fluctuations and/or strengthening of the Rand (basket price risk), driven by global economic and market conditions, could result in significant financial exposure.	Continual monitoring of the PGM market. Focus on cost optimisation strategies and maintaining a low cost base.
Inability to deliver projects on time and fund them within budget, especially the Styldriff I project, could negatively impact future	Effective project management capacity. Sound governance and financial

revenue, costs and reputation.	<p>management structures in place.</p> <p>Regular review of project progress by management and the board of directors.</p>
Unsatisfactory safety performance resulting in injuries, fatalities and/or Section 54 of the <b>Mine Health and Safety Act, 1996</b> work stoppages may impact on the Issuer's ability to meet production and financial targets.	<p>Zero harm philosophy, cross audits and internal shaft audits.</p> <p>Investigation to determine the base cause of our fatal accidents.</p> <p>Revised safety turnaround strategy implemented.</p>
Potential breakdown in stakeholder engagement and responsiveness could result in a deterioration in stakeholder relationships, particularly with employees, unions and doorstep communities. This could put our social license to operate at risk.	<p>Continued engagement in accordance with a robust stakeholder engagement framework to ensure stable stakeholder relations.</p> <p>Five-year wage agreement signed for both enrolled employees and contractors (three years remaining).</p>
Operational exposures due to performance against the life of mine ( <b>LOM</b> ) strategy (South Shaft UG2 and Styldrift I ramp-up) which could impact unit costs and operating profit.	Formalised business plan and LOM plan process reviewed annually.
Potential misalignment of the information management ( <b>IM</b> ) strategy and business requirements may affect the business requirements also resulting in vulnerabilities in the security of the Issuer's IM systems.	<p>IM Steering Committee in place.</p> <p>IM strategy developed in line with business strategy, including an IM governance framework and IM security policies</p>
The Issuer's environmental and climate change management could result in non-compliance with key legislation, which may lead to the withdrawal of mining-related licences (mineral rights/water, etc) negatively impacting mining operations and costs.	<p>Ongoing monitoring of license requirements.</p> <p>Approved new sustainability, climate change, water and energy management to enhance our compliance strategies.</p>
Failure to have available adequate and appropriate skills could negatively impact the Issuer achieving operational efficiencies.	<p>Human resource development strategy to meet operational requirements, develop talent and retain key skills.</p> <p>Skills development programme in place.</p>

## 7. BOARD OF DIRECTORS AND COMPANY SECRETARY

### 7.1 Directors' Information

The following is a list of the directors of the Issuer as at 4 April 2017:

<b>Director</b>	<b>Capacity</b>	<b>Business Address</b>
Advocate Kgomoitso Moroka SC	Independent non-executive and Chairman	Thulamela Chambers No. 1a Protea Place Sandown Sandton
Linda de Beer	Independent Non-executive Director	701, 254 Building No. 3 West Road South Morningside Sandton
Robin Mills	Independent Non-executive Director	Unit 22 Heritage Rock 36 Boschkop Avenue Boskruin Randburg
Mike Rogers	Independent Non-executive Director	Hilton Avenue Hilton Pietermaritzburg, KwaZulu Natal
Mark Moffet	Independent Non-executive Director	4 High Constantia Estate, Groot Constantia, Constantia, Cape Town
Thoko Mokgosi-Mwantembe	Independent Non-executive Director	21 Daniel Street, Hurlingham Ext, Sandton
Louisa Stephens	Independent Non-executive Director	4 The Boulevard, Stiglingh Road, Rivonia
Velile Nhlapo	Non-executive Director	No 1 Marlin Road, Jet Park, Boksburg
David Wilson	Non-executive Director	27 Brendon Avenue, Morningside Manor, Sandton
Steve Phiri	Executive and Chief Executive Officer	The Pivot No 1 Monte Casino Boulevard Block C, 4 <sup>th</sup> Floor Fourways Johannesburg 2055
Marthinus Prinsloo	Executive and Financial Director	

### 7.2 Company Secretary Information

Name: Lester Jooste  
 Contact Details: The Pivot  
 No 1 Monte Casino Boulevard  
 Block C, 4<sup>th</sup> Floor  
 Fourways  
 Johannesburg  
 2055

## 8. CORPORATE GOVERNANCE AND REGULATORY FRAMEWORK

The Issuer is committed to the principles of openness, integrity and accountability and the provision of timeous, meaningful reporting to stakeholders. The Issuer complies with all the principles of King III save for those principles highlighted in the table below. The following table has been developed to provide a summary assessment of the application to the specific applicable recommendations of King III for 2016, including columns to indicate where the Issuer has applied, partially applied or is yet to apply the recommendation (i.e., where a recommendation is 'Under Review' for possible application in the future or partially applied due to it not being implemented for the entire financial year). All recommendations noting "LR" refer to mandatory JSE Listings Requirements which must be complied with annually.

