

**CERTIFICATE IN DEFINITIVE REGISTERED FORM REPRESENTING NAMIBIAN
DEPOSITARY RECEIPTS**

THIS NAMIBIAN DEPOSITARY RECEIPT AND THE COMMON SHARES OF B2GOLD CORP. REPRESENTED HEREBY (THE "SHARES") HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR WITH ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES AND, PRIOR TO THE EXPIRATION OF A DISTRIBUTION COMPLIANCE PERIOD (DEFINED AS THE PERIOD ENDING 40 DAYS AFTER THE LATEST OF THE COMMENCEMENT OF ANY NDR OFFERING AND THE ORIGINAL ISSUE DATE OF THE NDRs) MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT.

UPON THE EXPIRATION OF THE DISTRIBUTION COMPLIANCE PERIOD, THE NAMIBIAN DEPOSITARY RECEIPTS AND THE SHARES REPRESENTED THEREBY SHALL NO LONGER BE SUBJECT TO THE RESTRICTIONS ON TRANSFER PROVIDED IN THIS LEGEND IF, AT THE TIME OF SUCH EXPIRATION, THE OFFER AND SALE OF THE NAMIBIAN DEPOSITARY RECEIPTS AND THE SHARES REPRESENTED THEREBY BY THE HOLDER IN THE UNITED STATES WOULD NOT BE RESTRICTED UNDER THE SECURITIES LAWS OF THE UNITED STATES OR ANY STATE OF THE UNITED STATES. NAMIBIA'S SYSTEM OF SECURITY REGISTRATION AND CUSTODY CREATES CERTAIN RISKS OF LOSS THAT ARE NOT NORMALLY ASSOCIATED WITH INVESTMENTS IN CANADA, THE UNITED STATES OR EUROPE. IN NO CIRCUMSTANCES SHALL THE DEPOSITARY HAVE ANY LIABILITY FOR ANY ACT OR OMISSION OF ANY SECURITIES DEPOSITORY, CLEARING AGENCY OR SETTLEMENT SYSTEM OR OF ANY ENTITY FULFILLING THE CUSTOMARY FUNCTIONS OF A TRANSFER AGENT, REGISTRAR, CALCULATION AGENT, PAYING AGENT, MAILING AGENT OR SIMILAR SECURITIES SERVICING INSTITUTION (WHETHER OR NOT SUCH ENTITY IS OR IS DEEMED TO BE THE AGENT OF THE DEPOSITARY) IN CONNECTION WITH OR ARISING OUT OF BOOK-ENTRY SETTLEMENT OF DEPOSITED SHARES OR NDRS OR OTHERWISE.

ISIN No: NA00A1J0EL5

B2GOLD CORP

(Incorporated as a limited company under the laws of British Columbia)

NAMIBIAN DEPOSITARY RECEIPT CERTIFICATE

representing Namibian Depositary Receipts ("**NDRs**") each of which initially represents
one registered common share in the share capital of B2Gold Corp. (the "**Shares**")

THIS IS TO CERTIFY (1) that pursuant to a Deposit Agreement dated 31 August 2012 (the "**Deposit Agreement**") between B2Gold Corp. (the "**Company**") and The Bank of New York Mellon (the "**Depositary**") there have been deposited with the Depositary, or with a custodian (the "**Custodian**") duly appointed by the Depositary, certificates which name the Depositary or its nominee or the Custodian or its nominee as holder in respect of the Shares and (2) that the registered holder whose name and address appears above (the "**Holder**") is, at the date hereof, entered in the NDR Register maintained by the Depositary as holder of the number of NDRs listed above and is entitled, upon compliance with the Conditions endorsed hereon (the "**Conditions**") and

the terms of the Deposit Agreement, to the benefit of the Conditions and at the option of the Holder (a) to have the Depositary deliver at the office of the Custodian in New York City to a person specified by the Holder hereof (i) a certificate or certificates for such number of Shares represented hereby and (ii) any other Deposited Property, or (b) to have such certificate or certificates and any other Deposited Property forwarded at the risk and expense of the Holder, for delivery at the specified office of the Depositary or of an agent appointed by the Depositary pursuant to the Conditions, in each case located in Canada or such other place as is permitted under applicable law from time to time. The words "**Deposited Property**" shall mean such number of Shares represented hereby and all and any rights, interests and other securities, property and cash for the time being held by the Custodian or the Depositary or their respective agents and attributable to such number of Shares pursuant to the Conditions and the terms of the Deposit Agreement, together with any right of the Depositary or the Custodian to receive such shares or any such rights, interests and securities, property and cash as aforesaid other than any right of the Depositary or the Custodian against any Pre-Release to receive any Shares or NDRs pursuant to the contract governing the Pre-Release.

Any increase or decrease in the number of Shares represented by each NDR from that initially notified to the Holder will promptly be notified to the Holder by the Depositary.

This Namibian Depositary Receipt certificate is evidence of entitlement only. Title to the NDRs passes only upon due registration in the NDR Register maintained by the Depositary and only the duly registered holder is entitled to payments and other rights in respect of the NDRs. Holders and owners of NDRs (as defined in the Deposit Agreement) are not parties to the Deposit Agreement and thus, under English law, have no contractual rights against, or obligations to, the Company under the Deposit Agreement. Notwithstanding the foregoing, the Company has entered into a Deed Poll dated on or about 31 August 2012 under which any Holder may enforce the relevant provisions of the Deposit Agreement as if it were a party to the Deposit Agreement and was the "Depositary" in respect of that number of Shares to which the NDRs of which he is a Holder relate if the Company fails to perform any obligation imposed upon it by the relevant provisions of the Deposit Agreement which is material to the interests of the Holders (as a class). The Depositary is under no duty to enforce any of the provisions

TERMS AND CONDITIONS OF THE NAMIBIAN DEPOSITARY RECEIPTS

The following terms and conditions (subject to completion and amendment and excepting sentences in italics) will apply to the Namibian Depositary Receipts, and will be endorsed on each Namibian Depositary Receipt certificate:

The Namibian Depositary Receipts ("**NDRs**") represented by this certificate are issued in respect of common shares (the "**Shares**") in B2Gold Corp. (the "**Company**") pursuant to and subject to an agreement dated 31 August 2012, and made between the Company and The Bank of New York Mellon in its capacity as depositary (the "**Depositary**") for the "**Facility**" (such agreement, as amended from time to time, being hereinafter referred to as the "**Deposit Agreement**"). Pursuant to the provisions of the Deposit Agreement, the Depositary has appointed The Bank of New York Mellon as Custodian (the "**Custodian**") to receive and hold on its behalf any relevant documentation respecting certain Shares in the Company (the "**Deposited Shares**") and all rights, interests and other securities, property and cash deposited with the Custodian which are attributable to the Deposited Shares (together with the Deposited Shares, the "**Deposited Property**"). The Depositary shall hold Deposited Property for the benefit of the Holders (as defined below) as bare trustee (other than any cash comprised in the Deposited Property which is held as banker pursuant to Condition 26) in proportion to their holdings of NDRs. In these terms and conditions (the "**Conditions**"), references to the "Depositary" are to The Bank of New York Mellon and/or any other depositary which may from time to time be appointed under the Deposit Agreement,

references to the "Custodian" are to The Bank of New York Mellon or any other custodian from time to time appointed under the Deposit Agreement and references to the "Main Office" mean, in relation to the relevant Custodian, its head office in New York City or such other location of the head office of the Custodian in the United States as may be designated by the Custodian with the approval of the Depositary (if outside New York City) or the head office of any other custodian from time to time appointed under the Deposit Agreement. The Depositary has further appointed Transfer Secretaries (Proprietary) Limited to act as its agent in Namibia. In these terms and conditions, references to the "Namibian Agent" are to Transfer Secretaries (Proprietary) Limited or any additional or successor Namibian Agent as may from time to time be appointed by the Depositary.

