

# **TAB 2**

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
GREAT WESTERN MINERALS GROUP LTD.**

**(the "Applicant")**

**AFFIDAVIT OF K. MARC LEVIER  
(INITIAL ORDER)  
(SWORN APRIL 29, 2015)**

I, K. Marc LeVier, of the City of Littleton, in the State of Colorado, U.S.A.,

**MAKE OATH AND SAY:**

1. I am the Chief Executive Officer of the Applicant Great Western Minerals Group Ltd. ("GWMG" or the "Company"), and as such I have knowledge of the matters set out herein. I have also reviewed the records, press releases, and public filings of GWMG and have spoken with certain of the directors, officers and/or employees of GWMG, as necessary. Where information has been received from other sources, I have stated the source of the information and believe it to be true.
  
2. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.

## I. INTRODUCTION

3. I am swearing this affidavit in support of an application by GWMG for an order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), *inter alia*:

- (a) declaring that GWMG is a company to which the CCAA applies;
- (b) granting a stay of proceedings in favour of GWMG and its direct and indirect subsidiaries identified in Schedule “A” hereto (the “**Non-Applicant Subsidiaries**”), and their respective directors and officers;
- (c) establishing the Administration Charge (as defined below);
- (d) declaring that the directors and officers of GWMG shall be indemnified against obligations and liabilities that they may incur in their capacity as directors or officers of GWMG after the commencement of these proceedings, and granting the D&O Charge (as defined below) as security for such indemnity;
- (e) authorizing the KERPs and granting the KERP Charge (each as defined below) as security for GWMG’s obligations in respect of the KERPs;
- (f) authorizing GWMG to continue to carry out its obligations to the financial advisor to the Ad Hoc Committee (as defined below), Houlihan Lokey Capital, Inc. (“**Houlihan Lokey**”) under the Houlihan Fees Letter and establishing the Houlihan Transaction Fee Charge as security for the Transaction Fees (each as defined below);

- (g) authorizing GWMG to carry out its obligations under the Support Agreement (as defined below);
- (h) approving a sale and investment solicitation process (the “**SISP**”) with respect to the business and assets of GWMG;
- (i) authorizing GWMG to continue to fund the working capital requirements of its direct and indirect subsidiaries from and after the date of the Initial Order in accordance with existing practice, provided that such amounts are included in the Cash Flow Statement (as defined below), as may be amended with the prior written consent of the Monitor (as defined below) and the Ad Hoc Committee;
- (j) appointing PricewaterhouseCoopers Inc. (“**PwC**”) to act as the monitor (the “**Monitor**”) of GWMG in these CCAA proceedings; and
- (k) sealing the Houlihan Fees Letter as a confidential Exhibit to my Affidavit.

4. GWMG is a Canadian-based natural resources company pursuing a vertically integrated business model for the supply and manufacture of rare earth element (“**REE**”) alloys used in the magnet industry.

5. GWMG’s business is carried out predominantly through two of its directly and indirectly wholly-owned subsidiaries: Less Common Metals Limited (“**LCM**”), a U.K. entity that manufactures alloys that contain transition metals, including nickel, cobalt, iron and REEs; and Rare Earth Extraction Co. Limited (“**Rareco**”), a South African entity focused on refurbishing and developing the formerly producing Steenkampskraal underground monazite mine in Western Cape province, South Africa (the “**SKK Project**”).

6. Rareco and LCM (and their respective subsidiaries) rely on advances from GWMG to finance their cash needs. An interruption in funding from the Company could seriously jeopardize the Rareco and LCM businesses, and the value that they represent to GWMG and its stakeholders.

7. GWMG is facing a severe liquidity crisis as a result of, among other things, its inability to raise funds in the debt and equity markets. The GWMG Group has never generated sufficient revenues to yield a profit and has been wholly dependent on its ability to access funds through the capital markets. Current capital market conditions generally have not been conducive to mining issuers raising capital and the Company has been unable to raise the funds it requires. As a result, GWMG failed to make the April Interest Payment when due under the Bonds (each as defined below) and does not have sufficient liquidity to make that payment in full.

8. GWMG has not been able to successfully restructure its affairs outside of formal insolvency proceedings. Between in and around February 2014 and June 2014 GWMG, with the assistance of its financial advisor, CIBC World Markets Inc. (“**CIBC**”), undertook an extensive capital raise process that did not result in any expressions of interest. The feedback received from prospective investors in that process included that GWMG was not a viable investment opportunity without a restructuring of the Bond debt.

9. Since July 2014, GWMG has been engaged in confidential discussions with advisors to a group of holders of Bonds with respect to a possible consensual restructuring of the Bonds. Despite best efforts, those negotiations did not result in a binding agreement for a consensual restructuring of the Bonds.

10. On or about April 29, 2015, GWMG entered into the Support Agreement with the Supporting Bondholders (as defined below) wherein it was agreed that GWMG would commence proceedings under the CCAA and initiate the SISP to identify a potential sale or investment transaction, all on the terms set out in the Support Agreement.

11. GWMG is in default of its obligations under the Bonds and requires the protection and other provisions of an initial order under the CCAA to provide it with a stable environment to preserve its operations and value while it pursues a possible investment or sale transaction.

## **II. BACKGROUND**

### **A) Corporate History and Structure**

12. GWMG is a corporation continued under the *Canada Business Corporations Act*.

13. GWMG is a publicly traded company with its shares listed on the TSX Venture Exchange under the symbol “GWG”, and in the United States on the Over-The-Counter market OTCQX under the symbol “GWMGF”. GWMG’s Bonds are listed on the Professional Securities Market of the London Stock Exchange under the symbol “15HV”. GWMG is a reporting issuer in Alberta, British Columbia, Saskatchewan, Manitoba and Ontario.

14. GWMG is effectively a public holding company and financing vehicle for its direct and indirect subsidiaries. In that structure GWMG raises funds from investors either in the public markets or by way of private placement and finances its operating subsidiaries by way of intercompany advances. Now produced and shown to me and annexed hereto as Exhibit “A” to my affidavit is a true copy of a current organizational chart of GWMG and its direct and indirect subsidiaries (collectively, the “**GWMG Group**”).

15. The GWMG Group operates its business predominantly through the following two wholly-owned subsidiaries of GWMG:

- (a) GWMG holds a 100% ownership interest in LCM through its wholly-owned subsidiary LCMG Limited (U.K.) ("LCMG"). LCM is located in Ellesmere Port, United Kingdom, and carries on the GWMG Group's manufacturing services operation, which is currently generating 100% of the GWMG Group's revenues.
- (b) GWMG also owns 100% of the common shares of Rareco, a corporation incorporated on June 6, 1989 under the laws of South Africa. Rareco's primary asset is its interest in the SKK Project, which it holds through its 74% ownership interest in its subsidiary Steenkampskraal Monazite Mine (Pty) Ltd. ("SMM"). The balance of SMM shares are held by the SKK Workers' Trust (as defined below).

16. GWMG also has the following subsidiaries which are inactive or which do not carry on any material operations at this time:

- (a) ownership of 100% of the common shares of Great Western Technologies, Inc. ("GWTI"), a corporation incorporated on September 30, 2005 under the laws of the State of Michigan. GWTI was the former owner of specialty alloy manufacturing assets located in Troy, Michigan. As described below, as a result of continued losses GWTI sold its assets and ceased operations effective May 2, 2014;

- (b) ownership of a 75% interest in Great Western GQD Rare Earth Materials Proprietary Limited (South Africa) (“**GWGQD**”), a corporation incorporated under the laws of South Africa;
- (c) ownership of 100% of the common shares of GWUS Inc., a corporation incorporated on August 20, 2007 under the laws of the State of Nevada, United States; and
- (d) through Rareco, ownership of the following corporations incorporated under the laws of South Africa:
  - (i) 100% of the ordinary shares of Uranoop Mining Company (Pty) Ltd.; and
  - (ii) 100% of the ordinary shares of Rareco Industrial Minerals (Pty) Ltd.

17. GWMG is the only applicant in these CCAA proceedings. As described elsewhere in this Affidavit, the Non-Applicant Subsidiaries hold the primary assets of the GWMG Group and carry on its business. The Non-Applicant Subsidiaries have also granted security for the Bonds and, in some cases, contractually guaranteed the obligations of GWMG under the Bonds.

18. GWMG is requesting that the stay of proceedings and related protections sought in these CCAA proceedings be extended to prevent parties from taking steps to enforce their rights and remedies against the Non-Applicant Subsidiaries and their property. This extension of the stay of proceedings is necessary to ensure that the value of the GWMG Group is preserved while GWMG pursues an investment or sale transaction in these CCAA proceedings. In the absence of such a stay of proceedings GWMG’s ability to secure an investment or sale transaction could be hampered and the objective of these CCAA proceedings defeated.

19. It is presently contemplated that the Non-Applicant Subsidiaries will not commence insolvency proceedings in their respective jurisdictions (the U.K. and South Africa). So long as GWMG is able to continue to fund the cash needs of the Non-Applicant Subsidiaries (discussed below) and if their stakeholders are stayed from enforcing their rights and remedies against those entities and their property, the Non-Applicant Subsidiaries should be able to carry on their business during the stay period in a manner that preserves their value for the GWMG Group stakeholders.

**B) Premises**

20. GWMG operates out of a 1,262 square feet office located at 2121 Airport Drive, Unit 201B, Saskatoon, Saskatchewan, which is also its registered head office. GWMG pays total monthly rent of \$2,223.22, plus GST. The lease expires on August 30, 2015. GWMG has no other fixed premises. As described below, management of GWMG resides in Colorado, USA and primarily works remotely.

**C) Operations**

21. The GWMG Group is engaged in the exploration and development of mineral properties, primarily focused on REEs, and the manufacturing and marketing of products containing REEs.

**Manufacturing**

22. On May 5, 2014, GWMG announced that, as a result of continued losses, it had entered into an agreement to sell the manufacturing assets of GWTI. GWTI terminated its lease with respect to the manufacturing facilities and its assets have been liquidated.

23. The GWMG Group's remaining manufacturing segment is operated through LCM, which manufactures and supplies rare earth-based alloys, specialty alloys, high purity metals, ultra-high purity indium, powders and related value added products for third party customers. Alloys produced by LCM include those containing lithium, nickel, cobalt and REEs used in the aerospace, automobile, industrial, computer and high-tech industries.