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
<b>ETHICAL LEADERSHIP AND CORPORATE CITIZENSHIP</b>	<b>PR</b>				
1. The Board should provide effective leadership based on an ethical foundation	<b>1.1</b>	√			The Board consistently reviews and monitors progress with regard to governance, risk and ethics for the organisation.
2. The Board should ensure that the company is and is seen to be a responsible corporate citizen	<b>1.2</b>	√			The Board through the Social and Ethics Committee considers quarterly at its meetings the non-financial matters, risks and impact of operations on all key stakeholders as a standard part of its quarterly report back.
3. The Board should ensure that the company's ethics are managed effectively	<b>1.3</b>	√			Baseline assessment of ethics management framework and culture are undertaken periodically as part of the risk management process the outcome of which is used to drive the ethics awareness. Automated declarations of interests for all senior employees are an annual requirement.
<b>BOARDS AND DIRECTORS</b>	<b>PR</b>				
4. The Board is the focal point for and custodian of corporate governance	<b>2.1</b>	√			The Board reviews, assesses and approves all significant governance policies and frameworks and through its Committees, drives the implementation thereof.
5. The Board should appreciate that strategy, risk, performance and sustainability are inseparable	<b>2.2</b>	√			In assessing performance and strategy, the Board and its Committees, as well as the Executive Committee takes an integrated approach to managing strategy, risk and organisational control and performance.
6. The Board should ensure that the company has an effective and independent audit committee	<b>2.6</b>	√			The Audit & Risk Committee (A&RC) is established in terms of the Companies Act 71 of 2008 (the Act) and meets at least quarterly. The Committee consists of 4 independent members including the

		Ref.	Apply	Partially Apply	Under Review	COMMENTS
LR3.84(d)						Chairperson. The Committee members, including the Chairperson, are appointed by shareholders at the Annual General Meeting at which time the A&RC report is also tabled.
7.	The Board should be responsible for the governance of risk	<b>2.7</b>	√			The Board as well as its Committees meet at least twice a year to consider the implementation, progress and performance of the Risk Management process against the approved framework and implementation plans. Included in the review are the various risks profiles and top risk and mitigating strategies of the organisation.
8.	The Board should be responsible for information technology (IT) governance	<b>2.8</b>	√			The A&RC monitors progress with regard to IT governance. An operational ICT Steering Committee has been established to oversee as part of its mandate, the implementation of governance around information technology. Furthermore, assessments of the governance structures and processes are undertaken by Internal Audit and weaknesses are reported to the A&RC together with mitigation strategies. The A&RC keeps the Board informed on such matters.
9.	The Board should ensure that the company complies with applicable laws and considers adherence to non-binding rules, codes and standards	<b>2.9</b>	√			The Board has adopted a compliance policy which has been revised. Implementation is ongoing in this regard and forms part of the risk management process and significant compliance areas are assessed and assured where required.
10.	The Board should ensure that there is an effective risk-based internal audit	<b>2.10</b>	√			The Board through the A&RC ensures that an effective risk-based internal audit function is operational and that an appropriate reporting framework remains in place and operational.
11.	The Board should appreciate that stakeholders' perceptions affect the company's reputation	<b>2.11</b>	√			The Board as well as the Executive Committee in its reviews and deliberations considers all significant stakeholder matters and public perceptions and guides Management in dealing with these matters appropriately. In 2015 an independent assessment of stakeholder perceptions was undertaken.
12.	The Board should ensure the integrity of the company's integrated report	<b>2.12</b>	√			The integrated report is reviewed by the Board to ensure that the Board agrees with all key matters and disclosures in the report. An annual workshop is held with the Board prior to the release of the integrated report.

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
13. The Board should report on the effectiveness of the company's system of internal controls	<b>2.13</b>	√			The Board via the A&RC assesses at least annually the effectiveness of internal controls and reports thereon in the integrated report. Such independent assurance is granted to the Committee and Board via internal audit and other relevant independent assurance providers.
14. The Board and its directors should act in the best interests of the company	<b>2.14</b>	√			There are approved policies and processes in place for the directors and prescribed officers to disclose interests and conflicts of interest that may arise.
15. The Board should consider business rescue proceedings or other turnaround mechanisms as soon as the company is financially distressed as defined in the Act	<b>2.15</b>	√			Has not been applied as not required as yet but the Board does assess the solvency and liquidity of the organisation at least quarterly.
16. The Board should elect a chairman of the Board who is an independent non-executive director. The CEO of the company should not also fulfil the role of chairman of the board  LR3.84(c)	<b>2.16</b>	√			The chairman of the Board and CEO, have independent functions as prescribed in the Board Charter and the limits of authority are clearly defined in the approved policies. The chairman is an independent non-executive director.
17. The Board should appoint the CEO and establish a framework for the delegation of authority	<b>2.17</b>	√			See point 16 above.
18. The Board should comprise a balance of power, with a majority of non-executive directors. The majority of non-executive directors should be independent  LR3.84(b)	<b>2.18</b>	√			The Board consists of 11 members, 7 of whom are independent non-executive directors. The Board charter as well as the Memorandum of Incorporation provides that each director has one vote, including the Chairman, and where a unanimous decision is not achievable, decisions are based on a majority vote.
19. Directors should be appointed through a formal process.  LR3.84(a) (d) (e) (f)	<b>2.19</b>	√			Director appointments are transparent and formal. The policy for such appointments is outlined in the Remuneration and Nominations Committee (R&NC) Terms of Reference as the Committee considers such appointments in the first instance and makes the necessary recommendations to the Board. Shareholders, in terms of the Memorandum of Incorporation are then required to confirm such appointments at the very next annual general meeting.