References in these Conditions to the "Holder" of any NDR shall mean the person or persons registered on the register of Holders maintained by the Namibian Agent in accordance with Namibian law on behalf of the Depositary (the "**NDR Register**") as holder. These Conditions include summaries of, and are subject to, the detailed provisions of the Deposit Agreement, which includes the forms of the certificates in respect of the NDRs. Copies of the Deposit Agreement are available for inspection at the specified office of the Depositary and each Agent (as defined in Condition 17) and at the Main Office of the Custodian. Terms used in these Conditions and not defined herein but which are defined in the Deposit Agreement have the meanings ascribed to them in the Deposit Agreement. **Holders of NDRs are not party to the Deposit Agreement and thus, under English Law, have no contractual rights against, or obligations to, the Company or Depositary. However, the Deed Poll executed by the Company in favour of the Holders provides that, if the Company fails to perform the obligations imposed on it by certain specified provisions of the Deposit Agreement (Clause 2.4 – *Payment of Stamp or similar duties or taxes*; Clause 7 – *Undertakings of the Company*; Clause 8.4 – *Obtaining governmental authorisations and consents*), any Holder may enforce the relevant provisions of the Deposit Agreement as if it were a party to the Deposit Agreement and was the "Depositary" in respect of that number of Deposited Shares to which the NDRs of which he is the Holder relate. The Depositary is under no duty to enforce any of the provisions of the Deposit Agreement on behalf of any Holder of an NDR or any other person.**

1. Withdrawal of Deposited Property and Further Issues of NDRs

1.1 Any Holder may request withdrawal of, and the Depositary shall thereupon relinquish, the Deposited Property attributable to any NDR upon production of such evidence of the entitlement of the Holder to the relative NDR as the Depositary may reasonably require, at the specified office of the Depositary or any Agent accompanied by:

- (a) a duly executed order (in a form approved by the Depositary) requesting the Depositary to cause the Deposited Property being withdrawn to be delivered at the Main Office of the Custodian, or (at the request, risk and expense of the Holder, and only if permitted by applicable law from time to time) at the specified office located in New York, London or Windhoek of the Depositary or any Agent, or to the order in writing of, the person or persons designated in such order;
- (b) the payment of such fees, taxes, duties, charges, costs, expenses and governmental charges as may be required under these Conditions or the Deposit Agreement;
- (c) the surrender of NDR certificates in definitive registered form properly endorsed in blank or accompanied by proper instruments of transfer satisfactory to the Depositary to which the Deposited Property being withdrawn is attributable; and

(d) the delivery to the Depository of a duly executed and completed certificate substantially in the form set out in Schedule 2, Part B to the Deposit Agreement (or as amended by the Depository in accordance with Clause 3.10 of the Deposit Agreement and Condition 1.8), if Deposited Property is to be withdrawn or delivered during the Distribution Compliance Period (such term being defined as the 40 day period beginning on the latest of the commencement of any offering and the original issue date of the NDRs) in respect of surrendered NDRs.

1.2 Upon production of such documentation and the making of such payment as aforesaid for withdrawal of the Deposited Property in accordance with Condition 1.1, the Depository will direct the Custodian, by secure message file transfer, secure and encrypted email, facsimile or SWIFT message, within a reasonable time after receiving such direction from such Holder, to deliver at its Main Office to, or to the order in writing of, the person or persons designated in the accompanying order:

(a) a certificate (if any) for, or other appropriate instrument of title (if any) to or evidence of a book- entry transfer in respect of the relevant Deposited Shares, registered in the name of the Depository or its nominee and accompanied by such instruments of transfer in blank or to the person or persons specified in the order for withdrawal and such other documents, if any, as are required by law for the transfer thereof; and

(b) all other property forming part of the Deposited Property attributable to such NDR, accompanied, if required by law, by one or more duly executed endorsements or instruments of transfer in respect thereof; **provided however that** the Depository may make delivery at its specified office in New York of any Deposited Property which is in the form of cash;

PROVIDED THAT the Depository (at the request, risk and expense of any Holder so surrendering an NDR):

(i) will direct the Custodian to deliver the certificates for, or other instruments of title to, or book-entry transfer in respect of, the relevant Deposited Shares and any document relative thereto and any other documents referred to in sub-paragraphs 1.2(a) and (b) of this Condition (together with any other property forming part of the Deposited Property which may be held by the Custodian or its agent and is attributable to such Deposited Shares); and/or

(ii) will deliver any other property forming part of the Deposited Property which may be held by the Depository and is attributable to such NDR (accompanied, if required by law, by one or more duly executed endorsements or instruments of transfer in respect thereof);

in each case to the specified office located in New York or London of the Depository (if permitted by applicable law from time to time) or at the specified office in Toronto of any Agent as designated by the surrendering Holder in the order accompanying such NDR.

1.3 Delivery by the Depository, any Agent and the Custodian of all certificates, instruments, dividends or other property forming part of the Deposited Property as specified in this Condition will be made subject to any laws or regulations applicable thereto.

1.4 The Depository may, in accordance with the terms of the Deposit Agreement and upon delivery of a duly executed order (in a form reasonably approved by the Depository) and a duly executed certificate substantially in the form of Schedule 2, Part A of the Deposit Agreement (*which is described in the following paragraph*) (or as amended by the Depository in accordance with Clause 3.10 of the Deposit Agreement and Condition 1.8), by or on behalf of any investor who is to become the beneficial owner of the NDRs from time to time execute and

deliver further NDRs having the same terms and conditions as the NDRs which are then outstanding in all respects (or the same in all respects except for the first dividend payment on the Shares represented by such further NDRs) and, subject to the terms of the Deposit Agreement, the Depositary shall accept for deposit any further Shares in connection therewith, so that such further NDRs shall form a single series with the already outstanding NDRs. References in these Conditions to the NDRs include (unless the context requires otherwise) any further NDRs issued pursuant to this Condition and forming a single series with the already outstanding NDRs.

The certificate to be provided in the form of Schedule 2, Part A, of the Deposit Agreement certifies, among other things, that the person providing such certificate is not a U.S. person (as defined in Regulation S under the US Securities Act of 1933, as amended (the "Securities Act")), is located outside the United States and will comply with the restrictions on transfer set forth on any certificate representing NDRs.

- 1.5 Any further NDRs issued pursuant to Condition 1.4 which (i) represent Shares which have rights (whether dividend rights or otherwise) which are different from the rights attaching to the Shares represented by the outstanding NDRs, or (ii) are otherwise not fungible (or are to be treated as not fungible) with the outstanding NDRs, will be represented by a separate NDR certificate in definitive registered form or a temporary NDR which is, in either case, not fungible with the outstanding NDRs. Upon the Company notifying the Depositary that the underlying Shares have become fungible with the Shares previously deposited in the Facility, such further NDRs shall be evidenced by the certificates in definitive form which are fungible with the originally issued NDRs.
- 1.6 The Depositary may issue NDRs against rights to receive Shares from the Company (or any agent of the Company recording Share ownership). No such issue of NDRs will be deemed a "Pre-Release" as defined in Condition 1.7.
- 1.7 Unless requested in writing by the Company to cease doing so, and notwithstanding the provisions of Condition 1.4, the Depositary may execute and deliver NDRs prior to the receipt of Shares (a "**Pre-Release**"). The Depositary may, pursuant to Condition 1.1, deliver Shares upon the receipt and cancellation of NDRs, which have been Pre-Released, whether or not such cancellation is prior to the termination of such Pre-Release or the Depositary knows that such NDR has been Pre-Released. The Depositary may receive NDRs in lieu of Shares in satisfaction of a Pre-Release. Each Pre-Release will be (a) preceded or accompanied by a written representation and agreement from the person to whom NDRs or Deposited Property are to be delivered (the "**Pre-Release**") that such person, or its customer, (i) owns or represents the owner of the corresponding Deposited Property or NDRs to be remitted (as the case may be), (ii) assigns all beneficial right, title and interest in such Deposited Property or NDRs (as the case may be) to the Depositary in its capacity as such and for the benefit of the Holders, and (iii) will not take any action with respect to such NDRs or Deposited Property (as the case may be) that is inconsistent with the transfer of beneficial ownership (including without the consent of the Depositary, disposing of such NDRs or Deposited Property, as the case may be), other than in satisfaction of such Pre-Release, (b) at all times fully collateralised with cash or such other collateral as the Depositary determines in good faith will provide substantially similar liquidity and security, (c) terminable by the Depositary on not more than five (5) business days' notice, and (d) subject to such further indemnities and credit regulations as the Depositary deems appropriate. The number of NDRs which are outstanding at any time as a result of Pre-Release will not normally represent more than thirty per cent. Of the total number of NDRs

then outstanding; **provided, however, that** the Depositary reserves the right to change or disregard such limit from time to time as it deems appropriate and may, with the prior written consent of the Company, change such limit for the purpose of general application. The Depositary will also set dollar limits with respect to Pre-Release transactions hereunder with any particular Pre-Release on a case by case basis as the Depositary deems appropriate. The collateral referred to in sub-paragraph (b) above shall be held by the Depositary as security for the performance of the Pre-Release's obligations in connection herewith, including the Pre-Release's obligation to deliver Shares and/or other securities or NDRs upon termination of a Pre-Release transaction anticipated hereunder (and shall not, for the avoidance of doubt, constitute Deposited Property hereunder).

The Depositary may retain for its own account any compensation received by it in connection with the foregoing including, without limitation, earnings on the collateral.

The person to whom any Pre-Release of NDRs or Shares is to be made pursuant to this Condition 1.7 shall be required to deliver to the Depositary a duly executed and completed certificate substantially in the form set out in Schedule 2 Part A of the Deposit Agreement (or as amended by the Depositary in accordance with Clause 3.10 of the Deposit Agreement and Condition 1.8).