24. LCM has been in business since 1992 and is headquartered in Ellesmere Port, U.K., with approximately 31 employees. LCM has flexible processing capability enabling it to produce a wide range of rare earth alloys in a variety of physical forms. LCM's products are shipped from Ellesmere Port, United Kingdom by truck, air and/or transport ship to international destinations. The alloy manufacturing capability of LCM provides the GWMG Group with an established customer base and ready access to international markets.

25. LCM has an independent board of directors (with some overlap with the board of directors and/or officers of GWMG) and is the only revenue generating entity in the GWMG Group. To preserve its value LCM must continue servicing its customers. Any material disruption in LCM's ability to take or fulfil orders from its customers could materially impair the business of LCM and the value that it represents to the Company and its stakeholders.

*SKK Project*

26. As discussed above, Rareco holds a 74% controlling interest in the SKK Project through SMM. Rareco has an independent board of directors (with some overlap with the board of directors and/or officers of GWMG). Rareco and SMM employ a total of approximately 13 employees, contractors or consultants.

27. The balance of SMM's shares are held by an employee share option scheme empowerment trust established to comply with South African Broad Based Black Economic Empowerment legislation (the "SKK Workers' Trust"). The SKK Workers' Trust was established by Rareco pursuant a trust deed dated September 14, 2009 in accordance with the requirements of the *Minerals Charter* (South Africa) and the *Mineral and Petroleum Resources Development Act of 2002* (South Africa) which provide for a protocol to empower historically disadvantaged peoples in South Africa.

28. Rareco and the SKK Workers' Trust have entered into a shareholder agreement dated September 14, 2009 which provides that 25% of the total after-tax net profits of SMM from mining activities conducted at the SKK Project will be paid as a dividend to the shareholders of SMM on an annual basis. The *pro rata* portion of such dividends paid to the SKK Workers' Trust in respect of its SMM shares will be allocated to its beneficiaries on an annual basis within 30 days of receiving such dividends. The Steenkampskraal mine is not in production and neither Rareco nor SMM generate any revenues.

29. The South African government, which owns the surface and mineral rights to the 473.71 hectare Steenkampskraal mine site, issued the new order mining right (the "Mining Right") to SMM on June 2, 2010. The Mining Right has a 20 year term subject to further renewals. SMM is also the holder of a prospecting right (the "Prospecting Right" and together with the Mining Right, the "Rights"), which allows SMM to undertake exploration activities in a 55,000 hectare area around the SKK Project. The Prospecting Right was issued to SMM by the South African government on September 18, 2012 and has a 5 year term subject to further renewals. It is a condition to the Rights that SMM's mining and exploration activities continue and that it pay certain mining and related expenditures and fees owing in respect of the Rights.

Failure to do so could result in a loss of the Rights, and the significant value that they present to GWMG and its stakeholders.

30. As of March 31, 2015 the Company has expended approximately \$36,084,118 million on various technical and engineering studies and mine planning, development and exploration activities to assist in the completion of the Feasibility Study (as defined below) as well as continued regulatory and compliance requirements.

31. On May 8, 2014 GWMG announced that it had completed a feasibility study in respect of its SKK Project (the “**Feasibility Study**”). On June 20, 2014 GWMG filed its National Instrument 43-101 (“**NI 43-101**”) compliant independent technical report containing the results of the Feasibility Study and updated mineral resources and reserves (the “**Technical Report**”).

32. The Feasibility Study demonstrates the economic viability of the SKK Project and confirms that it is a sound development foundation for the GWMG Group's integrated business model that incorporates the entire extraction, processing and manufacturing cycle for REEs.

33. The Technical Report contains the following “measured”, “indicated” and “inferred” mineral resource estimates in respect the SKK Project:<sup>1</sup>

**Summary Mineral Resource Estimate for the Steenkampskraal Project – October 2013**

SOURCE OF THE MINERAL RESOURCE	CLASSIFICATION CATEGORY	RESOURCE TONNAGE (t)	TREO+Y <sub>2</sub> O <sub>3</sub> GRADE (%TREO+Y <sub>2</sub> O <sub>3</sub> )	CONTAINED TREO+Y <sub>2</sub> O <sub>3</sub> (t)
In situ Mineral Resources	Measured	85,000	19.5	16,600
	Indicated	474,000	14.1	67,000
	Inferred	60,000	10.5	6,300
Sub-total in situ	Measured+Indicated	559,000	15.0	83,500
<b>Total in situ</b>	<b>Measured+Indicated</b>	<b>559,000</b>	<b>15.0</b>	<b>83,500</b>
Historic TSF	Indicated	46,000	7.2	3,300
<b>TOTAL (in situ and TSF)</b>	<b>Measured+Indicated</b>	<b>605,000</b>	<b>14.4</b>	<b>86,900</b>

NI 43-101 requires the statement that “Mineral Resources that are not Mineral Reserves do not have demonstrated economic viability”

Source : Snowden 2013 (October Mineral Resource Estimate document)

Comprises Snowden's 'Mine Area' and 'Exploration Area'

Mineral Resource estimate reported at 1% TREO cut-off grade

Mineral Resources are reported inclusive of Mineral Reserves

Mineral Reserves have been defined for the Steenkampskraal Project

Apparent computational inconsistencies due to rounding

Tonnage rounded to nearest 1,000t and contained metal to three significant figures

Mineral Resources reported with a minimum width of 20cm

<sup>1</sup> The CIM Definition Standards of the Canadian Institute of Mining, Metallurgy and Petroleum defines “Measured Mineral Resource”, “Inferred Mineral Resource” and “Indicated Mineral Resource” as follows:

**“Measured Mineral Resource”** - A Measured Mineral Resource is that part of a Mineral Resource for which quantity, grade or quality, densities, shape, and physical characteristics are estimated with confidence sufficient to allow the application of ‘Modifying Factors’ to support detailed mine planning and final evaluation of the economic viability of the deposit. Geological evidence is derived from detailed and reliable exploration, sampling and testing and is sufficient to confirm geological and grade or quality continuity between points of observation. A Measured Mineral Resource has a higher level of confidence than that applying to either an Indicated Mineral Resource or an Inferred Mineral Resource. It may be converted to a ‘Proven Mineral Reserve’ or to a ‘Probable Mineral Reserve’.”

**“Indicated Mineral Resource”** - An Indicated Mineral Resource is that part of a Mineral Resource for which quantity, grade or quality, densities, shape and physical characteristics are estimated with sufficient confidence to allow the application of ‘Modifying Factors’ in sufficient detail to support mine planning and evaluation of the economic viability of the deposit. Geological evidence is derived from adequately detailed and reliable exploration, sampling and testing and is sufficient to assume geological and grade or quality continuity between points of observation. An Indicated Mineral Resource has a lower level of confidence than that applying to a ‘Measured Mineral Resource’ and may only be converted to a ‘Probable Mineral Reserve’.”

**“Inferred Mineral Resource”** - An ‘Inferred Mineral Resource’ is that part of a Mineral Resource for which quantity and grade or quality are estimated on the basis of limited geological evidence and sampling. Geological evidence is sufficient to imply but not verify geological and grade or quality continuity. An Inferred Mineral Resource has a lower level of confidence than that applying to an ‘Indicated Mineral Resource’ and must not be converted to a Mineral Reserve. It is reasonably expected that the majority of Inferred Mineral Resources could be upgraded to Indicated Mineral Resources with continued exploration.”

34. The Technical Report also contains the following “proven” and “probable” mineral reserve estimates in respect the SKK Project:<sup>2</sup>

**Mineral Reserve Estimate for the Steenkampskraal Project - March 2014**

MINERAL RESERVE CATEGORY	TONNAGE ('000 t)	GRADE (%TREO+Y <sub>2</sub> O <sub>3</sub> )	CONTAINED (TREO+Y <sub>2</sub> O <sub>3</sub> )
<b>Underground Mine</b>			
Proven	103.6	12.39	12.8
Probable	651	8.2	53.4
Sub-total	754.6	8.78	66.2
<b>New Combined Tailings</b>			
Proven	-	-	0
Probable	45.1	7.1	3.2
Sub-total	45.1	7.1	3.2
<b>Mine and New Combined Tailings</b>			
Proven	103.6	12.39	12.8
Probable	696.1	8.13	56.6
<b>TOTAL</b>	<b>799.7</b>	<b>8.68</b>	<b>69.4</b>

Source : Sound Mining 2014

Excludes Inferred Mineral Resources

Estimate is based on a fully diluted, delivered to plant model

Variable mining widths and dilutions

Discrepancies in totals due to rounding

Modifications to the Mineral Resource estimate guided by cut-off grade of 5% TREO+Y<sub>2</sub>O<sub>3</sub>

Radiological planning constraints included in modifying factors

Economic viability based on an in situ basket price of USD26.80/kg TREO+Y<sub>2</sub>O<sub>3</sub>

Overall mining conversion rate from Mineral Resources to Mineral Reserves of 79%

**Other GWMG Development Projects**

35. In addition to the material SKK Project, the GWMG Group holds interests in the following non-material properties:

(a) Hoidas Lake (Saskatchewan, Canada). GWMG has minimal cost expenditures in relation to the Hoidas Lake property. GWMG is a party to an Option and Joint Venture Agreement, effective December 3, 2013 (the “**Effective Date**”), whereby the Company granted to Star Minerals Group Ltd:

<sup>2</sup> The CIM Definition Standards of the Canadian Institute of Mining, Metallurgy and Petroleum defines “Proven Mineral Reserve” and “Probable Mineral Reserve” as follows:

“Proven Mineral Reserve” - A Proven Mineral Reserve is the economically mineable part of a ‘Measured Mineral Resource’. A Proven Mineral Reserve implies a high degree of confidence in the ‘Modifying Factors’.”

“Probable Mineral Reserve” – A Probable Mineral Reserve is the economically mineable part of an ‘Indicated’, and in some circumstances, a ‘Measured Mineral Resources. The confidence in the ‘Modifying Factors’ applying to a Probable Mineral Reserve is lower than that applying to a Proven Mineral Reserve.”