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
20. The induction of and ongoing training and development of directors should be conducted through formal processes	<b>2.20</b>	√			There is both an informal and formal induction process resulting in a new director being made aware of his/her duties (appointment contract) and is provided with the necessary documents for reference. A newly appointed director is also granted an opportunity to meet with the Chairman, the Executives and the Company Secretary who in turn arranges for various site visits including social and community project sites. Continues development is managed partly through an annual board evaluation process.
21. The Board should be assisted by a competent, suitably qualified and experienced company secretary  LR3.84 (i) (j)	<b>2.21</b>	√			The Board is assisted by the Company Secretary and in keeping with the JSE Listings Requirements the Board assesses on an annual basis the competency, suitability, qualifications and experience of the Company Secretary.
22. The evaluation of the board, its committees and the individual directors should be performed every year	<b>2.22</b>	√			The board, committees and individual director assessments (for retiring directors) is conducted on an annual basis, the outcome of which informs the development and training requirements, if any, for directors in conjunction with their own assessments or that of the Chairman. Directors are also authorised to seek professional advise where required or to embark on individual training, subject to the endorsement of the Chairman in consultation with the CEO. In 2016 the evaluation process was conducted in conjunction with the IOD.
23. The Board should delegate certain functions to well-structured committees but without abdicating its own responsibilities	<b>2.23</b>	√			The Board has delegated certain functions to the A&RC, S&EC as well as the R&NC and received reports quarterly from each Committee. Where further expertise is required, such as special projects, specific Committees or working groups are created to assess such projects/transactions failing which, external experts are engaged. Two such Committee is the Technical and Finance Committee which meets on an adhoc basis as required.
24. A governance framework should be agreed between the group and its subsidiary boards	<b>2.24</b>	√			Each subsidiary company operates with a separate Board of directors but it has been agreed that the listed company Board as well as its committees shall oversee all significant aspects and transactions of subsidiaries which are also governed in terms of the Limits of Authority set by the Board.

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
25. Companies should remunerate directors and executives fairly and responsibly	<b>2.25</b>	√			The R&NC considers annually both executives and non-executive directors' remuneration and in conjunction with the Executive Committee conducting benchmarking exercises at least every two years. Remuneration disclosures are included in the integrated report.
26. Companies should disclose the remuneration of each individual director and certain senior executives	<b>2.26</b>	√			See item 25 above.
27. Shareholders should approve the company's remuneration policy	<b>2.27</b>	√			The company's remuneration policy is approved by shareholders at its annual general meeting through a non-binding vote. Weaknesses identified in the policy are considered and enhanced as required.
<b>A&amp;RC(A&amp;RC) - LR84(d)</b>	<b>PR</b>				
28. Board to ensure an effective and independent A&RC	<b>3.1</b>	√			See item 6 above.
29. A&RC members to be suitably skilled and experienced independent non-executive directors	<b>3.2</b>	√			The Nominations Committee considers the suitability of the A&RC members and recommends to the Board any significant findings it may wish to raise. Furthermore the A&RC and its members are assessed as part of the annual Board evaluation process. The Committee Members are however ultimately appointed by shareholders at the annual general meeting.
30. A&RC to be chaired by an independent non-executive director	<b>3.3</b>	√			The Committee is chaired by an independent non-executive director.
31. A&RC to oversee integrated reporting	<b>3.4</b>	√			The Committee reviews and oversees all disclosure contained in the integrated report prior to Board approval. The Committee also approves the scope and appointment of the independent assurance providers in this regard.
32. A&RC to ensure a combined assurance model is applied to improve efficiency in assurance activities	<b>3.5</b>	√			A combined assurance framework has been adopted by the Board and the combined assurance plan has been considered and approved and is assessed at least twice a year.
<b>INTERNAL ASSURANCE PROVIDERS</b>	<b>PR</b>				
33. The A&RC should satisfy itself of the expertise, resources and	<b>3.6</b>	√			The expertise, resources and experience of the company's finance function as well



	Ref.	Apply	Partially Apply	Under Review	COMMENTS
experience of the company's finance function  LR3.84(g) (h)					as the Finance Director is assessed annually by the A&RC.
34. The A&RC should be responsible for overseeing of internal audit	<b>3.7</b>	√			The expertise, resources, experience and independence of the company's internal audit function as well the non-audit services and fees are assessed annually by the A&RC.
35. The A&RC should be an integral component of the risk management process	<b>3.8</b>	√			The A&RC oversees the Enterprise Risk Management process and is therefore an integral part of the strategic and framework developments in relation to enterprise risk management.
36. The A&RC is responsible for recommending the appointment of the external auditor and overseeing the external audit process	<b>3.9</b>	√			Similarly to the internal audit function, the A&RC evaluates at least annually, the external audit function and plans, their independence as well as non-audit fees, the outcome of which is reported to the Board.
37. The A&RC should report to the Board and shareholders on how it has discharged its duties LR3.84(d)	<b>3.10</b>	√			The summary of all Board Committee's mandates, attendance of meetings and discharge of duties is disclosed and can be found in the integrated report, which includes the Committee's report to shareholders.
<b>GOVERNANCE OF RISK</b>	<b>PR</b>				
38. The Board should be responsible for the governance of risk	<b>4.1</b>	√			The Board assumes such responsibility and the Executive: Risk and Assurance oversees the implementation of the risk strategies.
39. The Board should determine the levels of risk tolerance	<b>4.2</b>		√		The Enterprise Risk Management Framework sets out the risk appetite and tolerance philosophy of the Group and provides guidance in setting tolerance levels. Qualitative and quantitative measures are used to set risk tolerance and are assessed at least annually.
40. The risk or audit committee should assist the Board in carrying out its risk responsibilities	<b>4.3</b>	√			See item 7.
41. The Board should delegate to Management the responsibility to design, implement and monitor the risk management plan	<b>4.4</b>	√			See item 7 and 8.
42. The Board should ensure that	<b>4.5</b>	√			Risk assessments are based on an annual