- 1.8 The Depositary may make such amendments to the certificates contained in the Deposit Agreement in Schedule 2 Part A and Part B as it may determine are required in order for the Depositary to perform its duties under the Deposit Agreement, or to comply with any applicable law or with the rules and regulations of any securities exchange, market or automated quotation system upon which the NDRs may be listed or traded, or to comply with the rules or requirements of any book entry system by which the NDRs may be transferred, or to confirm compliance with any special limitations or restrictions to which any particular NDRs are subject.
- 1.9 The Depositary or the Namibian Agent may from time to time request each Holder of NDRs to, and each Holder shall upon receipt of such request, provide to the Depositary or the Namibian Agent information relating to: (a) the capacity in which such Holder and/or any owner holds NDRs; (b) the identity of any owners of NDRs; and (c) any other matter where disclosure of such matter is required to enable compliance by the Depositary or the Namibian Agent with applicable laws or the constitutional documents of the Company.
- 1.10 The Depositary may from time to time request the Namibian Agent to provide the Depositary with details of owners of NDRs and the number of NDRs of which each such owner is the owner, and each Holder or owner of NDRs, or intermediary acting on behalf of such Holder or owner, hereby authorises the Namibian Agent to disclose such information to the Depositary as issuer of the NDRs.

2. Suspension of Issue of NDRs and of Withdrawal of Deposited Property

The Depositary shall be entitled, at its reasonable discretion, at such times as it shall determine, to suspend the issue or transfer of NDRs (and the deposit of Shares) generally or in respect of particular Shares. In particular, to the extent that it is in its opinion practicable for it to do so, the Depositary will refuse to accept Shares for deposit, to execute and deliver NDRs or to register transfers of NDRs if it has been notified by the Company in writing that the Deposited Shares or NDRs or any depositary receipts representing Shares are listed on a U.S. Securities Exchange or quoted on a U.S. automated inter dealer quotation system. Further, the Depositary may suspend the withdrawal of Deposited Property during any period when the NDR Register, or the register of shareholders of the Company is closed or, generally or in one or more

localities, suspend the withdrawal of Deposited Property or deposit of Shares if deemed necessary or desirable or advisable by the Depositary in good faith at any time or from time to time, in order to comply with any applicable law or governmental or stock exchange regulations or any provision of the Deposit Agreement or for any other reason. The Depositary shall (unless otherwise notified by the Company) restrict the withdrawal of Deposited Shares where the Company notifies the Depositary in writing that such withdrawal would result in ownership of Shares exceeding any limit under any applicable law, government resolution or the Company's constitutive documents or would otherwise violate any applicable laws.

3. **Transfer and Ownership**

The NDRs are in registered form. Title to the NDRs passes by registration in the NDR Register and accordingly, transfer of title to an NDR is effective only upon such registration. The Depositary will refuse to accept for transfer any NDRs if it reasonably believes that such transfer would result in violation of any applicable laws. The Holder of any NDR will (except as otherwise required by law) be treated by the Depositary and the Company as its beneficial owner for all purposes (whether or not any payment or other distribution in respect of such NDR is overdue and regardless of any notice of ownership, trust or any interest in it or any writing on, or theft or loss of any certificate issued in respect of it) and no person will be liable for so treating the Holder.

4. **Cash Distributions**

Whenever the Depositary shall receive from the Company any cash dividend or other cash distribution on or in respect of the Deposited Shares (including any amounts received in the liquidation of the Company) or otherwise in connection with the Deposited Property, the Depositary shall, as soon as practicable, convert the same into Namibian dollars in accordance with Condition 8. The Depositary shall, if practicable in the opinion of the Depositary, give notice to the Holders of its receipt of such payment in accordance with Condition 23, specifying the amount per Deposited Share payable in respect of such dividend or distribution and the earliest date, determined by the Depositary, for transmission of such payment to Holders and shall as soon as practicable distribute any such amounts to the Holders in proportion to the number of Deposited Shares represented by the NDRs so held by them respectively, subject to and in accordance with the provisions of Conditions 9 and 11;

PROVIDED THAT:

- (a) in the event that the Depositary is aware that any Deposited Shares are not entitled, by reason of the date of issue or transfer or otherwise, to such full proportionate amount, the amount so distributed to the relative Holders shall be adjusted accordingly; and
- (b) the Depositary will distribute only such amounts of cash dividends and other distributions as may be distributed without attributing to any NDR a fraction of the lowest integral unit of currency in which the distribution is made by the Depositary, and any balance remaining shall be retained by the Depositary beneficially as an additional fee under Condition 16.1(c).

5. **Distributions of Shares**

Whenever the Depositary shall receive from the Company any distribution in respect of Deposited Shares which consists of a dividend or free distribution of Shares, the Depositary shall cause to be distributed to the Holders entitled thereto, in proportion to the number of Deposited Shares represented by the NDRs held by them respectively, additional NDRs representing an aggregate number of Shares received pursuant to such distribution. Such additional NDRs shall be distributed by an issue of certificates in definitive registered form in

respect of NDRs; **PROVIDED THAT**, if and in so far as the Depositary deems any such distribution to all or any Holders not to be reasonably practicable (including, without limitation, due to the fractions which would otherwise result or to any requirement that the Company, the Custodian or the Depositary withhold an amount on account of taxes or other governmental charges) or to be unlawful, the Depositary shall (either by public or private sale and otherwise at its discretion, subject to all applicable laws and regulations) sell such Shares so received and distribute the net proceeds of such sale as a cash distribution pursuant to Condition 4 to the Holders entitled thereto.

6. Distributions other than in Cash or Shares

Whenever the Depositary shall receive from the Company any dividend or distribution in securities (other than Shares) or in other property (other than cash) on or in respect of the Deposited Property, the Depositary shall distribute or cause to be distributed such securities or other property to the Holders entitled thereto, in proportion to the number of Deposited Shares represented by the NDRs held by them respectively, in any manner that the Depositary may deem equitable and practicable for effecting such distribution; **PROVIDED THAT**, if and in so far as the Depositary deems any such distribution to all or any Holders not to be reasonably practicable (including, without limitation, due to the fractions which would otherwise result or to any requirement that the Company, the Custodian or the Depositary withhold an amount on account of taxes or other governmental charges) or to be unlawful, the Depositary shall deal with the securities or property so received, or any part thereof, in such way as the Depositary may determine to be equitable and practicable, including, without limitation, by way of sale (either by public or private sale and otherwise at its discretion, subject to all applicable laws and regulations) and shall (in the case of a sale) distribute the resulting net proceeds as a cash distribution pursuant to Condition 4 to the Holders entitled thereto.

7. Rights Issues

If and whenever the Company announces its intention to make any offer or invitation to the holders of Shares to subscribe for or to acquire Shares, securities or other assets by way of rights, the Depositary shall as soon as practicable give (or cause to be given) notice to the Holders, in accordance with Condition 23 and applicable Namibian law and stock exchange rules, of such offer or invitation, specifying, if applicable, the earliest date established for acceptance thereof, the last date established for acceptance thereof and the manner by which and time during which Holders may request the Depositary to exercise such rights as provided below or, if such be the case, specifying details of how the Depositary proposes to distribute the rights or the proceeds of any sale thereof. The Depositary will deal with such rights in the manner described below:

- (a) if and to the extent that the Depositary shall, at its discretion, deem it to be lawful and reasonably practicable, the Depositary shall make arrangements whereby the Holders may, upon payment of the subscription price in Canadian dollars or other relevant currency together with such fees, taxes, duties, charges, costs and expenses as may be required under the Deposit Agreement and completion of such undertakings, declarations, certifications and other documents as the Depositary may reasonably require, request the Depositary to exercise such rights on their behalf with respect to the Deposited Shares and to distribute the Shares, securities or other assets so subscribed or acquired to the Holders entitled thereto by an issue of certificates in definitive registered form in respect of NDRs, according to the manner in which the Holders hold their NDRs; or