(i) an initial option to earn and acquire a 25% ownership interest in the Hoidas Lake Project if it incurs or funds the direct costs and expenses required to complete and file a NI 43-101 compliant preliminary economic assessment within 2 years of the Effective Date; and

(ii) a second option to earn and acquire an additional 26% ownership interest in the Hoidas Lake Project if it incurs or funds the direct costs and expenses required to complete and file a NI 43-101 compliant feasibility study within 4 years of the Effective Date.

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(b) Douglas River (Saskatchewan, Canada). The Douglas River property consists of two claims, the Douglas River disposition and the Beatty River disposition. GWMG did not carry out any significant work on this property in 2013 or 2014. The Douglas River disposition has sufficient assessment work credits to hold the claim for the next 11 years and the Beatty River disposition has sufficient assessment work credits to hold the claim for the next 6 years; and

(c) Red Wine (Labrador, Canada). GWMG earned a 50% ownership interest in the Red Wine property pursuant to a Mining Option Agreement dated July 23, 2010 with Alterra Resources Ltd. and Search Minerals Inc. (“**Search Minerals**”) for the exploration, development and mining of the Red Wine property, which also sets out the terms of a Joint Venture Agreement to be entered into between the parties. Search Minerals is the operator under the Mining Option Agreement and it is anticipated Search Minerals will remain so under the Joint Venture Agreement. GWMG has the ability to decline to participate in the annual

budget/programs proposed by the operator, subject to dilution for non-participation. As of the date of swearing this affidavit, GWMG's ownership interest has been diluted to approximately 49%. The budget/operating program for 2015 was approximately \$18,000 and the dilution for non-participation would be less than 1% of GWMG's ownership interest in the Red Wine property.

36. The Company has minimized its expenditures on these other exploration properties in an effort to focus its resources on the SKK Project. During the 2014 calendar year, the Company incurred virtually no cash expenses related to these properties and incurred only approximately \$0.1 million during 2013.

**D) Funding**

37. As mentioned above, GWMG is the primary source of funding for the other members of the GWMG Group. Historically GWMG has raised funds from investors in the public markets and by way of private placement and has funded the liquidity needs of its subsidiaries by way of intercompany advances. GWMG has historically funded Rareco on an as needed basis and has provided funding to LCM by way of periodic lump sums, in each case on an unsecured basis.

38. With the exception of revenues generated at LCM, GWMG is the sole source of liquidity for the GWMG subsidiaries. If that source of liquidity were to be discontinued, the remediation and other work so critical to the maintenance of Rareco's Rights would cease which could result in the South African government invalidating or revoking the Rights. In addition, LCM has historically depended on the receipt of funds from GWMG and would face challenges in providing continuous service to its customers if its cash reserves became depleted. Either of

these occurrences could have a material negative impact on the value of GWMG and the restructuring and sale transaction options that may be available to it and its stakeholders.

39. GWMG proposes to continue to use its available cash to fund the cash needs of its subsidiaries during these proceedings, subject to the oversight of the Monitor. In preparing the Cash Flow Statement, GWMG has reviewed with the proposed Monitor all contemplated advances to, and receipts from, its subsidiaries and I am advised by Greg Prince of PwC that the proposed Monitor is supportive of the need for continued funding of the GWMG subsidiaries and the contemplated advances and receipts.

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**E) Employees**

40. As at April 24, 2015 GWMG had 3 employees and 2 contract senior officers. The GWMG employees consist of a corporate controller, senior accountant and an executive assistant, all of whom work from an office in Saskatoon, Saskatchewan (discussed above). These employees are not represented by a union and are not subject to a collective bargaining agreement.

41. The two contract senior officers consist of myself and the Chief Financial Officer, Thomas Mair. We both reside in the Denver, Colorado area. Until March 31, 2015 GWMG maintained a small office in Denver. That office closed on March 31, 2015 and since that time we have been operating primarily remotely.

42. On April 29, 2015 the corporation through which Mr. Mair provided his services as Chief Financial Officer to the Company terminated its engagement with the Company on mutually agreeable terms. The Company does not anticipate appointing a replacement Chief

Financial Officer at this time. Rather, the financial functions of the Company will be fulfilled by its corporate controller and senior accountant, with the assistance and oversight of the Monitor.

43. With only three employees and one executive, it is very important to GWMG that its existing staff remain with the Company through these proceedings. Upon the direction of the Company's board of directors, GWMG is proposing to provide a key employee retention plan ("KERP") to its remaining employees and executive to provide an incentive for them to remain with the Company through these CCAA proceedings. The remaining employees have intimate knowledge of GWMG and its assets and I believe their continued participation is essential to these CCAA proceedings and a successful SISP.

44. GWMG is proposing a KERP for the employees under which the aggregate amount of \$95,695 will be available to be paid to the employees at the earlier of (i) the employee's termination without cause during these CCAA proceedings; (ii) the Outside Date (as defined in the Support Agreement, and currently contemplated to be July 2, 2015, subject to further extension); (iii) the closing of a successful bid received under the SISP (currently contemplated to be no later than June 29, 2015, subject to further extension); (iv) the termination of the SISP; (v) the termination of the Support Agreement by the Supporting Bondholders; and (vi) the completion of a credit bid by the Supporting Bondholders or the Trustee. Now produced and shown to me and annexed hereto as Exhibit "B" to my affidavit is a true copy of the form of KERP letter that the Company proposes to issue to each of the employees, which has been redacted to protect the personal information of the employees.

45. The KERP that GWMG has proposed for me as Chief Executive Officer is in the aggregate amount of \$100,000 and contemplates the payment of a portion of that amount upon

the Company achieving each of a number of milestones. Now produced and shown to me and annexed hereto as Exhibit "C" to my affidavit is a redacted copy of the KERP letter that the Company proposes to issue to me.

46. In accordance with the terms of employee and executive KERP letters, the Company is seeking an Order approving the KERPs and establishing a charge on the assets, undertakings and properties of the Company as security for the KERP entitlements. The Supporting Bondholders have been consulted in respect of the proposed KERPs and I understand that they are supportive of the KERPs being sought, including the KERP Charge.

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**F) Recent Financial Information**

47. As a public company GWMG is required to file audited annual financial statements, along with other required filings, within 90 days of its fiscal year end. In early 2015 GWMG prepared draft consolidated annual financial statements for the fiscal year ended December 31, 2014 in anticipation of releasing its audited annual financial statements by March 31, 2015. As discussed below, these financial statements were prepared on a going concern basis in anticipation of the Company and the Steering Committee (as defined below) reaching a binding agreement on the terms of a restructuring of the Bonds. This did not transpire and, as a result, these financial statements were not audited and GWMG has been unable to file its annual financial statements for the fiscal year ended December 31, 2014. The financial information set out herein as at December 31, 2014 has been drawn from the unaudited draft consolidated annual financial statements of the Company, which have not been approved by the GWMG audit committee or filed publicly.

**G) Assets**

48. GWMG's assets, as reflected in the draft unaudited consolidated annual financial statements of GWMG and certain of its subsidiaries for the year ended December 31, 2014,<sup>3</sup> had a net book value of approximately \$50,987,255, as follows:

ASSETS	As at December 31, 2014	As at December 31, 2013
	\$	\$
Cash and cash equivalents	8,093,444	23,573,586
Accounts receivable	977,599	3,855,444
Inventories	3,943,697	4,121,182
Deposits and prepaid expenses	1,262,837	1,991,582
<b>Total Current Assets</b>	<b>14,277,577</b>	<b>33,543,838</b>
Property, plant and equipment	18,682,083	20,677,727
Exploration and evaluation assets	15,112,659	15,233,227
Intangible assets	532,986	668,431
Goodwill	2,381,950	2,323,426
<b>Total Non-current Assets</b>	<b>36,709,678</b>	<b>38,902,811</b>
<b>TOTAL ASSETS</b>	<b>50,987,255</b>	<b>72,444,605</b>

49. As at April 24, 2015 the GWMG Group had a consolidated cash balance of approximately \$3.2 million (of which approximately \$2.2 was held by GWMG and approximately \$1.0 was held by LCM). As discussed below and as reflected in the Cash Flow Statement, it is contemplated that the consolidated cash balance will be used to fund the operations of the GWMG Group and the professional and other costs of these CCAA proceedings.

<sup>3</sup> The consolidated financial statements reflect the consolidated results of GWMG, LCM, LCMG, Rareco, GWTI and GWUS Inc.

**H) Liabilities of GWMG**

50. As of December 31, 2014, the said financial statements reflect liabilities totalling \$88,688,549, as follows:

LIABILITIES	As at December 31, 2014	As at December 31, 2013
	\$	\$
Accounts payable and accrued liabilities	6,258,713	7,398,668
Current portion of provisions	565,148	2,188,963
<b>Total Current Liabilities</b>	<b>6,823,861</b>	<b>9,587,631</b>
Provisions	2,029,949	1,971,899
Convertible bonds – debt	79,834,739	65,824,047
<b>Total Non-current Liabilities</b>	<b>81,864,688</b>	<b>67,795,946</b>
<b>TOTAL LIABILITIES</b>	<b>88,688,549</b>	<b>77,383,577</b>

51. The non-consolidated liabilities of GWMG as at March 31, 2015 were \$96,203,242.29.

**Principal Secured Indebtedness of GWMG**

52. As discussed in detail below, GWMG has issued a total of 9,000 secured convertible bonds in the denomination of US\$10,000 each, having an aggregate principal value of US\$90,000,000 (the “**Bonds**”), pursuant to a trust deed between GWMG and Wilmington Trust (London) Limited (the “**Trustee**”), as trustee, dated April 5, 2012 (the “**Trust Deed**”). Interest under the Bonds is due semi-annually on April 5 and October 5 in each year, and the Bonds mature on April 6, 2017.

Employee and Consultant Liabilities of GWMG

53. As at April 24, 2015 GWMG owes its current and former employees the following approximate aggregate amounts for unpaid wages and vacation pay:

- (a) ordinary course wage arrears: \$9,070.71; and
- (b) accrued and unused vacation pay: \$21,333.56.

54. It is contemplated (and reflected in the Cash Flow Statement discussed below) that the wage arrears and accrued and unused vacation pay amounts for existing employees of GWMG will be paid during the stay period.

55. GWMG maintains a deferred profit sharing plan for its employees with London Life. GWMG does not maintain a pension plan for its employees. GWMG is current on deductions from employee wages at source.