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
risk assessments are performed on a continual basis					plan. Such assessments are conducted by Management, the Risk & Assurance department as well as Internal Audit and key risks are reported into all governance structures and monitored, as applicable.
43. The Board should ensure that frameworks and methodologies are implemented to increase the probability of anticipating unpredictable risks	4.6	√			See items 7 and 38.
44. The Board should ensure continual risk monitoring by management	4.7	√			See item 42. Risk is monitored by Management on a continuous basis and reported on a monthly basis whilst considered by the Board and its Committees on a quarterly basis.
45. The Board should receive assurance regarding the effectiveness of the risk management process	4.8	√			Such assurance is provided by an independent internal audit function and reported to the A&RC and ultimately the Board.
46. The Board should ensure that there are processes in place enabling complete, timely, relevant, accurate and accessible risk disclosure to stakeholders	4.9	√			The Enterprise Risk Management Framework provides for risk disclosure and reporting to all stakeholders. A Risk Management report on the risk governance is included in the integrated report.
<b>THE GOVERNANCE OF INFORMATION TECHNOLOGY</b>	<b>PR</b>				
47. The Board is responsible for information technology (IT) governance	5.1	√			The Board through its Charter has assumed responsibility for IT Governance and considers the appropriateness of the IT Framework and Policies for implementation. The ITC Steering Committee plays a key role in ensuring the implementation and monitoring of IT governance controls and risks.
48. IT is aligned with the performance and sustainability objectives of the company	5.2		√		Such alignment and improved effectiveness continues to be assessed, to ensure that IT supports the business sustainably.
49. Management is responsible for the implementation of an IT governance framework	5.3	√			An ITC Steering Committee oversees the implementation of the IT Governance framework and manages related risks. The Committee reports to the Executive Committee who in turn reports to the Board and its Committees (also see 48 above).
50. The Board monitors and	5.4	√			Such investments and expenditure is

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
evaluates significant IT investments and expenditure					governed in terms of the Limits of Authority Policy as well as annual budgets. Major IT projects are monitored continually by Management and the Board, through its Committees according to the approved project plan.
51. IT is an integral part of the company's risk management	<b>5.5</b>	√			IT is an integral part of the risk management process and where key risks are identified through assurance processes the necessary remedial action is taken and key issues addressed.
52. IT assets are to be managed effectively	<b>5.6</b>	√			IT assets are effectively managed through an asset register, financial and cost accounting, as well governed by various IT and HR Policies.
53. The Risk Committee and Audit Committee assist the Board in carrying out its IT responsibilities	<b>5.7</b>	√			All Committees assist the Board in carrying out its IT responsibilities including the Executive Committee and the IT Steercom.
<b>THE COMPLIANCE WITH LAWS, RULES, CODES AND STANDARDS</b>	<b>PR</b>				
54. The Board should ensure that the company complies with applicable laws and considers adherence to non-binding rules, codes and standards	<b>6.1</b>	√			The revised framework and policy has been approved by the Board and implementation is ongoing. Key compliance assessments are ongoing to establish all compliance risks which are managed in terms of the risk management process and framework.
55. The Board and each individual director should have a working understanding of the effect of the applicable laws, rules, codes and standards on the company and its business	<b>6.2</b>	√			The compliance policy outlines the legal & regulatory universe of the Group. Assessments in relation to compliance are to be conducted and compliance risks to be managed accordingly in terms of the enterprise risk management processes.
56. Compliance risk should form an integral part of the company's risk management process	<b>6.3</b>	√			Compliance risk forms part of the risk management process as prescribed in the approved risk management policy and framework.
57. The Board should delegate to management the implementation of an effective compliance framework and processes	<b>6.4</b>	√			The Risk and Assurance Executive who reports into the Executive Committee and CEO, oversees the implementation of the compliance framework and processes which forms part of the risk management process which is continually assessed by the Board.
<b>INTERNAL AUDIT</b>	<b>PR</b>				

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
58. The Board should ensure that there is an effective risk based internal audit	7.1	√			See item 10.
59. Internal audit should follow a risk based approach to its plan	7.2	√			Enterprise Risk Management policies and frameworks are developed continually but has been embedded in the organisation based on the principles of a risk based approach.
60. Internal audit should provide a written assessment of the effectiveness of the company's system of internal controls and risk management	7.3	√			See item 13
61. The Audit committee should be responsible for overseeing internal audit	7.4	√			See item 34
62. Internal audit should be strategically positioned to achieve its objectives	7.5	√			Internal audit is placed at a strategic level and the CAE has direct access to the A&RC as well as the Committee Chairman and the CEO of the company.
<b>GOVERNING STAKEHOLDER RELATIONSHIPS</b>	<b>PR</b>				
63. The Board should appreciate that stakeholders' perceptions affect a company's reputation	8.1	√			See item 11
64. The Board should delegate to management to proactively deal with stakeholder relationships	8.2	√			The Board has delegated to the Executive team the management of stakeholder relationships which is managed at various levels within the organisation utilising various platforms and reported to the Board and Shareholders in the integrated report. The Corporate Affairs Executive however actively oversees stakeholder engagement.
65. The Board should strive to achieve the appropriate balance between its various stakeholder groupings, in the best interests of the company	8.3	√			A revised Sustainability Framework has been considered and approved by the Board. An operational Sustainability Committee addresses the implementation of such framework in the organisation. The Framework prescribes the methodology and processes to deal with all stakeholder engagement.
66. Companies should ensure the equitable treatment of shareholders	8.4	√			The Board and Management are mindful of the treatment of all shareholders and in keeping with the JSE Listings Requirements endeavour not to place any Shareholders interests above another.