- (b) if and to the extent that the Depositary shall at its discretion, deem it to be lawful and reasonably practicable, the Depositary will distribute such rights to the Holders entitled thereto in such manner as the Depositary may at its discretion determine; or
- (c) if and to the extent that the Depositary deems any such arrangement and distribution as is referred to in paragraphs (a) and (b) above to all or any Holders not to be lawful and reasonably practicable (including, without limitation, due to the fractions which would otherwise result or to any requirement that the Company, the Namibian Agent, the Custodian or the Depositary withhold an amount on account of taxes or other governmental charges) or to be unlawful, the Depositary (i) will, **PROVIDED THAT** Holders have not taken up rights through the Depositary as provided in (a) above, sell such rights (either by public or private sale and otherwise at its discretion subject to all applicable laws and regulations) or (ii) may, if such rights are not transferable, in its discretion, arrange for such rights to be exercised and the resulting Shares or securities sold and, in each case, distribute the net proceeds of such sale as a cash distribution pursuant to Condition 4 to the Holders entitled thereto.
- (d) (i) Notwithstanding the foregoing, in the event that the Depositary offers rights pursuant to Condition 7(a) (the "**Primary NDR Rights Offering**"), if authorised by the Company to do so, the Depositary may, in its discretion, make arrangements whereby in addition to instructions given by a Holder to the Depositary to exercise rights on its behalf pursuant to Condition 7(a), such Holder is permitted to instruct the Depositary to subscribe on its behalf for additional rights which are not attributable to the Deposited Shares represented by such Holder's NDRs ("**Additional NDR Rights**") if at the date and time specified by the Depositary for the conclusion of the Primary NDR Rights Offering (the "**Instruction Date**") instructions to exercise rights have not been received by the Depositary from the Holders in respect of all their initial entitlements. Any Holder's instructions to subscribe for such Additional NDR Rights ("**Additional NDR Rights Requests**") shall specify the maximum number of Additional NDR Rights that such Holder is prepared to accept (the "**Maximum Additional Subscription**") and must be received by the Depositary by the Instruction Date. If by the Instruction Date any rights offered in the Primary NDR Rights Offering have not been subscribed by the Holders initially entitled thereto ("**Unsubscribed Rights**"), subject to Condition 7(d)(ii) and receipt of the relevant subscription price in Canadian dollars or other relevant currency, together with such fees, taxes, duties, charges, costs and expenses as it may deem necessary, the Depositary shall make arrangements for the allocation and distribution of Additional NDR Rights in accordance with Condition 7(d)(iii).
- (ii) Holders submitting Additional NDR Rights Requests shall be bound to accept the Maximum Additional Subscription specified in such Additional NDR Rights Request but the Depositary shall not be bound to arrange for a Holder to receive the Maximum Additional Subscription so specified but may make arrangements whereby the Unsubscribed Rights are allocated *pro rata* on the basis of the extent of the Maximum Additional Subscription specified in each Holder's Additional NDR Rights Request.
- (iii) In order to proceed in the manner contemplated in this Condition 7(d), the Depositary shall be entitled to receive such opinions from Namibian counsel, Canadian counsel and US counsel as in its discretion it deems necessary which opinions shall be in a form and provided by counsel satisfactory to the Depositary and at the expense of the Company and may be requested in addition to any other opinions and/or

certifications which the Depositary shall be entitled to receive under the Deposit Agreement and these Conditions. For the avoidance of doubt, save as provided in these Conditions and the Deposit Agreement, the Depositary shall have no liability to the Company or any Holder in respect of its actions or omissions to act under this Condition 7(d) and, in particular, the Depositary will not be regarded as being negligent, acting in bad faith, or in wilful default if it elects not to make the arrangements referred to in Condition 7(d)(i).

The Company has agreed in the Deposit Agreement that it will, unless prohibited by applicable law or regulation, give its consent to, and if requested use all reasonable endeavours (subject to the next paragraph) to facilitate, any such distribution, sale or subscription by the Depositary or the Holders, as the case may be, pursuant to Conditions 4, 5, 6, 7 or 10 (including the obtaining of legal opinions from counsel reasonably satisfactory to the Depositary concerning such matters as the Depositary may reasonably specify).

If the Company notifies the Depositary that registration is required in any jurisdiction under any applicable law of the rights, securities or other property to be distributed under Conditions 4, 5, 6, 7 or 10 or the securities to which such rights relate in order for the Company to offer such rights or distribute such securities or other property to the Holders or owners of NDRs and to sell the securities corresponding to such rights, the Depositary will not offer such rights or distribute such securities or other property to the Holders or sell such securities unless and until the Company procures the receipt by the Depositary of an opinion from counsel reasonably satisfactory to the Depositary that a registration statement is in effect or that the offering and sale of such rights or securities to such Holders or owners of NDRs are exempt from registration under the provisions of such law. Neither the Company nor the Depositary shall be liable to register such rights, securities or other property or the securities to which such rights relate and they shall not be liable for any losses, damages or expenses resulting from any failure to do so.

If at the time of the offering of any rights, at its discretion, the Depositary shall be satisfied that it is not lawful or practicable (for reasons outside its control) to dispose of the rights in any manner provided in paragraphs (a), (b), (c) or (d) above, the Depositary shall permit the rights to lapse. The Depositary will not be responsible for any failure to determine that it may be lawful or feasible to make such rights available to Holders or owners of NDRs in general or to any Holder or owner of an NDR or Holders or owners of NDRs in particular.

8. Conversion of Foreign Currency

Whenever the Depositary shall receive any currency other than Namibian dollars by way of dividend or other distribution or as the net proceeds from the sale of securities, other property or rights, and if at the time of the receipt thereof the currency so received can in the judgement of the Depositary be converted on a reasonable basis into Namibian dollars and distributed to the Holders entitled thereto, the Depositary shall as soon as practicable convert or cause to be converted, by sale or in any other manner that it may reasonably determine, the currency so received into Namibian dollars. If such conversion or distribution can be effected only with the approval or licence of any government or agency thereof, the Depositary may make reasonable efforts to apply, or procure that an application be made, for such approval or licence, if any, as it may deem desirable. If at any time the Depositary shall determine that in its judgement any currency other than Namibian dollars is not convertible on a reasonable basis into Namibian dollars and distributable to the Holders entitled thereto, or if any approval or licence of any government or agency thereof which is required for such conversion is denied or, in the opinion

of the Depositary, is not obtainable, or if any such approval or licence is not obtained within a reasonable period as determined by the Depositary, the Depositary may distribute such other currency received by it (or an appropriate document evidencing the right to receive such other currency) to the Holders entitled thereto to the extent permitted under applicable law, or the Depositary may in its discretion hold such other currency without liability for interest for the benefit of the Holders entitled thereto. If any conversion of any such currency can be effected in whole or in part for distribution to some (but not all) Holders entitled thereto, the Depositary may at its discretion make such conversion and distribution in Namibian dollars to the extent possible to the Holders entitled thereto and may distribute the balance of such other currency received by the Depositary to, or hold such balance for the account of, the Holders entitled thereto, and notify the Holders accordingly.

9. Distribution of any Payments

9.1 Any distribution of cash under Conditions 4, 5, 6, 7 or 10 will be made by the Depositary to Holders on the record date established by the Depositary for that purpose (such date to be as close to the record date set by the Company as is reasonably practicable) and, if practicable in the opinion of the Depositary, notice shall be given promptly to Holders in accordance with Condition 23, in each case subject to any laws or regulations applicable thereto and (subject to the provisions of Condition 8) distributions will be made in Namibian dollars by cheque drawn upon a bank in Windhoek (or, where relevant, by electronic bank transfer to the account details specified by Holders to the Namibian Agent and notified by the Namibian Agent to the Depositary). The Depositary or the Agent, as the case may be, may deduct and retain from all moneys due in respect of such NDR in accordance with the Deposit Agreement all fees, taxes, duties, charges, costs and expenses which may become or have become payable under the Deposit Agreement or under applicable law or regulation in respect of such NDR or the relative Deposited Property.

9.2 Delivery of any securities or other property or rights other than cash shall be made as soon as practicable to the Holders on the record date established by the Depositary for that purpose (such date to be as close to the record date set by the Company as is reasonably practicable), subject to any laws or regulations applicable thereto. If any distribution made by the Company with respect to the Deposited Property and received by the Depositary shall remain unclaimed at the end of three years from the first date upon which such distribution is made available to Holders in accordance with the Deposit Agreement, all rights of the Holders to such distribution or the proceeds of the sale thereof shall be extinguished and the Depositary shall (except for any distribution upon the liquidation of the Company when the Depositary shall retain the same) return the same to the Company for its own use and benefit subject, in all cases, to the provisions of applicable law or regulation.

10. Capital Reorganisation

Upon any sub-division, consolidation or other reclassification of Deposited Shares or any other part of the Deposited Property or upon any reduction of capital, or upon any reorganisation, merger or consolidation of the Company or to which it is a party (except where the Company is the continuing corporation), the Depositary shall as soon as practicable give notice of such event to the Holders and at its discretion may treat such event as a distribution and comply with the relevant provisions of Conditions 4, 5, 6 and 9 with respect thereto, or may execute and deliver additional NDRs in respect of Shares or may require the exchange of existing NDRs for new NDRs which reflect the effect of such change.

11. Withholding Taxes and Applicable Laws

11.1 Payments to Holders of dividends or other distributions on or in respect of the Deposited Shares will be subject to deduction of Canadian, Namibian and other withholding taxes, if any, at the applicable rates.

11.2 If any governmental or administrative authorisation, consent, registration or permit or any report to any governmental or administrative authority is required under any applicable law in Canada or Namibia in order for the Depositary to receive from the Company Shares or other securities to be deposited under these Conditions, or in order for Shares, other securities or other property to be distributed under Condition 4, 5, 6 or 10 or to be subscribed under Condition 7 or to offer any rights or sell any securities represented by such rights relevant to any Deposited Shares, the Company has agreed to apply for such authorisation, consent, registration or permit or file such report on behalf of the Holders within the time required under such laws. In this connection, the Company has undertaken in the Deposit Agreement to the extent reasonably practicable to take such action as may be required in obtaining or filing the same. The Depositary shall not be obliged to distribute NDRs representing such Shares, Shares, other securities or other property deposited under these Conditions or make any offer of any such rights or sell any securities corresponding to any such rights with respect to which (as notified to the Depositary by the Company) such authorisation, consent, registration or permit or such report has not been obtained or filed, as the case may be, and shall have no duties to obtain any such authorisation, consent, registration or permit, or to file any such report.