56. GWMG is required to remit and pay *de minimis* amounts of PST each year. The Company's PST remittances have historically been less than \$3,000 per year.

57. The Company has issued corporate credit cards to its Chief Financial Officer, its corporate controller, and myself, to cover business expenses incurred by the cardholders. As discussed above, the corporation through which GWMG's Chief Financial Officer provided his services to the Company terminated its engagement with the Company on mutually agreeable terms and the Chief Financial Officer's corporate credit card has since been cancelled. It is contemplated that GWMG will continue to pay the outstanding balance on the two remaining corporate credit cards for expenses incurred in the ordinary course of business (these payments are reflected as expenses in the Cash Flow Statement discussed below).

Flow Through Share Indemnity Liability

58. GWMG historically raised funds through the issuance of flow-through shares, as defined in the *Income Tax Act* (Canada). Flow-through shares provide investors with preferential tax treatment as the issuer corporation is able to renounce to the investor an amount in respect of eligible Canadian exploration expenses (“CEEs”) paid by the corporation, with the result that those CEEs are treated as expenses of the investor for tax purposes.

59. If a corporation fails to expend all or a portion of the CEEs that it has renounced to its investors in respect of a particular year the investors are vulnerable to having the CEE expense claim denied by the taxing authorities and may be liable on reassessment for unpaid taxes.

60. A corporation that has issued flow-through shares and failed to expend renounced CEEs may also be liable to Canada Revenue Agency (“CRA”) for additional taxes, penalties and interest.

61. In the subscription agreements executed in connection with the GWMG flow-through share transactions, GWMG has provided an indemnification to subscribers in an amount equal to the income tax that would be payable by subscribers in the event, and as a consequence of, GWMG not incurring and renouncing qualifying CEEs as required under the subscription agreement.

62. According to the CRA, GWMG did not incur \$3,569,514 of qualifying CEEs by the applicable deadlines and as such is liable for any tax that will be payable by subscribers as a result.

63. GWMG is currently estimating its liability to be \$774,226 (as of March 31, 2015) to indemnify subscribers for the reduced renunciations, and had begun to pay subscribers based on reassessments they received from the CRA. As at March 31, 2015 GWMG had reimbursed subscribers for \$397,249.41 under the indemnification clause in the subscription agreements as well as \$26,299.71 in interest. Estimated interest relating to the indemnification of subscribers of \$70,555 is accrued as at March 31, 2015, net of interest paid to subscribers. GWMG does not intend to continue to make any further payments on account of this liability and such amounts are not included in the Cash Flow Statement.

*Other Unsecured Creditors of GWMG*

64. In addition to the foregoing, as at April 24, 2015, GWMG has approximately \$153,048 in accrued and unpaid liabilities (excluding inter-company and related party indebtedness, accrued interest on the Bonds, and professional fees and disbursements that GWMG will pay prior to the commencement of these CCAA proceedings), including:

- (a) Trade payables: \$98,092.53; and
- (b) An estimated reclamation obligation in respect of Hoidas Lake property: \$54,955.20.

*Litigation Against GWMG*

65. As of the date of swearing this affidavit, to the best of my knowledge there is no material litigation against GWMG.

66. On or about April 17, 2015 GWMG was ordered by an arbitrator to pay \$68,000 plus disbursements and taxes in respect of the costs of an opposing party in previously concluded confidential arbitration proceedings. The opposing party registered the costs award and on April 24, 2015 a Notice of Seizure of Account was delivered to the Company's bank requiring payment of the amount of \$87,079.75 to the Sheriff of the Saskatoon Ministry of Justice. Now shown to me and attached hereto and marked as Exhibit "D" is a copy of the said Notice of Seizure of Account.

67. While it does not involve GWMG directly, Rareco is involved as a plaintiff/defendant by counterclaim in civil litigation in South Africa with respect to the activities of a contractor that performed the majority of the mine refurbishment, earthworks and certain exploration and evaluation work during 2011 and 2012 at the SKK Project. If successful, this claim would result in material value to the GWMG Group. Accordingly, GWMG proposes to include in its funding of Rareco the fees and expenditures that may be required for Rareco to sustain this litigation. These anticipated costs are included in the Cash Flow Statement.

Intercompany Indebtedness of the GWMG Group

68. As of March 31, 2015 the inter-company indebtedness of GWMG is as follows:

(a) LCM and LCMG are indebted to GWMG in the approximate amount of \$20,291,053.36 on account of advances for capital expansion and working capital requirements;

- (b) Rareco is indebted to GWMG in the approximate amount of \$50,739,906.64 on account of advances for exploration and development activities at the SKK Project; and
- (c) GWTI is indebted to GWMG in the approximate amount of \$10,388,216.68 on account of advances for ongoing working capital requirements.

69. In addition, GWUS Inc. is indebted to GWMG in the approximate amount of \$7,397,094 on account of historical advances for acquisition costs related to a mineral property in Utah, United States. This loan was written off for accounting purposes by GWMG in 2010.

#### **IV. SECURED CREDITORS**

##### ***A) Secured Convertible Bonds***

70. GWMG is a party to the Trust Deed with the Trustee pursuant to which GWMG issued the Bonds in April 2012 for aggregate gross proceeds of US\$90,000,000. The Trust Deed is governed by English law. Now produced and shown to me and annexed hereto as Exhibit “E” to my affidavit is a true copy of the Trust Deed.

71. The Bonds are due April 6, 2017 and bear interest at a rate of 8.0% per annum, payable semi-annually in arrears in equal instalments on April 5 and October 5 in each year.

72. Each Bond entitles the holder to convert such Bond into common shares of GWMG at a fixed exchange rate of CDN\$1.00 = US\$1.0072, at a conversion price of CDN\$0.55 per common share (as adjusted in accordance with the Trust Deed), subject to further adjustment in accordance with the terms and conditions of the Bonds (the “**Conversion Right**”). The Conversion Right in respect of a Bond may be exercised, at the option of the holder thereof, at

any time. As of the close of markets on April 28, 2015, the common shares of GWMG were trading on the TSX Venture Exchange at \$0.01 per share.

73. The obligations under the Bonds are primarily secured by way of:

- (a) a share charge agreement dated April 5, 2012 pursuant to which GWMG has pledged to the Trustee the shares held by it in the capital of LCMG, a true copy of which is attached hereto as Exhibit "F";
- (b) a share charge and guarantee agreement dated April 5, 2012 pursuant to which LCMG has pledged to the Trustee the shares held by it in the capital of LCM, a true copy of which is attached hereto as Exhibit "G"; and
- (c) a cession and pledge in security agreement dated April 5, 2012 pursuant to which GWMG has pledged to the Trustee the shares held by it in the capital of Rareco and GWGQD, a true copy of which is attached hereto as Exhibit "H" (collectively, the "**Security**").

74. Pursuant to the terms of the Trust Deed an interest payment in the amount of approximately \$4.5 million (US\$3.6 million) (the "**April Interest Payment**") was due on April 7, 2015 (because April 5, 2015 was Easter Sunday and April 6, 2015 was Easter Monday). GWMG did not make the April Interest Payment when due.

75. Pursuant to section 11.1 of the Trust Deed, an Event of Default shall have occurred if "[...] the Issuer fails to pay any interest in respect of any of the Bonds as and when the same shall become due and payable, and such failure continues for a period of fourteen calendar days." The April Interest Payment was not made on April 21, 2015. Now produced and

shown to me and marked as Exhibit "I" is a true copy of a press release issued April 7, 2015 and a press release issued April 21, 2015 with respect to the non-payment of the April Interest Payment.

76. The holders of bonds ("Bondholders") are presently in a position to instruct the Trustee to accelerate the indebtedness under the Bonds and to exercise its other rights and remedies under the Trust Deed and the Security (subject the Supporting Bondholders' obligations under the Support Agreement, as discussed below).

77. GWMG does not have sufficient funds to make the April Interest Payment. In the circumstances it is in the interest of GWMG and its stakeholders that GWMG conserve its liquidity to allow it to pursue an investment or restructuring or sale transaction in the hopes of preserving the going concern value of GWMG and its subsidiaries.

***B) Canadian Western Bank***

78. GWMG has a secured corporate credit card facility with Canadian Western Bank. The balance is paid monthly and only minimal amounts are outstanding at any given time. The amount owing under the credit card facility as of April 28, 2015 is \$3,796.19.

79. As discussed above, GWMG is proposing to continue to pay the outstanding balance on the two remaining corporate credit cards for expenses incurred in the ordinary course of business.

***C) PPSA Searches***

80. Fasken Martineau DuMoulin LLP, counsel to GWMG ("Fasken") has conducted a search of registrations made against GWMG pursuant to the (Saskatchewan) *Personal Property*

*Security Act* (“PPSA”) and similar registration systems in each of the provinces and territories of Canada as of April 27, 2015. Now produced and shown to me and annexed hereto as Exhibit “J” to my affidavit is a true copy of the PPSA search results.

81. There are registrations in favour of the Trustee, Canadian Western Bank, Vernon Kiss Legal Professional Corporation and MCAP Leasing Inc. With the exception of the Trustee, the urgency of this Application has not allowed the Company time to serve these registrants with notice of this Application. It is therefore proposed that the court-ordered charges sought by the Company in this Application will not, at this time, rank in priority to those registrations (with the exception of the registration in favour of the Trustee), to the extent they represent validly perfected and enforceable security interests. To the extent any of these registrations represent a validly perfected and enforceable security interests, the Company intends to return to Court, on notice to those parties, to seek an Order subordinating them to the court-ordered charges.

## **V. FINANCIAL DIFFICULTIES & THE NEED FOR CCAA PROTECTION**

### ***A) Financial Difficulties***

82. The GWMG Group has never generated sufficient revenues to yield a profit and has been wholly dependent on its ability to access funds through the capital markets. Current capital market conditions have not been conducive to mining issuers raising capital and the Company has been unable to raise the funds it requires to fund its direct and indirect subsidiaries.

***B) Financial Position***

83. The unaudited draft consolidated annual financial statements (which, as discussed at paragraph 47, were prepared on a going concern basis which is no longer a valid assumption) demonstrated the following:

- (a) for the year ended December 31, 2014, GWMG has recorded a net loss of \$33,480,180; and
- (b) at December 31, 2014 GWMG had an accumulated deficit of \$166,584,384, a shareholders' deficit of \$37,701,294 and has working capital of \$7,453,716.