	Ref.	Apply	Partially Apply	Under Review	COMMENTS
67. Transparent and effective communication with stakeholders is essential for building and maintaining their trust and confidence	<b>8.5</b>				The organisation has adopted the King code at an early stage of its existence as well as transparent and effective communication in terms of its approach to reporting, also keeping in mind the best interest of the company. The application of the principles is assessment annually. With regard to King IV, the organisation has assessed the application of its principles and practices and intends to implement and/or maintain all principles and practices.
68. The Board should ensure that disputes are resolved as effectively, efficiently and expeditiously as possible	<b>8.6</b>	√			Dispute resolution clauses are contained in all major contracts and agreement entered into by the company and its subsidiaries. A specific policy has however been considered and endorsed by the Executive Committee.
<b>INTEGRATED REPORTING AND DISCLOSURE</b>	<b>PR</b>				
69. Ensures the integrity of the company's integrated report	<b>9.1</b>	√			Independent assurance is obtained annually and although the process is one of continuous improvement the organisation is committed to ensuring progress in achieving higher standards of integrated reporting.
70. Sustainability reporting and disclosure is integrated with the company's financial reporting	<b>9.2</b>	√			See 69 above.
71. Sustainability reporting and disclosure is independently assured	<b>9.3</b>	√			Yes, independent assurance has been obtained on integrated reporting content and weakness identified in such process is addressed and is monitored by the Board.
72. LR3.84 (k): Gender Equality					The Board promotes equality and continuously monitors gender equality within the organisation through ensuring that HR policies and strategies are aligned with such principles. Gender diversity principles are applied at Board level and the practices can be noted in the Integrated Report given the recent board appointments and improvements made at Board and Executive level.

For further information on the Issuer, please see the Issuer's latest available Integrated Report, incorporated by reference into this Listing Document under the section headed "Documents Incorporated by Reference".

## **THE TRUSTEE**

*Capitalised terms used in this section headed "The Trustee" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

TMF Corporate Services (South Africa) Proprietary Limited has been appointed in terms of a trust deed between the Trustee and the Issuer, to act as trustee for the benefit of the Bondholders.

Pursuant to the Trust Deed, the Trustee is entitled to exercise the rights conferred on the Trustee and is obliged to perform the duties imposed on the Trustee in terms of the Conditions of the Bonds, including the rights and duties in terms of Condition 13.2 (*Steps following an Event of Default*) and Condition 20 (*Meetings of the Bondholders*).

The Trust Deed sets out provisions relating to the replacement of the Trustee, including following a resolution to this effect by the Bondholders, by a majority consisting of not less than 75% of the votes cast on a poll by the Bondholders, present in person or by proxy at a meeting convened in terms of the Terms and Conditions of the Bonds.

As described in the section of this Listing Document headed "*Documents incorporated by Reference*", a copy of the Trust Deed is available for inspection by Bondholders at the Specified Office of the Issuer and the JSE Debt Sponsor.

## **SETTLEMENT, CLEARING AND TRANSFERS**

*Capitalised terms used in this section headed "Settlement, Clearing and Transfers" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

### **Bonds held in the Central Securities Depository**

The Bonds are issued in uncertificated form, held in the Central Securities Depository and are listed on the Main Board of the JSE.

### **Clearing systems**

The Bonds held in uncertificated form, will be issued, cleared and settled in accordance with the Applicable Procedures for the time being of the JSE and the Central Securities Depository through the electronic settlement system of the Central Securities Depository. Such Bonds will be settled by Participants who will follow the electronic settlement procedures prescribed by the JSE and the Central Securities Depository.

The Central Securities Depository, as the operator of an electronic clearing system, has been appointed by the JSE to facilitate the settlement of transactions concluded on the JSE. Such Bonds will be issued, cleared and transferred in accordance with the Applicable Procedures and the Conditions. Such Bonds will be settled through the Central Securities Depository and Participants who will comply with the electronic settlement procedures prescribed by the JSE and the Central Securities Depository. The Bonds may be accepted for clearance through any additional clearing system as may be agreed between the JSE and the Issuer.

### **Participants**

The Central Securities Depository maintains accounts only for Participants. As at the Issue Date, the Participants which are approved by the Central Securities Depository, as settlement agents to perform electronic settlement of funds and scrip are Citibank N.A. South African Branch, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited, Standard Chartered Bank, Johannesburg Branch, Société Générale, Johannesburg Branch and the South African Reserve. Euroclear, as operator of the Euroclear System and Clearstream will settle offshore transfers through their South African Participant.

### **Settlement and clearing**

#### **Bonds issued in uncertificated form**

Bonds listed on the JSE – Main Board, subject to Applicable Law and Applicable Procedures, will be issued in uncertificated form in terms of section 33 of the Financial Markets Act.

Bonds issued in uncertificated form will not be represented by any certificate or written instrument. Bonds issued in uncertificated form will be held in the Central Securities Depository.