12. Voting Rights

12.1 Holders will have voting rights with respect to the Deposited Shares. The Company has agreed to notify the Depositary of any resolution to be proposed at a General Meeting of the Company and the Depositary will vote or cause to be voted the Deposited Shares in the manner set out in this Condition 12.

The Company has agreed with the Depositary that it will procure that notices of meetings of the shareholders of the Company and the agenda therefor will be distributed (such distribution to be simultaneous with distribution to shareholders of such materials) to any person who is a Holder on the record date established by the Company for the purposes of the relevant meeting along with voting instructions and voting cards, as agreed with the Depositary, by which each Holder may give instructions to the Depositary to vote for or against each and any resolution specified in the agenda for the meeting. The Company has further agreed with the Depositary that it will promptly provide copies of such materials to the Depositary and the Namibian Agent, for their information only. The Company also agrees to the extent applicable to provide the Depositary upon its request with appropriate proxy forms to enable the Depositary to appoint a representative to attend the relevant meeting and vote on behalf of the Depositary.

12.2 In order for each voting instruction to be valid, the voting instructions form must be completed and returned to the Depositary by the respective Holder in accordance with the voting instructions and by such record date as the Depositary may specify.

12.3 The Depositary will exercise or cause to be exercised the voting rights in respect of the Deposited Shares so that a portion of the Deposited Shares will be voted for and a portion of the Deposited Shares will be voted against any resolution specified in the agenda for the relevant meeting in accordance with the voting instructions it has received.

12.4 If the Depositary is advised in the opinion referred to in Condition 12.7 below that it is not permitted by the laws of British Columbia (including Canadian federal laws applicable therein) to exercise the voting rights in respect of the Deposited Shares differently (so that a portion of

the Deposited Shares may be voted for a resolution and a portion of the Deposited Shares may be voted against a resolution) the Depositary shall, if the opinion referred to in Condition 12.7 below confirms it to be permissible under the laws of British Columbia (including Canadian federal laws applicable therein) calculate from the voting instructions that it has received from all Holders (x) the aggregate number of votes in favour of a particular resolution and (y) the aggregate number of votes opposed to such resolution and cast or cause to be cast in favour of or opposed to such resolution the number of votes representing the net positive difference between such aggregate number of votes in favour of such resolution and such aggregate number of votes opposed to such resolution.

- 12.5 The Depositary will only endeavour to vote or cause to be voted the votes attaching to Shares in respect of which voting instructions have been received, except that if no voting instructions are received by the Depositary (either because no voting instructions are returned to the Depositary or because the voting instructions are incomplete, illegible or unclear) from a Holder with respect to any or all of the Deposited Shares represented by such Holder's NDRs on or before the record date specified by the Depositary, such Holder shall be deemed to have instructed the Depositary to give a discretionary proxy to a person designated by the Company with respect to such Deposited Shares, and the Depositary shall give a discretionary proxy to a person designated by the Company to vote such Deposited Shares, **PROVIDED THAT** no such instruction shall be deemed given, and no such discretionary proxy shall be given, with respect to any matter as to which the Company informs the Depositary (and the Company has agreed to provide such information in writing as soon as practicable) that (i) the Company does not wish such proxy to be given, or (ii) such matter materially and adversely affects the rights of holders of Shares.
- 12.6 If the Depositary is advised in the opinion referred to in Condition 12.7 below that it is not permissible under the laws of British Columbia (including Canadian federal laws applicable therein) or the Depositary determines that it is not reasonably practicable to vote or cause to be voted such Deposited Shares in accordance with Conditions 12.3, 12.4 or 12.5 the Depositary shall not vote or cause to be voted such Deposited Shares.
- 12.7 Where the Depositary is to vote in respect of each and any resolution in the manner described in Conditions 12.3, 12.4 or 12.5 above the Depositary may attend, appoint a person to attend on its behalf, or otherwise submit to the Company or its agents the voting results to vote the Deposited Shares in the manner required by this Condition. The Depositary is entitled to request the Company to provide to the Depositary, and where such request has been made shall not be required to take any action required by this Condition 12 unless it shall have received, an opinion from the Company's legal counsel (such counsel being reasonably acceptable to the Depositary) at the expense of the Company to the effect that such voting arrangement is valid and binding on Holders under the laws of British Columbia (including Canadian federal laws applicable therein) and the statutes of the Company and that the Depositary is permitted to exercise votes in accordance with the provisions of this Condition 12 but that in doing so the Depositary will not be deemed to be exercising voting discretion.
- 12.8 By continuing to hold NDRs, all Holders shall be deemed to have agreed to the provisions of this Condition as it may be amended from time to time in order to comply with applicable the laws of British Columbia (including Canadian federal laws applicable therein).
- 12.9 The Depositary shall not, and the Depositary shall ensure that the Custodian and its nominees do not, vote or attempt to exercise the right to vote that attaches to the Deposited Shares, other than in accordance with instructions given, or deemed given, in accordance with this Condition.

13. Recovery of Taxes, Duties and Other Charges, and Fees and Expenses due to the Depositary

None of the Depositary, the Namibian Agent, the Custodian or any other Agent shall be liable for any taxes, duties, charges, costs or expenses which may become payable in respect of the Deposited Shares or other Deposited Property or the NDRs, whether under any present or future fiscal or other laws or regulations, and such part thereof as is proportionate or referable to an NDR (the "**Charges**") shall be payable by the Holder thereof to the Depositary at any time on request or may be deducted from any amount due or becoming due on such NDR in respect of any dividend or other distribution. The Depositary may sell (whether by way of public or private sale and otherwise at its discretion, subject to all applicable laws and regulations) for the account of the Holder an appropriate number of Deposited Shares or amount of other Deposited Property and will discharge out of the proceeds of such sale any Charges, and any fees or expenses due to the Depositary from the Holder pursuant to Condition 16, and subsequently pay any surplus to the Holder. Any request by the Depositary for the payment of Charges shall be made by giving notice pursuant to Condition 23.

14. Liability

14.1 In acting hereunder the Depositary shall have only those duties, obligations and responsibilities expressly specified in the Deposit Agreement and these Conditions and, other than holding the Deposited Property for the benefit of Holders as bare trustee, does not assume any relationship of trust for or with the Holders or owners of NDRs or any other person.

14.2 Neither the Depositary, the Namibian Agent, the Custodian, the Company, any other Agent, nor any of their agents, officers, directors or employees shall incur any liability to any other of them or to any Holder or owner of an NDR or any other person with an interest in any NDRs if, by reason of any provision of any present or future law or regulation of Canada, Namibia or any other country or of any relevant governmental authority, or by reason of the interpretation or application of any such present or future law or regulation or any change therein, or by reason of any other circumstances beyond their control, or in the case of the Depositary, the Namibian Agent, the Custodian, any other Agent, or any of their agents, officers, directors or employees, by reason of any provision, present or future, of the constitutive documents of the Company, any of them shall be prevented, delayed or forbidden from doing or performing any act or thing which the terms of the Deposit Agreement or these Conditions provide shall or may be done or performed; nor shall any of them incur any liability to any Holder or owner of NDRs or any other person with an interest in any NDRs by reason of any exercise of, or failure to exercise, any voting rights attached to the Deposited Shares or any of them or any other discretion or power provided for in the Deposit Agreement. Any such party may rely on, and shall be protected in acting upon, any written notice, request, direction or other document believed by it to be genuine and to have been duly signed or presented (including a translation which is made by a translator believed by it to be competent or which appears to be authentic).

14.3 Neither the Depositary, the Namibian Agent nor any other Agent shall be liable (except for its own wilful default, negligence or bad faith or that of its agents, officers, directors or employees) to the Company or any Holder or owner of NDRs or any other person, by reason of having accepted as valid or not having rejected any certificate for Shares or NDRs or any signature on any transfer or instruction purporting to be such and subsequently found to be forged or not authentic or for its failure to perform any obligations under the Deposit Agreement or these Conditions.