84. To date, GWMG has not generated positive cash flow from its operations on a consolidated basis. GWMG has incurred net cash losses while completing its Feasibility Study in respect of the SKK Project and also from its manufacturing operations due to the low availability of affordable raw materials.

85. Now produced and shown to me and annexed hereto are copies of the financial statements, audited or unaudited, prepared during the past year for GWMG, which are marked as the following Exhibits:

Exhibit "K"	Condensed Consolidated Interim Financial Statements as of September 30, 2014 (Unaudited)
Exhibit "L"	Condensed Consolidated Interim Financial Statements as of June 30, 2014 (Unaudited)
Exhibit "M"	Condensed Consolidated Interim Financial Statements as of March 31, 2014 (Unaudited)
Exhibit "N"	Consolidated Annual Financial Statements for the year ended December 31, 2013 (Audited)

*Management Cease Trade Order and Annual Information Form*

86. GWMG's fiscal year end is December 31. As a reporting issuer that is not a "venture issuer" under Canadian securities laws GWMG is required to release its annual audited financial statements, along with its management's discussion and analysis and other required documents within 90 days of the end of each fiscal year.

87. As a result of its financial difficulties and GWMG not reaching a binding agreement with the Steering Committee, GWMG was unable to file its audited annual financial statements for the fiscal year ended December 31, 2014 by the March 31, 2015 deadline for doing so. GWMG had prepared draft annual financial statements based on a going concern assumption however, as a result of not having reached a binding agreement with the Steering Committee with respect to a restructuring of the Bonds, the going concern assumption was no longer valid and the draft financial statements were not audited or released.

88. GWMG filed an application with the Financial and Consumer Affairs Authority of Saskatchewan (the "FCAA"), its principal securities regulator, for a management cease trade order ("MCTO"). The MCTO was granted by the FCAA on April 2, 2015.

89. Pursuant to the request of the FCAA the Company did file its Annual Information Form on March 31, 2015. Now produced and shown to me and annexed hereto as Exhibit "O" to my affidavit is a true copy of the Annual Information Form, as filed.

90. Now produced and shown to me and annexed hereto as Exhibit "P" to my affidavit is a true copy of a press release issued by GWMG on March 30, 2015 (the "**March 30 Press Release**") relating to the application for a MCTO.

***C) Responses to Financial Difficulties***

**Capital Raise Process**

91. In and around November 19, 2013 GWMG engaged CIBC as its financial advisor to assist it in considering strategic alternatives for its business, including a potential financing, sale or restructuring transaction.

92. In February 2014 GWMG, with assistance from CIBC, launched a capital raise process. In that process GWMG was seeking up to approximately \$130 million from strategic investors and lenders to fund the capital investment required for the SKK Project to achieve operation and an additional approximately \$40 million to fund post-start-up working capital. The capital raise process was very broad with 101 potential investors contacted. CIBC solicited interest for various transaction structures, including equity investment, joint venture, or an asset sale in connection with a potential restructuring of the Bonds. Unfortunately no investment proposals were received by the established deadline of June 12, 2014.

93. I was advised by Michael Stewart of CIBC, and believe, that among the concerns expressed by potential investors in the capital raise process was the capital structure of GWMG and, in particular, the steps required to restructure the Bonds.

94. Effective as of the close of business on April 24, 2015, GWMG and CIBC mutually agreed to terminate the Company's engagement letter with CIBC.

**Discussions with Bondholders**

95. On or about November 21, 2013 GWMG and its advisors were contacted by the law firm Dentons LLP in Toronto purporting to represent a committee of holders of a substantial

portion of the Bonds (the “**Ad Hoc Committee**”). The lawyers with carriage of the Ad Hoc Committee engagement later joined the Cassels Brock & Blackwell LLP (“**Cassels**”) firm in Toronto and the Ad Hoc Committee has been represented by Cassels since that time.

96. Following completion of the capital raise process CIBC and Fasken arranged a meeting with Cassels to inform them of the result of the capital raise process and to begin discussions in respect of a possible restructuring of the Bonds. In July 2014 GWMG executed a letter agreement with Cassels setting out the terms on which GWMG agreed to pay the legal fees and disbursements incurred by Cassels in representing the Ad Hoc Committee.

97. In and around that same time GWMG entered into a similar agreement with South African legal counsel engaged by the Ad Hoc Committee in other jurisdictions. At the request of Cassels, in and around September 2014 GWMG entered into a similar agreement with Houlihan Lokey, a global investment banking firm to be engaged as financial advisor to the Ad Hoc Committee. Now produced and shown to me and annexed hereto as Exhibit “Q” to my affidavit is a true copy of the engagement agreement between Cassels and Houlihan Lokey to which the Company is also a party, as amended (the “**Houlihan Fees Letter**”), which has been filed separately with the Court and which is subject to a request for a sealing Order.

98. In the months following July 2014 Cassels and the other advisors to the Ad Hoc Committee conducted extensive due diligence, and GWMG and the members of a steering committee of the Ad Hoc Committee (who had executed appropriate non-disclosure agreements) (the “**Steering Committee**”), along with their respective advisors, engaged in discussions around a possible restructuring of the Bonds.

99. ~~As a result~~ Despite their best efforts, the parties were unable to reach a binding agreement with respect to a restructuring of the Bonds and, in and around March 2015, the focus of the negotiations shifted towards the execution of the Support Agreement and a consensual process to administer the SISP through these CCAA proceedings.

**Austerity Measures**

100. In tandem with these efforts, beginning in 2013 GWMG undertook a number of austerity measures to reduce its operating expenses with a view to conserving existing liquidity. These measures included, amongst other things, the sale of its U.S. manufacturing operations through GWTI, curtailing all non-essential activities at its non-material exploration properties, lowering its capital and operating costs at the SKK Project, reducing the number of staff worldwide and decreasing its office space in Saskatoon from approximately 15,000 square feet to 1,262 square feet.

***D) GWMG is Insolvent***

101. As described above, GWMG does not have sufficient funds to make the April Interest Payment.

102. Accordingly, and as set out elsewhere in this affidavit, GWMG is insolvent. It cannot meet its liabilities as they come due and, without the protection of the CCAA, the ongoing viability of GWMG is seriously impaired and its ability to preserve the value of its mining and operating assets will be jeopardized.

***E) The Support Agreement***

103. On or about April 29, 2015, GWMG executed a support agreement (the “**Support Agreement**”) with holders of approximately 65% of the Bonds (the “**Supporting Bondholders**”) pursuant to which the Company and the Supporting Bondholders agreed on an orderly process for the solicitation of interests in GWMG’s business, property and assets pursuant to the SISP (the form of which is attached to the Support Agreement) to be implemented pursuant to proceedings commenced by GWMG under the CCAA in the Ontario Superior Court of Justice by way of an Initial Order (the form of which is attached to the Support Agreement). Now produced and shown to me and annexed hereto as Exhibit “R” to my affidavit is a true copy of the Support Agreement, which has been redacted for confidentiality reasons.

104. Pursuant to the Support Agreement the Company is required to, among other things:

- (a) take all commercially reasonable actions necessary to commence these proceedings, obtain the Initial Order (including approval of the SISP) and close all Successful Bid(s) (as defined in the SISP) in accordance with a set timeline;
- (b) incur expenditures only in accordance with a cash budget approved by the Supporting Bondholders;
- (c) comply in all material respects with all of the terms of the SISP;
- (d) pay the accrued but unpaid fees and expenses of the Ad Hoc Committee’s legal and financial advisors prior to commencement of these proceedings; and

and (e) consent to and agrees not to oppose a credit bid of the claims under the Bonds in the event the SISP is terminated.

105. In the Support Agreement the Supporting Bondholders agree to, among other things, consent to the Initial Order (including the stay of proceedings therein and extensions thereof) and otherwise support the Company in these proceedings and to forbear from enforcing (or causing the Trustee under the Trust Deed from enforcing) any rights or remedies upon default under the Bonds, the Trust Deed and the Security and any other agreement related to the Bonds.

## **V. CASH-FLOW FORECASTS**

106. Now produced and shown to me and annexed hereto as Exhibit "S" to my affidavit is a true copy of a projected combined cash flow statement with respect to GWMG and its subsidiaries for the ten week period April 27, 2015 to July 3, 2015 (the "**Cash Flow Statement**").

107. The Cash Flow Statement demonstrates the cash needs of GWMG during the forecast period and demonstrates that GWMG will have sufficient liquidity to fund its post-filing obligations and restructuring efforts during the cash flow period, including making certain advances to its subsidiaries to fund their required expenditures. Advances by GWMG to its subsidiaries are contemplated for those activities deemed critical to maintaining the value of its subsidiaries and their assets for the benefit of the GWMG Group and its stakeholders.

108. The Cash Flow Statement has been prepared with the assistance of PwC, the proposed Monitor and is accompanied by the prescribed representations in accordance with the CCAA.

## VII. RELIEF SOUGHT

### *A) Jurisdiction*

109. The primary business of GWMG has historically consisted of raising funds in the public markets, including through its listing on the TSX Venture Exchange, to fund the financial needs of its operating subsidiaries.

110. Over the past ten months the primary business of GWMG (aside from funding its subsidiaries) has consisted of negotiations with the Ad Hoc Committee, which negotiations have primarily taken place in Toronto through GWMG's corporate and insolvency counsel, counsel to the Board of Directors of GWMG, and counsel to the Ad Hoc Committee.

111. The proposed Monitor is PwC and the engagement is being led by the Toronto office with support from the Vancouver office. PwC has been actively involved in assisting the parties to prepare for a filing and it is contemplated that the Monitor will be the party primarily responsible for administering the SISP.

112. The Toronto offices of Fasken, Stikeman Elliott and PwC are each holding a modest amount of GWMG's funds on retainer.

113. While the registered head office of the Company is located in Saskatoon, the functions fulfilled by the employees in that office have historically been related to accounting and administrative support.

### *B) Stay of Proceedings*

114. GWMG is seeking the standard stay of proceedings provisions contained in the template Initial CCAA Order and, as discussed above, is seeking to extend the stay of

proceedings to prevent the exercise of any rights or remedies against the Non-Applicant Subsidiaries and their property.