#### **Beneficial Interests**

The Central Securities Depository will hold the Bonds issued in uncertificated form, subject to the Financial Markets Act and the Applicable Procedures.

The Central Securities Depository maintains central securities accounts only for Participants.

The Participants are in turn required to maintain securities accounts for their clients. The clients of Participants may include the holders of Beneficial Interests in the Bonds or their custodians. The clients of Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Bonds held by them in the Central Securities Depository only through their Participants.

In relation to each person shown in the records of the Central Securities Depository or the relevant Participant, as the case may be, as the holder of a Beneficial Interest in a particular outstanding Principal Amount of Bonds, a certificate or other document issued by the Central Securities Depository or the relevant Participant, as the case may be, as to the outstanding Principal Amount of such Bonds standing to the account of such person shall be *prima facie* proof of such Beneficial Interest.

Payments of interest and principal in respect of Bonds held in uncertificated form, will be made in accordance with Condition 11 to the relevant Participant, or such other registered holder of the uncertificated Bonds as shown in the Register, and the Issuer will be discharged by proper payment to or to the order of the registered holder of the Certificate in respect of each amount so paid. The

registered holder of such uncertificated Bonds will in turn transfer such funds, via the Participants, to the holders of Beneficial Interests.

Each of the persons shown in the records of the Central Securities Depository and the relevant Participant, as the case may be, as the holders of Beneficial Interests will look solely to the Central Securities Depository or the relevant Participant, as the case may be, for such person's share of such payment so made by the Issuer to, or to the order of, the registered holder of such Bonds.

The Issuer will not have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Beneficial Interests, or for maintaining, supervising or reviewing any records relating to such Beneficial Interests.

#### **Transfers and exchanges**

Subject to Applicable Laws, title to Beneficial Interests held by Participants directly through the Central Securities Depository will be freely transferable and pass on transfer thereof by electronic book entry in the central securities accounts maintained by the Central Securities Depository for such Participants. Subject to Applicable Laws, title to Beneficial Interests held by clients of Participants indirectly through such Participants will be freely transferable and pass on transfer thereof by electronic book entry in the security accounts maintained by such Participants for such clients. Beneficial Interests may be transferred only in accordance with the Applicable Procedures.

The Issuer shall regard the Register as the conclusive record of title to the Bonds.

Beneficial Interests may be exchanged for Bonds represented by the Certificates in accordance with Condition 15.1.

#### **Certificates**

Beneficial Interests in the Bonds may be exchanged, without charge by the Issuer, for Bonds in definitive registered form only in accordance with Condition 15.1 of the Conditions. Such Certificates will not be issuable in bearer form. The Bonds represented by the Certificates will be registered in the name of the individual Bondholders in the Register of Bondholders maintained by the Transfer Agent. The Issuer shall regard the Register as the conclusive record of title to the Bonds. The relevant Participant shall be recognised by the Issuer as the owner of the Bonds issued in uncertificated form and registered holders of Certificates shall be recognised by the Issuer as the owners of the Bonds represented by such Certificates.

Bonds represented by a Certificate may be transferred only in accordance with the Conditions.

Payments of interest and principal in respect of Bonds represented by the Certificates will be made in accordance with Condition 11 to the person reflected as the registered holder of such Certificates in the Register at 17h00 (South African time) on the Record Date, and the Issuer will be discharged by proper payment to or to the order of the registered holder of the Certificate in respect of each amount so paid.



## **SOUTH AFRICAN TAXATION**

*Capitalised terms used in this section headed "South African Taxation" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

*The comments below are intended as a general guide to the relevant tax laws of South Africa as at the date of this Listing Document. The contents of this section headed "South African Taxation" do not constitute tax advice and do not purport to describe all of the considerations that may be relevant to a prospective subscriber for or purchaser of any Bonds. Prospective subscribers for or purchasers of any Bonds should consult their professional advisers in this regard.*

### **Securities Transfer Tax**

No Securities Transfer Tax is payable on the issue or transfer of Bonds under the Securities Transfer Tax Act, 2007, because they do not constitute securities for the purposes of that Act.

### **Value-Added Tax**

No VAT is payable on the issue or transfer of Bonds. The Bonds constitute "debt securities" as defined in section 2(2)(iii) of the South African Value-Added Tax Act, No. 89 of 1991. The issue, allotment, drawing, acceptance, endorsement or transfer of ownership of a debt security is a financial service, which is exempt from VAT in terms of section 12(a) of that Act.

Commissions, fees or similar charges raised for the facilitation of these services will however be subject to VAT at the standard rate (currently 14 percent), except where the recipient is a non-resident as contemplated below.

Services (including exempt financial services) rendered to non-residents who are not in South Africa when the services are rendered, are subject to VAT at the zero rate in terms of section 11(2)(l) of the South African Value-Added Tax Act, 1991.

### **Income Tax**

Under current taxation law effective in South Africa a "resident" (as defined in section 1 of the Income Tax Act) is subject to income tax on his/her worldwide income. Accordingly, all Bondholders who are "residents" of South Africa will generally be liable to pay income tax, subject to available deductions, allowances and exemptions, on any interest earned pursuant to the Bonds. Non-residents of South Africa are subject to income tax on all income derived from a South African source (subject to domestic exemptions or relief in terms of an applicable double taxation treaty).