- 14.4 The Depositary, the Namibian Agent and their agents may engage or be interested in any financial or other business transactions with the Company or any of its subsidiaries or affiliates, or in relation to the Deposited Property (including without prejudice to the generality of the foregoing, the conversion of any part of the Deposited Property from one currency to another), may at any time hold or be interested in NDRs for their own account, and each of them shall be entitled to charge and be paid all usual fees, commissions and other charges for business transacted and acts done by it as a bank, and not in the capacity of Depositary or Namibian Agent (as the case may be), in relation to matters arising under the Deposit Agreement (including, without prejudice to the generality of the foregoing, charges on the conversion of any part of the Deposited Property from one currency to another and on any sales of property) without accounting to Holders or any other person for any profit arising therefrom.
- 14.5 The Depositary shall endeavour to effect any such sale as is referred to or contemplated in Conditions 5, 6, 7, 10, 13 or 21 or any such conversion as is referred to in Condition 8 in accordance with the Depositary's normal practices and procedures but shall have no liability (in the absence of its own wilful default, negligence or bad faith or that of its agents, officers, directors or employees) with respect to the terms of such sale or conversion or if such sale or conversion shall not be reasonably practicable.
- 14.6 The Depositary shall not be required or obliged to monitor, supervise or enforce the observance and performance by the Company of its obligations under or in connection with the Deposit Agreement or these Conditions.
- 14.7 Neither the Depositary nor the Namibian Agent shall have any responsibility whatsoever to the Company, any Holders or any owner of NDRs or any other person as regards any deficiency which might arise because the Depositary or the Namibian Agent is subject to any tax in respect of the Deposited Property or any part thereof or any income therefrom or any proceeds thereof.
- 14.8 In connection with any proposed modification, waiver, authorisation or determination permitted by the terms of the Deposit Agreement, neither the Depositary nor the Namibian Agent shall, except as otherwise expressly provided in Condition 22, be obliged to have regard to the consequence thereof for the Holders or the owners of NDRs or any other person.
- 14.9 Notwithstanding anything else contained in the Deposit Agreement or these Conditions, each of the Depositary and the Namibian Agent may refrain from doing anything which could or might, in its opinion, be contrary to any law of any jurisdiction or any directive or regulation of any agency or state or which would or might otherwise render it liable to any person and each of the Depositary and the Namibian Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.
- 14.10 The Depositary may, in relation to the Deposit Agreement and these Conditions, act or take no action on the advice or opinion of, or any certificate or information obtained from, any lawyer, valuer, accountant, banker, broker, securities company or other expert whether obtained by the Company, the Depositary or otherwise, and shall not be responsible or liable for any loss or liability occasioned by so acting or refraining from acting or relying on information from persons presenting Shares for deposit or NDRs for surrender or requesting transfers thereof.
- 14.11 Any such advice, opinion, certificate or information (as discussed in Condition 14.10 above) may be sent or obtained by letter, telex, facsimile transmission, telegram or cable and the Depositary shall not be liable for acting on any advice, opinion, certificate or information purported to be conveyed by any such letter, telex or facsimile transmission although (without the Depositary's knowledge) the same shall contain some error or shall not be authentic.

- 14.12 The Depositary may call for and shall be at liberty to accept as sufficient evidence of any fact or matter or the expediency of any transaction or thing, a certificate, letter or other communication, whether oral or written, signed or otherwise communicated on behalf of the Company by a director of the Company or by a person duly authorised by a director of the Company or such other certificate from persons specified in Condition 14.10 above which the Depositary considers appropriate and the Depositary shall not be bound in any such case to call for further evidence or be responsible for any loss or liability that may be occasioned by the Depositary acting on such certificate.
- 14.13 The Depositary shall have no obligation under the Deposit Agreement except to perform its obligations as are specifically set out therein without wilful default, negligence or bad faith.
- 14.14 The Depositary may delegate by power of attorney or otherwise to any person or persons or fluctuating body of persons, whether being a joint Depositary of the Deposit Agreement or not and not being a person to whom the Company may reasonably object, all or any of the powers, authorities and discretions vested in the Depositary by the Deposit Agreement and such delegation may be made upon such terms and subject to such conditions, including power to sub-delegate and subject to such regulations as the Depositary may in the interests of the Holders think fit, **provided that** no objection from the Company to any such delegation as aforesaid may be made to a person whose financial statements are consolidated with those of the Depositary's ultimate holding company. Any delegation by the Depositary shall be on the basis that the Depositary is acting on behalf of the Holders and the Company in making such delegation. The Company shall not in any circumstances and the Depositary shall not (**provided that** it shall have exercised reasonable care in the selection of such delegate) be bound to supervise the proceedings or be in any way responsible for any loss, liability, cost, claim, action, demand or expense incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate. However, the Depositary shall, if practicable, and if so requested by the Company, pursue (at the Company's expense and subject to receipt by the Depositary of such indemnity and security for costs as the Depositary may reasonably require) any legal action it may have against such delegate or sub-delegate arising out of any such loss caused by reason of any such misconduct or default. The Depositary shall, within a reasonable time of any such delegation or any renewal, extension or termination thereof, give notice thereof to the Company. Any delegation under this Condition which includes the power to sub-delegate shall provide that the delegate shall, within a specified time of any sub-delegation or amendment, extension or termination thereof, give notice thereof to the Company and the Depositary.
- 14.15 The Depositary may, in the performance of its obligations hereunder, instead of acting personally, employ and pay an agent, whether a solicitor or other person, to transact or concur in transacting any business and do or concur in doing all acts required to be done by such party, including the receipt and payment of money.
- 14.16 The Depositary shall be at liberty to hold or to deposit the Deposit Agreement and any deed or document relating thereto in any part of the world with any banking company or companies (including itself) whose business includes undertaking the safe custody of deeds or documents or with any lawyer or firm of lawyers of good repute, and the Depositary shall not (in the case of deposit with itself, in the absence of its own negligence, wilful default, or bad faith or that of its agents, directors, officers or employees) be responsible for any losses, liability or expenses incurred in connection with any such deposit.

14.17 Notwithstanding anything to the contrary contained in the Deposit Agreement or these Conditions, the Depositary shall not be liable in respect of any loss or damage which arises out of or in connection with its performance or non-performance, or the exercise or attempted exercise of (or the failure to exercise any of) its powers or discretions, under the Deposit Agreement, except to the extent that such loss or damage arises from the wilful default, negligence or bad faith of the Depositary or that of its agents, officers, directors or employees. Further, Namibia's system of security registration and custody creates certain risks of loss that are not normally associated with investments in the United States or Europe. Accordingly, and without prejudice to the generality of the foregoing, in no circumstances shall the Depositary have any liability for any act or omission of any securities depository, clearing agency or settlement system or of any entity fulfilling the customary functions of a transfer agent, registrar, calculation agent, paying agent, mailing agent or similar securities servicing institution (whether or not such entity is or is deemed to be the agent of the Depositary) in connection with or arising out of book-entry settlement of Deposited Shares or NDRs or otherwise.

14.18 No provision of the Deposit Agreement or these Conditions shall require the Depositary to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

14.19 For the avoidance of doubt, the Depositary shall be under no obligation to check, monitor or enforce compliance with any ownership restrictions in respect of NDRs or Shares under any applicable British Columbian or other Canadian law as the same may be amended from time to time. Notwithstanding the generality of Condition 3, the Depositary shall refuse to register any transfer of NDRs or any deposit of Shares against issuance of NDRs if notified by the Company, or the Depositary becomes aware of the fact, that such transfer or issuance would result in a violation of the limitations set forth above.

14.20 No disclaimer of liability under the Securities Act is intended by any provision of the Deposit Agreement.

15. Issue and Delivery of Replacement NDRs and Exchange of NDRs

Subject to the payment of the relevant fees, taxes, duties, charges, costs and expenses and such terms as to evidence and indemnity as the Depositary may require, replacement NDRs will be issued by the Depositary and will be delivered in exchange for or replacement of outstanding lost, stolen, mutilated, defaced or destroyed NDRs upon surrender thereof (except in the case of the destruction, loss or theft) at the specified office of the Depositary or (at the request, risk and expense of the Holder) at the specified office of any Agent.

16. Depositary's Fees, Costs and Expenses

16.1 The Depositary shall be entitled to charge the following remuneration and to receive the following remuneration and reimbursement (such remuneration and reimbursement being payable on demand) from the Holders in respect of its services under the Deposit Agreement:

- (a) for the issue of NDRs or the cancellation of NDRs upon the withdrawal of Deposited Property: U.S.\$5.00 or less per 100 NDRs (or portion thereof) issued or cancelled;
- (b) for issuing NDR certificates in definitive registered form in replacement for mutilated, defaced, lost, stolen or destroyed NDR certificates: a sum per NDR certificate which is determined by the Depositary to be a reasonable charge to reflect the work, costs and expenses involved;

- (c) for receiving and paying any cash dividend or other cash distribution on or in respect of the Deposited Shares: a fee of U.S.\$0.05 or less per NDR for each such dividend or distribution;
- (d) in respect of any issue of rights or distribution of Shares (whether or not evidenced by NDRs) or other securities or other property (other than cash) upon exercise of any rights, any free distribution, stock dividend or other distribution: U.S.\$5.00 or less per 100 outstanding NDRs (or portion thereof) for each such issue of rights, dividend or distribution;
- (e) a fee of U.S.\$0.05 or less per NDR (or portion thereof) per calendar year for depositary services which shall be payable as provided in paragraph (h) below;
- (f) a fee of U.S. \$0.01 or less per NDR per annum for local share registry inspection and related services by the Depositary or the Custodian or their respective agents, which shall be payable as provided in paragraph (h) below; and
- (g) any other charge payable by the Depositary, the Namibian Agent, any of the Depositary's other agents, including the Custodian, or the agents of the Depositary's agents, in connection with the servicing of NDRs, Deposited Shares or other Deposited Property (which charge shall be assessed against Holders as of the date or dates set by the Depositary and shall be payable at the sole discretion of the Depositary by billing such Holders for such charge or deducting such charge from one or more cash dividends or other cash distributions),

together with all expenses (including currency conversion expenses), transfer and registration fees, taxes, duties and charges payable by the Depositary, the Namibian Agent, any other Agent or the Custodian, or any of their agents, in connection with any of the above.