115. There are several directors and officers of GWMG who also serve on the board of directors of its subsidiaries, and there are also several common officers. GWMG is seeking to extend the stay of proceedings to include the officers and directors of the Non-Applicant Subsidiaries.

116. The Non-Applicant Subsidiaries represent a substantial proportion of the value of GWMG and stability at the Non-Applicant Subsidiary level will be critical to the success of the SISP and these proceedings. It is important to that success that the Non-Applicant Subsidiaries are able to continue, to the extent possible, in the ordinary course to preserve the value of GWMG for its stakeholders.

### ***C) Approval of the Administration Charge***

117. GWMG is seeking a charge on its assets, rights, undertakings and properties (the “**Property**”), in priority to all other charges, in the maximum amount of \$750,000 (the “**Administration Charge**”) to secure the fees and disbursements of the Monitor, counsel to the Monitor, counsel to the Board of Directors of GWMG, domestic and foreign counsel to GWMG, domestic and foreign counsel to the Ad Hoc Committee, and Houlihan Lokey (in respect of its Work Fees (as defined below) and disbursements but excluding Transaction Fees), in each case incurred in connection with services rendered to GWMG both before and after the commencement of these CCAA proceedings.

118. It is important to the success of the SISP and any potential investment or sale transaction to have the Administration Charge in place to ensure the continued involvement of critical professionals.

119. GWMG has worked with the Monitor and the other professionals to estimate the proposed quantum of the Administration Charge.

***D) Approval of the D&O Indemnity and Charge***

120. To ensure the ongoing stability of GWMG's business during the CCAA period, GWMG requires the continued participation of its directors, officers, managers and employees.

121. GWMG is seeking customary provisions staying all proceedings against the directors and officers of GWMG with respect to all claims against the directors or officers that relate to any obligations of GWMG whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers of GWMG.

122. I am advised by Liz Pillon of Stikeman Elliott, counsel to the Board of Directors of GWMG, and do verily believe that in certain circumstances directors can be held liable for certain obligations of a company, including those owing to employees and government entities. As of April 24, 2015, GWMG is potentially liable for accrued but unpaid vacation pay, wages, and source deductions, as well as up to 6 months of termination pay under the *Saskatchewan Employment Act*.

123. GWMG maintains directors' and officers' liability insurance (the "D&O Insurance") for the directors and officers of GWMG. The current D&O Insurance policies include:

- (a) a total of \$15 million in primary coverage;
- (b) \$10 million in excess shield coverage, plus an additional \$1 million in coverage in certain circumstances; and
- (c) \$5 million in Excess Side A D.I.C. coverage, subject to certain reinstatements of liability.

124. This coverage is subject to certain retentions; deductibles; exclusions; sub-limits; or some combination of the foregoing. Coverage also includes payment of certain fees and expenses, including certain reasonable and necessary fees and expenses incurred by certain public relations firms, crisis management firms or law firms incurred during the pendency of (among other things) a debt restructuring or default, or a bankruptcy. In addition, under the D&O Insurance, retentions and/or deductibles apply in respect of certain classes of claims. Moreover, the presence of a large number of exclusions creates a degree of uncertainty.

125. In addition, there are also contractual indemnities which have been given to the directors and officers by GWMG. GWMG does not have sufficient funds to satisfy those indemnities should their directors and officers be found responsible for the full amount of the potential directors' liabilities.

126. The directors and officers of GWMG have indicated that, due to the significant personal exposure associated with GWMG's aforementioned liabilities, they cannot continue their service with GWMG unless the Initial Order grants a charge on the Property in the amount of \$200,000 (the "**D&O Charge**"). The D&O Charge is proposed to rank immediately after the Administration Charge and the KERP Charge, but ahead of the Houlihan Transaction Fee Charge.

127. The D&O Charge will allow GWMG to continue to benefit from the expertise and knowledge of its directors and officers. GWMG believes the D&O Charge is reasonable in the circumstances. I am informed by Greg Prince of PwC and believe that the proposed Monitor is supportive of the indemnity and D&O Charge and its quantum. The Supporting Bondholders have been consulted in respect of the proposed D&O Charge and I understand that they are supportive of the charge.

*E) Approval of the KERPs and the KERP Charge*

128. As described above, GWMG seeks an order approving the KERPs offered by GWMG to certain of its key employees as an incentive for them to remain with GWMG through these CCAA proceedings. GWMG is also seeking a charge on the Property to secure the obligations of GWMG in respect of the KERPs (the “**KERP Charge**”). The KERP Charge is proposed to rank immediately behind the Administration Charge and ahead of the D&O Charge and the Houlihan Transaction Fee Charge.

129. Absent Court approval of the KERPs and the KERP Charge, the employees may have little incentive to remain with GWMG through these CCAA proceedings and are likely to seek other employment opportunities at some point during these proceedings.

130. The participation of the employees is critical to these CCAA proceedings and to the success of the SISP. The aggregate maximum amount under the KERPs of \$195,695 is reasonable considering the relative experience of the key employees and their familiarity with GWMG’s assets and overall business.

131. I am advised by the Board of Directors of GWMG that they have determined that the KERPs are necessary and appropriate in the circumstances. I am advised by Greg Prince of

PwC that the proposed Monitor is supportive of the KERPs. The Supporting Bondholders have been consulted in respect of the proposed KERPs and I understand that they are supportive of the KERPs being sought, including the KERP Charge.

***F) Approval of the Continued Performance of the Company's Obligations to Houlihan Lokey and Approval of the Houlihan Transaction Fee Charge***

132. It is contemplated that Houlihan Lokey will continue to advise the Ad Hoc Committee and participate actively in the administration of the SISP.

133. The Houlihan Fees Letter, as amended, contemplates the payment of a monthly fee (the “**Work Fee**”) and a deferred fee upon completion of a transaction (the “**Transaction Fee**”).

134. GWMG will be seeking an Order sealing the Houlihan Fees Letter as a confidential Exhibit to this Affidavit. I am advised by Jason Feintuch of Houlihan Lokey that the Houlihan Fees Letter is commercially sensitive as it contains the commercial terms of the engagement of Houlihan Lokey. I am further advised by Jason Feintuch that the disclosure of those commercial terms would have a detrimental impact on Houlihan Lokey’s ability to negotiate compensation on any future engagements. I do not believe that the sealing of the Houlihan Lokey Fees Letter will materially prejudice any third parties.

135. The Houlihan Fees Letter further contemplates that, in the event the Company commences CCAA proceedings, the Company will seek the authorization from the CCAA Court to fulfill its obligations under the Houlihan Fees Letter and a court-ordered charge as security for the Work Fee and the Transaction Fee.

136. In this Application the Company is seeking an Order authorizing it to continue to carry out its obligations under the Houlihan Fees Letter, to extend the Administration Charge to include Houlihan Lokey in respect of its Work Fee, and to establish a separate charge (the “**Houlihan Transaction Fee Charge**”) on the Property for the benefit of Houlihan Lokey in respect of any Transaction Fees that may ultimately be payable to Houlihan Lokey. The Houlihan Transaction Fee Charge in the maximum amount of \$300,000 is proposed to rank subordinate to all of the other proposed Court-ordered charges.

#### *G) The Support Agreement*

137. GWMG and the Supporting Bondholders executed the Support Agreement to provide for a consensual process to administer the SISP through these CCAA proceedings. The Support Agreement represents the culmination of lengthy negotiations between the Steering Committee and GWMG and presents an opportunity for a stable environment while the SISP is administered and one or more investment or sale transactions are pursued.

#### *H) Approval of the SISP*

138. GWMG is seeking approval of the SISP, to commence forthwith after court approval. The proposed SISP is a schedule to the Support Agreement and is the result of diligent work among GWMG and the Ad Hoc Committee, their respective advisors, and PwC to develop a mutually agreeable SISP. It is contemplated that the SISP will be administered by the Monitor, with the assistance of the other members of the SISP Team (as defined in the SISP to include the Company and its legal counsel and Cassels and Houlihan). In the event that there is disagreement as to the interpretation or application of the SISP, the Court will have jurisdiction to hear and resolve any such dispute.

139. Now produced and shown to me and annexed hereto as Exhibit "T" to my affidavit is a copy of the SISP.

140. The proposed timeline for the SISP is as follows:

Court Approval of SISP	May 1, 2015
Begin Marketing to Interested Parties	May 4, 2015
Receipt of Binding Offers	June 16, 2015
Auction (as applicable)	June 19, 2015
Execution of Binding Agreement(s)	June 22, 2015
Court Approval of Successful Bid(s)	No later than June 25, 2015
Closing(s) of Successful Bid(s)	No later than June 29, 2015

141. The SISP provides a means for testing the market, gauging interest in GWMG and its assets and determining whether a transaction is available that is advantageous to GWMG and its stakeholders as compared to a liquidation of GWMG and its assets.

142. While the proposed timeline for the SISP is condensed, the deadlines are reasonable given GWMG's previous marketing efforts and having regard to its available liquidity. I am advised by Greg Prince of PwC and believe that the proposed Monitor is supportive of the SISP.

143. The SISP contemplates the ability for Bondholders to credit bid only after the conclusion and/or termination of the SISP process. The Support Agreement contemplates disclosure of information relating to the SISP to Supporting Bondholders, however, should any Supporting Bondholder become involved directly or indirectly with any bid or investment

proposal, they will no longer be able to participate in the making of decisions or receive information relating to the SISP.

#### ***I) Payments to Subsidiaries***

144. As described above, GWMG funds the working capital needs of its subsidiaries. Continuing to meet those working capital needs is critical to preserving the value of GWMG for the benefit of its stakeholders.

145. Advances anticipated to be made from GWMG to its subsidiaries during these CCAA proceedings are reflected in the Cash Flow Statement. GWMG is seeking an order specifically authorizing it to continue funding the operations of its subsidiaries, in a manner consistent with existing practice and as contemplated in the Cash Flow Statement.

#### ***J) The Monitor***

146. PwC has consented to act as Monitor of GWMG, subject to court approval. Now produced and shown to me and annexed hereto as Exhibit "U" to my affidavit is a true copy of the written consent of PwC to act as Monitor herein.