Interest income is from a South African source if that amount:

- (a) is attributable to an amount incurred by a person that is a resident, unless the interest is attributable to a permanent establishment which is situated outside of South Africa; or
- (b) is received or accrues in respect of the utilisation or application in South Africa by any person of any funds or credit obtained in terms of any form of interest-bearing arrangement.

Accordingly, the interest paid to the Bondholders will be from a South African source and subject to South African income tax unless such income is exempt under section 10(1)(h) of the Income Tax Act (see below).

Under section 10(1)(h) of the Income Tax Act interest received by or accruing to a Bondholder who, or which, is not a resident of South Africa during any year of assessment is exempt from income tax, unless that person:

- (a) is a natural person who was physically present in South Africa for a period exceeding 183 days in aggregate during the twelve month period preceding the date on which the interest is received by, or accrues to, that person; or
- (b) the debt from which the interest arises is effectively connected to a permanent establishment of that person in South Africa.

If a Bondholder does not qualify for the exemption under section 10(1)(h) of the Income Tax Act, exemption from, or reduction of any South African income tax liability may be available under an applicable double taxation treaty.

Purchasers are advised to consult their own professional advisers as to whether the interest income earned on the Bonds will be exempt under section 10(1)(h) of the Income Tax Act.

Under section 24J of the Income Tax Act, any discount or premium to the Nominal Amount of a Bond is

treated as part of the interest income on the Bond. Section 24J of the Income Tax Act deems interest income to accrue to a Bondholder on a day-to-day basis until that Bondholder disposes of the Bond or until maturity unless an election has been made by the Bondholder (if the Bondholder is entitled under section 24J(9) of the Income Tax Act to make such election) to treat its Bonds on a mark-to-market basis. This day-to-day basis accrual is determined by calculating the yield to maturity and applying it to the capital involved for the relevant tax period. Interest as defined in section 24J of the Income Tax Act (including the premium or discount) may qualify for the exemption under section 10(1)(h) of the Income Tax Act.

The tax treatment of "hybrid debt instruments" may differ from the section 24J treatment noted above.

To the extent the disposal of the Bond gives rise to a gain or a loss, the normal principles are to be applied in determining whether such gain or loss should be subject to income tax in terms of the Income Tax Act. The conversion of the Bond will constitute a disposal for purposes of the Income Tax Act. Purchasers are advised to consult their own professional advisers as to the tax consequences of such a disposal.

### **Capital Gains Tax**

Capital gains and losses of residents of South Africa on the disposal of Bonds are subject to capital gains tax. Any discount or premium on acquisition which has already been treated as interest for income tax purposes, under section 24J of the Income Tax Act will not be taken into account when determining any capital gain or loss. Under section 24J(4A) of the Income Tax Act a loss on disposal will, to the extent that it has previously been included in taxable income (as interest), be allowed as a deduction from the taxable income of the holder when it is incurred and accordingly will not give rise to a capital loss.

Capital gains tax under the Eighth Schedule to the Income Tax Act will not be levied in relation to Bonds disposed of by a person who is not a resident of South Africa unless the Bonds disposed of are attributable to a permanent establishment of that person.

Purchasers are advised to consult their own professional advisers as to whether a disposal of Bonds will result in a liability to capital gains tax.

### **Withholding Tax**

Under current taxation law in South Africa, all payments made under the Bonds to resident Bondholders will be made free of withholding or deduction for or on account of any taxes, duties, assessments or governmental charges in South Africa. Withholding tax is applicable to South African sourced interest payments to foreign persons at a rate of 15%, subject to reduction in terms of an applicable double taxation treaty and subject to certain exemptions.

One of the exemptions from withholding tax on interest is if the foreign person -

- (a) is a natural person who was physically present in South Africa for a period exceeding 183 days in aggregate during the twelve month period preceding the date on which the interest is paid; or
- (b) the debt claim in respect of which that interest is paid is effectively connected with a permanent establishment of that foreign person in the Republic if that foreign person is registered as a taxpayer in terms of the Tax Administration Act.

Another exemption from withholding tax on interest is for interest that is paid to a foreign person in respect of any listed debt. In terms of the legislation, a "*listed debt*" is a debt that is listed on a recognised exchange as defined in the Income Tax Act, which includes the JSE Limited.

Foreign persons are ordinarily subject to normal South African income tax on the interest sourced in South Africa unless exempted under section 10(1)(h) of the Income Tax Act. Please refer to the section on Income Tax above.

### **Definition of Interest**

The references to "*interest*" above mean "*interest*" as understood in South African tax law. The statements above do not take account of any different definitions of "*interest*" or "*principal*" which may prevail under any other law or which may be created by the Terms and Conditions or any related documentation.

## **EXCHANGE CONTROL**

*Capitalised terms used in this section headed "Exchange Control" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

*The comments below are intended as a general guide to the current position under the Regulations, and are not a comprehensive statement of the Regulations. The information below is not intended as advice and it does not purport to describe all of the considerations that may be relevant to a prospective subscriber for, or purchaser of any Bonds. Prospective subscribers for, or purchasers of any Bonds who are non-South African residents or who are emigrants from the Common Monetary Area are urged to seek further professional advice in regard to the subscription for, or purchase of any Bonds.*

### **Non-South African Resident Bondholders and Emigrants from the Common Monetary Area**

Dealings in the Bonds and the performance by the Issuer of its obligations under the Bonds may be subject to the Regulations.