16.2 The Depositary is entitled to receive from the Company the fees, taxes, duties, charges costs and expenses as specified in a separate agreement between the Company and the Depositary.

16.3 From time to time, the Depositary may make payments to the Company to reimburse and/or share revenue from the fees collected from NDR holders, or waive fees and expenses for services provided, generally relating to costs and expenses arising out of establishment and maintenance of the NDR facilities established pursuant to the Deposit Agreement. In performing its duties under the Deposit Agreement, the Depositary may use brokers, dealers or other service providers that are affiliates of the Depositary and that may earn or share fees and commissions.

17. **Agents**

17.1 The Depositary shall be entitled to appoint one or more agents (the "**Agents**") for the purpose, *inter alia*, of making distributions to the Holders.

17.2 Notice of appointment or removal of any Agent (including the Namibian Agent) or of any change in the specified office of the Depositary or any Agent (including the Namibian Agent) will be duly given by the Depositary to the Holders.

18. **Listing**

The Company has undertaken in the Deposit Agreement to use its best endeavours to maintain, so long as any NDR is outstanding, a listing for the NDRs on the Namibian Stock Exchange.

For that purpose the Company will pay all fees and sign and deliver all undertakings required by the Namibian Stock Exchange in connection with such listings and adhere to all registration or other requirements in accordance with Namibian Stock Exchange Rules, Directives and Listing Requirements. In the event that the listing on the Namibian Stock Exchange is not maintained, the Company has undertaken in the Deposit Agreement to use its best endeavours

with the reasonable assistance of the Depository (provided at the Company's expense) to obtain and maintain a listing of the NDRs on any other internationally recognised stock exchange.

19. **The Custodian**

The Depository has agreed with the Custodian that the Custodian will receive and hold (or appoint agents approved by the Depository to receive and hold) all Deposited Property for the account and to the order of the Depository in accordance with the applicable terms of the Deposit Agreement which include a requirement to segregate the Deposited Property from the other property of, or held by, the Custodian **PROVIDED THAT** the Custodian shall not be obliged to segregate cash comprised in the Deposited Property from cash otherwise held by the Custodian. The Custodian shall be responsible solely to the Depository **PROVIDED THAT**, if and so long as the Depository and the Custodian are the same legal entity, references to them separately in these Conditions and the Deposit Agreement are for convenience only and that legal entity shall be responsible for discharging both functions directly to the Holders and the Company. The Custodian may resign or be removed by the Depository by giving prior notice, except that if a replacement Custodian is appointed which is a branch or affiliate of the Depository, the Custodian's resignation or discharge may take effect immediately on the appointment of such replacement Custodian. Upon the removal of or receiving notice of the resignation of the Custodian, the Depository shall promptly appoint a successor Custodian, which shall, upon acceptance of such appointment, and the expiry of any applicable notice period, become the Custodian. The Depository in its discretion may appoint a substitute or additional custodian or custodians, which shall, upon acceptance of such appointment, become the Custodian under the Deposit Agreement. The Depository shall notify Holders of such change in accordance with Condition 23. Notwithstanding the foregoing, the Depository may temporarily deposit the Deposited Property in a manner or a place other than as therein specified; **PROVIDED THAT**, in the case of such temporary deposit in another place, the Company shall have consented to such deposit, and such consent of the Company shall have been delivered to the Custodian. In case of transportation of the Deposited Property under this Condition, the Depository shall obtain appropriate insurance at the expense of the Company if and to the extent that the obtaining of such insurance is reasonably practicable and the premiums payable are of a reasonable amount.

20. **Resignation and Termination of Appointment of the Depository**

20.1 The Company may terminate the appointment of the Depository under the Deposit Agreement by giving at least 120 days' prior notice in writing to the Depository, the Namibian Agent and the Custodian, and the Depository may resign as Depository by giving at least 120 days' prior notice in writing to the Company, the Namibian Agent and the Custodian. Within 30 days after the giving of either such notice, notice thereof shall be duly given by the Depository to the Holders in accordance with Condition 23.

The termination of the appointment or the resignation of the Depository shall take effect on the date specified in such notice; **PROVIDED THAT** no such termination of appointment or resignation shall take effect until the appointment by the Company of a successor depository under the Deposit Agreement and the acceptance of such appointment to act in accordance with the terms thereof and of these Conditions, by the successor depository. The Company has undertaken in the Deposit Agreement to use its best endeavours to procure the appointment of a successor depository with effect from the date of termination specified in such notice as soon as reasonably possible following notice of such termination or resignation. Upon any such

appointment and acceptance, notice thereof shall be duly given by the Depositary to the Holders in accordance with Condition 23.

20.2 Upon the termination of the appointment or resignation of the Depositary and against payment of all fees and expenses due to the Depositary from the Company under the Deposit Agreement, the Depositary shall deliver to its successor as depositary sufficient information and records to enable such successor efficiently to perform its obligations under the Deposit Agreement and shall deliver and pay to such successor depositary all property and cash held by it under the Deposit Agreement. The Deposit Agreement provides that, upon the date when such termination of appointment or resignation takes effect, the Custodian shall be deemed to be the Custodian thereunder for such successor depositary, and shall hold the Deposited Property for such successor depositary, and the Depositary shall thereafter have no obligation under the Deposit Agreement or the Conditions (other than liabilities accrued prior to the date of termination of appointment or resignation or any liabilities stipulated in relevant laws or regulations).

21. Termination of Deposit Agreement

21.1 Either the Company or the Depositary but, in the case of the Depositary, only if the Company has failed to appoint a replacement Depositary within 90 days of the date on which the Depositary has given notice pursuant to Condition 20 that it wishes to resign, may terminate the Deposit Agreement by giving 90 days' prior notice to the other, the Namibian Agent and to the Custodian. Within 30 days after the giving of such notice, notice of such termination shall be duly given by the Depositary (or by the Namibian Agent as agent of the Depositary) to Holders of all NDRs then outstanding in accordance with Condition 23.

21.2 During the period beginning on the date of the giving of such notice by or on behalf of the Depositary to the Holders and ending on the date on which such termination takes effect, each Holder shall be entitled to obtain delivery of the Deposited Property relative to each NDR held by it, subject to the provisions of Condition 1.1 and upon compliance with Condition 1, payment by the Holder of the charge specified in Condition 16.1(a) and Clause 10.1(a)(i) of the Deposit Agreement for such delivery and surrender, and payment by the Holder of any sums payable by the Depositary and/or any other expenses incurred by the Depositary (together with all amounts which the Depositary is obliged to pay to the Custodian) in connection with such delivery and surrender, and otherwise in accordance with the Deposit Agreement.

21.3 If any NDRs remain outstanding after the date of termination, the Depositary shall as soon as reasonably practicable sell the Deposited Property then held by it under the Deposit Agreement and shall not register transfers, shall not pass on dividends or distributions or take any other action, except that it will deliver the net proceeds of any such sale, together with any other cash then held by it under the Deposit Agreement, *pro rata* to Holders of NDRs which have not previously been so surrendered by reference to that proportion of the Deposited Property which is represented by the NDRs of which they are the Holders. After making such sale, the Depositary shall be discharged from all obligations under the Deposit Agreement and these Conditions, except its obligation to account to Holders for such net proceeds of sale and other cash comprising the Deposited Property without interest.

22. Amendment of Deposit Agreement and Conditions

22.1 Subject to Condition 22.3, all and any of the provisions of the Deposit Agreement and these Conditions (other than this Condition 22) may at any time and from time to time be amended by written agreement between the Company and the Depositary in any respect which they may deem necessary or desirable. Notice of any amendment of these Conditions (except to correct a

manifest error) shall be duly given to the Holders by or on behalf of the Depositary, and any amendment (except as aforesaid) which shall increase or impose fees payable by Holders or which shall otherwise, in the opinion of the Depositary, be materially prejudicial to the interests of the Holders (as a class) shall not become effective so as to impose any obligation on the Holders until the expiration of 30 calendar days after such notice shall have been given. During such period of 30 calendar days, each Holder shall be entitled to obtain, subject to and upon compliance with Condition 1, delivery of the Deposited Property relative to each NDR held by it upon surrender thereof, payment of the charge specified in Condition 16.1(a) for such delivery and surrender and otherwise in accordance with the Deposit Agreement and these Conditions. Each Holder at the time when such amendment so becomes effective shall be deemed, by continuing to hold an NDR, to approve such amendment and to be bound by the terms thereof in so far as they affect the rights of the Holders. In no event shall any amendment impair the right of any Holder to receive, subject to and upon compliance with Condition 1, the Deposited Property attributable to the relevant NDR.