147. PwC is a trustee within the meaning of section 2 of the BIA and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA.

### **VIII. URGENCY**

148. GWMG is in default of its interest payment obligations under the Bonds. The market has been informed of this default and GWMG's current cash position, and creditors have

begun taking steps to seize GWMG's property. The market has also been informed that the Company has entered into the Support Agreement and that it will be commencing these proceedings. To maximize the time available to administer the SISP and the likelihood of a successful transaction, it is imperative that GWMG commence the SISP as soon as possible. This application is therefore being brought on an urgent basis.

## IX. PURPOSE OF AFFIDAVIT

149. I swear this Affidavit in support of GWMG's Application in these proceedings.

**SWORN BEFORE ME** at the )

City of Denver, in the )

State of Colorado, this )

29<sup>th</sup> day of April, 2015 )

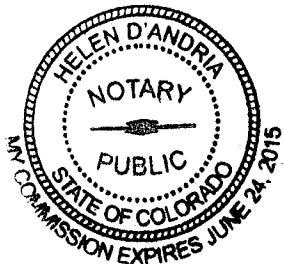
Helen D'Andria

Notary Public

my Commission Expires June 24, 2015

K. Marc Levier

K. Marc Levier



---

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**SCHEDULE "A"**  
**NON-APPLICANT SUBSIDIARIES**

1. LCMG Limited (U.K.)
2. Less Common Metals Limited (U.K.)
3. Rare Earth Extraction Co. Limited (South Africa)
4. Great Western GQD Rare Earth Materials Proprietary Limited (South Africa)
5. Steenkampskraal      Monazite      Mine      (Pty)      Ltd.      (South      Africa)

---

Court File No. \_\_\_\_\_

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF GREAT WESTERN  
MINERALS GROUP LTD.

(the "Applicant")

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**  
[COMMERCIAL LIST]

Proceedings commenced in Toronto

**AFFIDAVIT OF K. MARC LEVIER**  
(INITIAL ORDER)  
(SWORN APRIL 29, 2015)

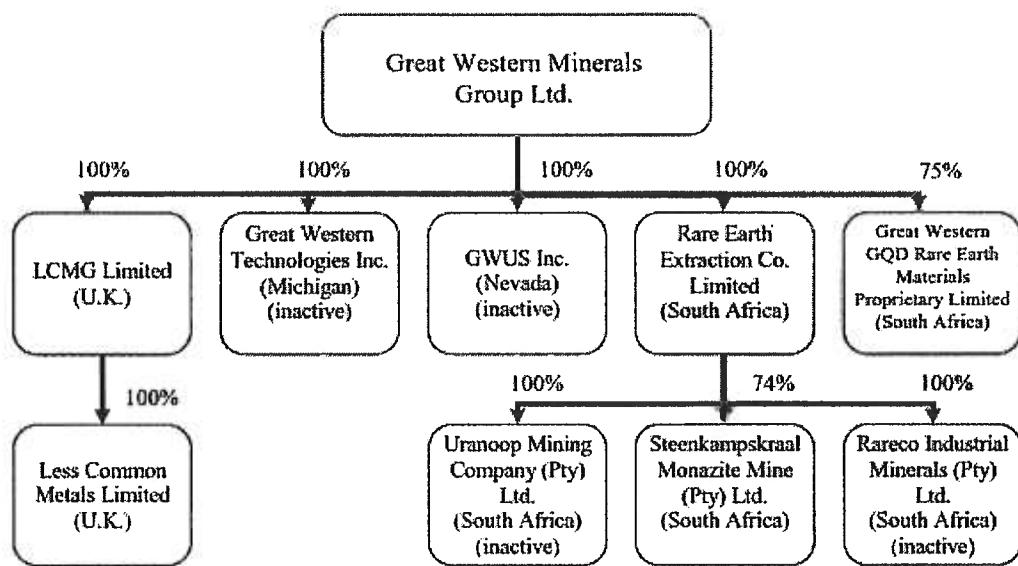
**FASKEN MARTINEAU DuMOULIN LLP**  
333 Bay Street – Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman [LSUC No.: 43430D]**  
**Dylan Chochla [LSUC No.: 62137I]**  
Tel: 416 366 8381  
Fax: 416 364 7813  
[sbrotman@fasken.com](mailto:sbrotman@fasken.com)  
[dchochla@fasken.com](mailto:dchochla@fasken.com)

Lawyers for the Applicant, Great Western Minerals  
Group Ltd.

**THIS IS EXHIBIT "A"**  
*referred to in the Affidavit of*  
**K. Marc Levier sworn before me on**  
*April 29, 2015*

Helen D'andrea  
*A Commissioner for Taking Affidavits  
Notary Public*



***THIS IS EXHIBIT "B"***  
*referred to in the Affidavit of*  
*K. Marc Levier sworn before me on*  
*April 29, 2015*

*Helen D'Andria*  
A Commissioner for Taking Affidavits  
Notary Public

## GREAT WESTERN MINERALS GROUP LTD.

STRICTLY PRIVATE AND CONFIDENTIAL

April 30, 2015

Dear

**RE: Retention Incentive Payment**

As Great Western Minerals Group Ltd. ("Great Western") enters this next challenging period of its operations, I would like to assure you, on behalf of the Board of Directors, that your contributions continue to be valued. We truly appreciate your continued hard work and importance to Great Western as

particularly at this time. (All capitalized terms not defined herein are as defined in the Support Agreement between Great Western and certain holders of Secured Convertible Bonds and in the Sales and Investor Solicitation Process ("SISP") contemplated therein).

In the event that it becomes necessary for Great Western to commence proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA" and the proceedings, the "CCAA Proceedings"), we would appreciate your ongoing support during the CCAA Proceedings. It is anticipated that Great Western will undertake the SISP to identify one or more investors or purchasers for some or all of its assets as part of the CCAA Proceedings.

- (a) your termination without cause during the CCAA proceedings;
- (b) the Outside Date (currently contemplated to be July 2, 2015, but as may be extended);
- (c) the closing of a Successful Bid (currently contemplated to be no later than June 29, 2015, but as may be extended);
- (d) the termination of the SISP;

- (e) the termination of the Support Agreement by the Supporting Bondholders;
- (f) the completion of a credit bid by the Supporting Bondholders or the Trustee (the "SISP Completion Date").

If no Bid is submitted pursuant to the SISP at or before the Bid Deadline, then the Retention Incentive Payment shall be due and owing and payable in full forthwith. Notwithstanding the foregoing, if a Successful Bid does not close due to the relevant bidder's failure to complete the transaction, the condition above will be deemed to have been satisfied as of the date that is 2 business days after the date that the relevant bidder advises of its intention to not close the transaction and the amounts payable on the SISP Completion Date shall be deemed payable.

The amount outlined above will be included in cash flow forecasts provided to the Monitor in the CCAA Proceedings and Great Western intends to seek Court approval of these arrangements at the commencement of the CCAA Proceedings. In addition, Great Western intends to seek Court approval of a super-priority charge over the property of Great Western ranking ahead of Great Western's secured and unsecured debt as security for the obligations of Great Western to make the payments set out herein.

It is important to note that the Retention Incentive Payment is inclusive of, not in addition to, any and all notice of termination or pay in lieu of notice of termination to which you might otherwise be entitled from Great Western and its corporate directors whether under statute (including *The Saskatchewan Employment Act*), contract or common law.

*[Remainder of this page intentionally left blank].*

You will not be entitled to receive any portion of the Retention Incentive Payment described above, if (a) you disclose the terms of this Retention Incentive Payment arrangement to any person other than your personal representatives and legal, financial and tax advisors (other than any disclosure required by law) or (b) at any time on or before the date any portion of the Incentive Payment is paid to you, (i) you resign from Great Western, or (ii) you are terminated for cause.

Yours truly,

Agreed and accepted by:

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

***THIS IS EXHIBIT "C"***

*referred to in the Affidavit of*

*K. Marc Levier sworn before me on*

*April 29, 2015*

*Helen D'Andrea*  
\_\_\_\_\_  
*A Commissioner for Taking Affidavits*  
*Notary Public*

**GREAT WESTERN MINERALS GROUP LTD.**

**STRICTLY PRIVATE AND CONFIDENTIAL**

April 30, 2015

K. Marc LeVier & Associates, Inc and  
Marc LeVier

Dear Marc:

**RE: Retention Incentive Payment .**

As Great Western Minerals Group Ltd. ("Great Western") enters this next challenging period of its operations, I would like to assure you, on behalf of the Board of Directors, that your contributions continue to be valued. We truly appreciate your continued hard work and importance to Great Western as President and Chief Executive Officer, particularly at this time. (All Capitalized Terms not defined herein are as defined in the Support Agreement between Great Western and certain holders of Secured Convertible Bonds or in the Sales and Investor Solicitation Process ("SISP") contemplated therein).

Great Western intends to commence proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA" and the proceedings, the "CCAA Proceedings"). During those proceedings, Great Western intends to conduct the SISP to identify one or more investors or purchasers for some or all of its assets.

Great Western entered into a binding letter agreement with you dated as of January 6, 2015 (the "Original Letter Agreement"). Pursuant to the Original Letter Agreement, Great Western agreed to pay you retention incentive payments of up to

(the "Retention Incentive Payments"), in the event that certain milestone conditions were met. You have been paid and received \_\_\_\_\_ of the Retention Incentive Payments to date. This letter agreement supersedes the Original Letter Agreement and sets forth the basis upon which Great Western and you have agreed that the remainder of the Retention Incentive Payments (up to \$100,000) may be made to you. You acknowledge and agree that there are no further payments owing or obligations of Great Western to you under the Original Letter Agreement.

For greater certainty and in consideration of your ongoing loyalty to Great Western, Great Western will pay you the unpaid balance of the Retention Incentive Payments on a milestone achievement basis, as detailed below:

- (a) Granting of the Initial Order in the CCAA Proceedings.
- (b) One business day after the deadline for delivery of Bids pursuant to the SISP.
- (c) The earlier of: (i) the Outside Date; (ii) the closing of a Successful Bid; (iii) termination of the SISP in accordance with its terms; (iv) termination of the Support Agreement by the Supporting Bondholders; and (v) completion of a credit bid by the Supporting Bondholders or Trustee (as applicable, the "SISP Completion Date").