### **Blocked Rand**

Blocked Rand may be used for the subscription for or purchase of Bonds. Any amounts payable by the Issuer in respect of the Bonds subscribed for or purchased with Blocked Rand may not, in terms of the Regulations, be remitted out of South Africa or paid into any non-South African bank account.

### **Emigrants from the Common Monetary Area**

Any individual Certificates issued to Bondholders who are emigrants from the Common Monetary Area will be endorsed "*non-resident*". Such restrictively endorsed individual Certificates will be deposited with an authorised foreign exchange dealer controlling such emigrant's blocked assets.

In the event that a Beneficial Interest in Bonds is held by an emigrant from the Common Monetary Area through the Central Securities Depository and its relevant Participants, the securities account of such emigrant will be designated as an "*non-resident*" account.

Any payments of interest and/or principal due to an emigrant Bondholder will be deposited into such emigrant's Blocked Rand account, as maintained by an authorised foreign exchange dealer. The amounts are not freely transferable from the Common Monetary Area and may only be dealt with in terms of the Regulations.

### **Non-residents of the Common Monetary Area**

Any individual Certificates issued to Bondholders who are not resident in the Common Monetary Area will be endorsed "*non-resident*". In the event that a Beneficial Interest in Bonds is held by a non-resident of the Common Monetary Area through the Central Securities Depository and its relevant Participants, the securities account of such Bondholder will be designated as a "*non-resident*" account.

It will be incumbent on any such non-resident to instruct the non-resident's nominated or authorised dealer in foreign exchange as to how any funds due to such non-resident in respect of Bonds are to be dealt with. Such funds may, in terms of the Regulations, be remitted abroad only if the relevant Bonds are acquired with foreign currency introduced into South Africa and provided that the relevant Certificate or securities account is designated "*non-resident*".

For the purposes of these paragraphs:

the **Common Monetary Area** comprises South Africa, the Republic of Namibia, the Kingdom of Lesotho and the Kingdom of Swaziland;

**Blocked Rand** means funds which may not be remitted out of South Africa or paid into a non-South African resident's bank account. The relevant legislation relating to Blocked Rand is the Regulations promulgated under the Currency and Exchanges Act, 1933.

## **GENERAL INFORMATION**

*Capitalised terms used in this section headed "General Information" shall bear the same meanings as used in the Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.*

### **Authorisations**

All consents, approvals, authorisations or other orders of all regulatory authorities required by the Issuer under the laws of South Africa, including from the exchange control authorities, have been given for the issue of the Bonds and for the Issuer to undertake and perform its obligations under the Bonds.

### **Listing**

An application was made to list the Bonds on the JSE - Main Board under stock code number RBPCB and ISIN ZAE000243853. The application was granted on 4 April 2017 and the Bonds may be traded by and through members of the JSE from 20 April 2017.

### **Clearing systems**

The Bonds have been accepted for clearance through the Central Securities Depository, which forms part of the clearing system of the JSE and may be accepted for clearance through any additional clearing system as may be agreed between the JSE and the Issuer.

### **Participants**

As at the Issue Date, the Participants who are Participants recognised by the JSE are Citibank N.A. South African Branch, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited, Standard Chartered Bank, Johannesburg Branch, Société Générale, Johannesburg Branch and the South African Reserve. Euroclear, as operator of the Euroclear System and Clearstream will settle offshore transfers through their South African Participants.

### **Material Change**

As at the Issue Date and following due and careful enquiry, carried out without the involvement of the auditors, the board of directors of the Issuer is satisfied that there has been no material change in the financial or trading position of the Issuer or its subsidiaries since the date of its last published audited consolidated financial statements for the year ended 31 December 2016.

### **Auditors**

PricewaterhouseCoopers Inc. are the present auditors of the Issuer.

**ISSUER**

**ROYAL BAFOKENG PLATINUM LIMITED**

(registration number: 2008/015696/06)

The Pivot  
No. 1 Monte Casino Boulevard  
Block C, Floor 4  
Fourways  
2055  
South Africa  
Contact: M Prinsloo

**JSE DEBT SPONSOR, PAYING AGENT,  
CALCULATION AGENT AND CONVERSION AGENT**

**RAND MERCHANT BANK,**

**A DIVISION OF FIRSTRAND BANK LIMITED**

(registration number: 1929/001225/06)

1 Merchant Place  
Cnr Fredman Drive and Rivonia Road  
Sandton  
2196  
South Africa  
Contact: D Wood

**TRUSTEE**

**TMF CORPORATE SERVICES (SOUTH AFRICA)  
PROPRIETARY LIMITED**

(registration number: 2006/013631/07)

3<sup>rd</sup> Floor, 200 on Main  
Cnr Main and Bowwood Roads  
Claremont  
South Africa  
Contact: S Schrueder

**TRANSFER AGENT**

**COMPUTERSHARE INVESTOR SERVICES (SOUTH  
AFRICA) PROPRIETARY LIMITED**

(registration number: 2004/003647/07)

Rosebank Towers  
15 Bierman Avenue  
Rosebank  
2196  
South Africa  
Contact: C Lourens

**AUDITORS TO THE ISSUER**

**PRICEWATERHOUSECOOPERS INC**

(registration number: 1998/012055/21)

2 Elgin Road  
Sunninghill  
2157  
South Africa  
Contact: D Shango

**LEGAL ADVISERS TO THE ISSUER**

**BOWMAN GILFILLAN INC.**

(registration number: 1998/021409/21)

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2196  
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P O Box 785812  
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