22.2 For the purposes of this Condition 22, an amendment shall not be regarded as being materially prejudicial to the interests of Holders if its principal effect is to permit the creation of NDRs in respect of additional Shares to be held by the Depositary which are or will become fully consolidated as a single series with the other Deposited Shares **PROVIDED THAT** temporary NDRs will represent such Shares until they are so consolidated.

22.3 The Company and the Depositary may at any time by agreement in any form amend the number of Shares represented by each NDR, provided that each outstanding NDR represents the same number of Shares as each other outstanding NDR, and at least 30 calendar days notice of such amendment is given to the Holders, but in no circumstances shall any amendment pursuant to this Condition 22.3 be regarded as an amendment requiring 30 calendar days' notice in accordance with Condition 22.1.

23. Notices

23.1 Any and all notices to be given to any Holder shall be duly given if personally delivered, or sent by mail (if domestic, first class, if overseas, first class airmail) or air courier, or by facsimile transmission confirmed by letter sent by mail or air courier, addressed to such Holder at the address of such Holder as it appears on the transfer books for NDRs of the Depositary, or, if such Holder shall have filed with the Depositary a written request that notices intended for such Holder be mailed to some other address, at the address specified in such request.

23.2 Delivery of a notice sent by mail or air courier shall be effective three days (in the case of domestic mail or air courier) or seven days (in the case of overseas mail) after despatch, and any notice sent by facsimile transmission, as provided in this Condition, shall be effective when the intended recipient has confirmed by telephone to the transmitter thereof that the recipient has received such facsimile in complete and legible form. The Depositary or the Company may, however, act upon any facsimile transmission received by it from the other or from any Holder, notwithstanding that such facsimile transmission shall not subsequently be confirmed as aforesaid.

24. Reports and Information on the Company

24.1 The Company has undertaken in the Deposit Agreement (so long as any NDR is outstanding) to procure that copies in the English language of the following documents are made available via SEDAR and advise the Depositary and the Namibian Agent forthwith upon such documents becoming available via SEDAR (and, upon request of the Depositary or the Namibian Agent,

make available to the Depositary, Namibian Agent, Custodian and any other Agent as many paper copies as they may reasonably require to satisfy requests from Holders):

- (a) in respect of the financial year ending on 31 December 2011 and in respect of each financial year thereafter, the non-consolidated (and, if published for holders of Shares, consolidated) balance sheets as at the end of such financial year and the non-consolidated (and, if published for holders of Shares, consolidated) statements of income for such financial year in respect of the Company, prepared in conformity with generally accepted accounting principles in Canada and reported upon by independent public accountants selected by the Company, as soon as practicable (and in any event within 180 days) after the end of such year;
- (b) if the Company publishes semi-annual financial statements for holders of Shares, such semi-annual financial statements of the Company, as soon as practicable, after the same are published and in any event no later than three months after the end of the period to which they relate; and
- (c) if the Company publishes quarterly financial statements for holders of Shares, such quarterly financial statements, as soon as practicable, after the same are published, and in any event no later than forty-five days after the end of the period to which they relate.

24.2 The Depositary shall upon receipt thereof give due notice to the Holders that such copies are available upon request at its specified office and the specified office of any Agent.

25. Copies of Company Notices

The Company has undertaken in the Deposit Agreement to transmit to the Custodian, the Namibian Agent and the Depositary on or before the day when the Company first gives notice, by mail, publication or otherwise, to holders of any Shares or other Deposited Property, whether in relation to the taking of any action in respect thereof or in respect of any dividend or other distribution thereon or of any meeting or adjourned meeting of such holders or otherwise, such number of copies of such notice and any other material (which contains information having a material bearing on the interests of the Holders) furnished to such holders by the Company (or such number of English translations of the originals if the originals were prepared in a language other than English) in connection therewith as the Depositary may reasonably request. If such notice is not furnished to the Depositary in English, either by the Company or the Custodian, the Depositary shall, at the Company's expense, arrange for an English translation thereof (which may be in such summarised form as the Depositary may deem adequate to provide sufficient information) to be prepared. Except as provided below, the Depositary shall, as soon as practicable after receiving notice of such transmission or (where appropriate) upon completion of translation thereof, give due notice to the Holders which notice may be given together with a notice pursuant to Condition 9.1, and shall make the same available to Holders in such manner as it may determine.

26. Moneys held by the Depositary

The Depositary shall be entitled to deal with moneys paid to it by the Company for the purposes of the Deposit Agreement in the same manner as other moneys paid to it as a banker by its customers and shall not be liable to account to the Company or any Holder or any other person for any interest thereon, except as otherwise agreed and shall not be obliged to segregate such moneys from other moneys belonging to the Depositary.

27. Severability

If any one or more of the provisions contained in the Deposit Agreement or in these Conditions shall be or become invalid, illegal or unenforceable in any respect, the validity, legality and

enforceability of the remaining provisions contained therein or herein shall in no way be affected, prejudiced or otherwise disturbed thereby.

28. **Governing Law**

28.1 The Deposit Agreement, the NDRs, and all non-contractual obligations arising from or connected with the Deposit Agreement and the NDRs, are governed by, and shall be construed in accordance with, English law except that the certifications set forth in Schedule 2 to the Deposit Agreement and any provisions relating thereto shall be governed by and construed in accordance with the laws of the State of New York. The rights and obligations attaching to the Deposited Shares will be governed by the laws of British Columbia (including Canadian federal laws applicable therein). The Company has submitted in respect of the Deposit Agreement and the Deed Poll to the jurisdiction of the English courts and the courts of the State of New York and any United States Federal Court sitting in the Borough of Manhattan, New York City. The Company has also agreed in the Deposit Agreement, and the Deed Poll to allow, respectively, the Depository and the Holders to elect that Disputes are resolved by arbitration.

28.2 The Company has irrevocably appointed Law Debenture Corporate Services Limited, Fifth Floor, 100 Wood Street, London, EC2V 7EX, as its agent in England to receive service of process in any Proceedings in England based on the Deed Poll and appointed Law Debenture Corporate Services Inc. with offices at 400 Madison Avenue, 4th Floor, New York, New York, 10017 as its agent in New York to receive service of process in any Proceedings in New York. If for any reason the Company does not have such an agent in England or New York as the case may be, it will promptly appoint a substitute process agent and notify the Holders and the Depository of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

28.3 The courts of England are to have jurisdiction to settle any disputes (each a "**Dispute**") which may arise out of or in connection with the NDRs (including any dispute relating to the existence, validity or termination of the NDRs, or any non-contractual obligation arising out of or in connection with the NDRs, or the consequences of the nullity of the NDRs), and accordingly any legal action or proceedings arising out of or in connection with the NDRs ("**Proceedings**") may be brought in such courts. Without prejudice to the foregoing, the Depository further irrevocably agrees that any Proceedings may be brought in any New York State or United States Federal Court sitting in the Borough of Manhattan, New York City. The Depository irrevocably submits to the non-exclusive jurisdiction of such courts and waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum.

28.4 These submissions are made for the benefit of each of the Holders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdictions (whether concurrently or not).

28.5 In the event that the Depository is made a party to, or is otherwise required to participate in, any litigation, arbitration, or Proceeding (whether judicial or administrative) which arises from or is related to or is based upon any act or failure to act by the Company, or which contains allegations to such effect, upon notice from the Depository, the Company has agreed to fully cooperate with the Depository in connection with such litigation, arbitration or Proceeding.

28.6 The Depository irrevocably appoints The Bank of New York Mellon, London Branch, (Attention: The Manager) of 48th Floor, One Canada Square, London E14 5AL as its agent in

England to receive service of process in any Proceedings in England based on any of the NDRs. If for any reason the Depositary does not have such an agent in England, it will promptly appoint a substitute process agent and notify the Holders of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

28.7 To the extent that the Company may in any jurisdiction claim for itself or its assets or revenues immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that such immunity (whether or not claimed) may be attributed in any such jurisdiction to the Company or its assets or revenues, the Company has agreed not to claim and irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

DEPOSITARY & CUSTODIAN

The Bank of New York Mellon 101 Barclay Street 22nd Floor New York New York 10286 and/or such other Depositary and/or such other Custodian or Custodians and/or such other or further Agent or Agents and/or specified offices as may from time to time be duly appointed or nominated and notified to the Holders.