Total maximum payment	\$100,000
-----------------------	-----------

If no Bid is submitted pursuant to the SISP at or before the Bid Deadline, then any unpaid balance of the Retention Incentive Payments including the amount payable on the SISP Completion Date shall be due and owing and payable in full forthwith. Notwithstanding the foregoing, if a Successful Bid does not close due to the relevant bidder's failure to complete the transaction, the condition in paragraph (c) above will be deemed to have been satisfied as of the date that is 2 business days after the date that the relevant bidder advises of its intention to not close the transaction and the amounts payable on the SISP Completion Date shall be deemed payable.

Amounts outlined above will be included in cash flow forecasts provided to the court-appointed monitor in the CCAA Proceedings.

Great Western intends to seek Court approval of these arrangements at the commencement of the CCAA Proceedings. In addition, Great Western intends to seek Court approval of a super-priority charge over the property of Great Western ranking ahead of Great Western's secured and unsecured debt as security for the obligations of Great Western to make the payments set out herein.

*[Remainder of this page intentionally left blank]*

You will not be entitled to receive any portion of the Retention Incentive Payments described above, if (a) you disclose the terms of this letter agreement to any person other than your personal representatives and legal, financial and tax advisors (other than any disclosure required by law) or (b) at any time on or before the date any portion of the Retention Incentive Payments are paid to you, (i) you voluntarily resign from Great Western, or (ii) you are terminated for cause.

Yours truly,

Agreed and accepted by:

---

Marc Levier

Date: \_\_\_\_\_

---

***THIS IS EXHIBIT "D"***

*referred to in the Affidavit of*

*K. Marc Levier sworn before me on*

*April 29, 2015*

*Wesley D'Andrea*

*A Commissioner for Taking Affidavits  
Notary Public*

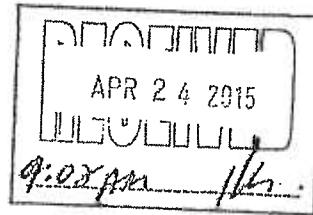


Government  
of  
Saskatchewan  
Ministry of Justice

FORM Q

*The Enforcement of Money Judgments Act*  
[Section 58]

NOTICE OF SEIZURE OF ACCOUNT



With respect to the enforcement of Judgment # 301318904, Case # 15SSO002945

Notice to Canadian Western Bank, account debtor:

TAKE NOTICE that pursuant to *The Enforcement of Money Judgments Act*, the following account of **GREAT WESTERN MINERALS GROUP LTD.**, judgment debtor, is **SEIZED** effective upon the service of this notice upon the account debtor; pursuant to enforcement of the above-mentioned judgment in the amount of \$82079.75 PLUS INTEREST, COSTS, AND SHERIFF'S FEES;

**Goods Seized:** from the Canadian Western Bank, sums of monies, cash, certificates, stocks, bonds, GIC's and/or any other item of value held to the credit of the debtor Great Western Minerals Group Ltd. in order to satisfy execution creditors' claims in the amount of \$82079.75, plus interest, costs and sheriff fees estimated at \$5000.00,\*\* totaling \$87079.75,\*\* **FUNDS ARE TO BE MADE PAYABLE TO:** Judicial Centre of Saskatoon, 520 Spadina Cres. East, Saskatoon Sask. S7K 3G7. Please refer to 15SSO002945/GREAT WESTERN MINERALS GROUP LTD. on payment.

\*\*Please note that interest fees, costs will vary depending on date of payment in full. Please contact the Judicial Centre of Saskatoon at the telephone number below to confirm exact amount to be seized.

TAKE NOTICE that, if you as an account debtor fail to comply with section 62 or 64 of the Act, the court, on application, may order that a judgment be entered against you.

TAKE NOTICE that you are deemed to have received from the judgment debtor a demand to discharge the account immediately or at such time as the account, if payable at a future time, becomes payable by payment to the sheriff:

This seizure is effected pursuant to the following section(s) of *The Enforcement of Money Judgments Act*:

49 – Seizure of Jointly Held Property  
58 – Method of Seizing an Account  
60 – Seizure of a Deposit Account

62 – Effect of Seizure of an Account  
67 – Failure to Honour Seizure of an Account  
69 – Requirement to Provide Information

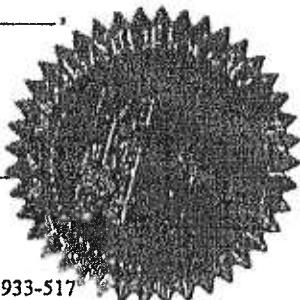
TAKE NOTICE that, if you dispute that you are obligated to make payments to the sheriff or the assignee of the sheriff, you must deliver to the sheriff, **WITHIN 15 DAYS** after the date on which the notice of seizure is served, a signed statement in accordance with subsection 62(2) of the Act.

DATED at Saskatoon , Saskatchewan  
(city, town, village) (province)  
this 23rd day of April, 2015  
(day of month) (month, year)

  
(Signature of sheriff)

Brad Lung

Judicial Centre of Saskatoon, (306)933-517



# Saskatchewan



Ministry of  
Justice and  
Attorney General

Sheriff's Office  
101-520 Spadina Crescent East  
Saskatoon, Canada  
S7K 3G7

(306) 933-5170  
(306) 933-5723

Date: 23 April 2015

Canadian Western Bank  
Third Party Collections

Dear Sir/Madam:

**RE: Judgment #15SSO002945**  
**Notice of Seizure of Account of Great Western Minerals Group Ltd. (Judgment debtor)**

Pursuant to the Notice of Seizure of Account served upon you this day, take notice that in accordance with section 49 of *The Enforcement of Money Judgments Act*, the seizure includes all accounts held by the Judgment Debtor jointly with another or others. Should it be the case that a jointly held account exists, please advise our office as to what portion of the amounts paid to this office were paid out of jointly held account(s), the total amount held in that account, as well as the name and address of the joint owner(s).

Please note that you are required to comply with the *The Enforcement of Money Judgments Act*, in particular the provisions shown below:

2(1) In this Act:

(a) "account" means a monetary obligation, however created, other than an obligation evidenced by a negotiable instrument or a security, due to a judgment debtor:

- (i) by a person, partnership, trustee or governmental entity;
- (ii) whether or not payable and whether or not specific as to amount; and
- (iii) including an obligation under a term deposit contract, an insurance contract, a letter of credit, a guarantee agreement or an indemnity agreement to make payment to the judgment debtor in discharge of a liability of the insurer, issuer, guarantor or indemnitor to a judgment debtor;

and, if the context requires, includes a future account;

(l) "deposit account" means an account owing by a deposit-taking institution in the form of a demand, time, savings or passbook account, but does not include an obligation arising under a contract with the deposit-taking institution to pay to the judgment debtor a specified sum of money and interest at a specified date in the future;

(w) "future account" means an account:

- (l) that becomes due any time within 12 months after a notice of seizure has been served; or

(ii) that is one of a series of periodic recurring payments arising from a legal relationship between the account debtor and a judgment debtor existing when a notice of seizure is served, regardless of the period over which the periodic recurring payment obligations become due;

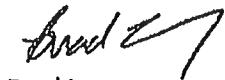
**Seizure of a deposit account**

60(1) A seizure of a deposit account only affects the obligations of a deposit-taking institution that exists on the day on which the notice of seizure is served.

(2) A deposit account is an existing obligation for the purposes of subsection (1) and the account debtor must comply with section 62, even though the depositor must take a procedural step, including serving notice or presenting a passbook or a document, other than a negotiable instrument, as a condition of the depositor's entitlement to enforce the obligation.

Amounts paid to the Sheriff pursuant to this Notice of Seizure of Account, should be made payable to 'The Sheriff' at the above noted address.

Yours truly



Brad Lung

Deputy Sheriff

**THIS IS EXHIBIT "E"**

*referred to in the Affidavit of*

*K. Marc Levier sworn before me on*

*April 29, 2015*

*Helen D'Andrea*

*A Commissioner for Taking Affidavits*  
*Notary Public*

DATED 5 APRIL 2012

**GREAT WESTERN MINERALS GROUP LTD.**

and

**WILMINGTON TRUST (LONDON) LIMITED**

---

**TRUST DEED**

relating to Great Western Minerals Group Ltd.  
US\$90,000,000 8.00 per cent. Secured Convertible  
Bonds due 2017

---

**Morgan Lewis**

Condor House  
5-10 St. Paul's Churchyard  
London EC4M 8AL  
Tel. +44 (0)20 3201 5000  
Fax: +44 (0)20 3201 5001  
[www.morganlewis.com](http://www.morganlewis.com)

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THIS TRUST DEED is dated 5 April 2012 and made between:

**PARTIES**

- (1) **GREAT WESTERN MINERALS GROUP LTD.** a company incorporated under the laws of Canada whose registered office is at 219 Robin Crescent, Saskatoon, Saskatchewan, Canada S7L 6M8 (the "Issuer"); and
- (2) **WILMINGTON TRUST (LONDON) LIMITED**, whose principal London office is situated at Third Floor, 1 King's Arms Yard, London EC2R 7AF, United Kingdom, (the "Trustee", which expression, where the context so admits, includes all persons for the time being the trustee or trustees of this Trust Deed).

**RECITALS**

- (A) By a resolution of the Board of Directors passed on 15 March 2012, the Issuer has resolved to issue US\$90,000,000. 8.00 per cent. secured convertible Bonds (as hereinafter defined) due 2017.
- (B) The Bonds are to be constituted by this Trust Deed.
- (C) The Trustee has agreed to act as trustee of this Trust Deed on the following terms and conditions.

**THE PARTIES AGREE THAT:**

**1. INTERPRETATION**

**1.1 Definitions**

Unless otherwise defined herein, terms defined in the Conditions shall have the same meanings herein. In addition, the following expressions have the following meanings:

<b>"Affiliate"</b>	shall mean each of the Issuer's Subsidiaries.
<b>"Agency Agreement"</b>	means the paying, transfer and conversion agency agreement dated contemporaneously herewith, made between the Issuer, Wilmington Trust (London) Limited as Trustee, Deutsche Bank AG, London Branch (or such other person(s) as may be agreed by the Issuer and the Arrangers) in its capacities as Principal Paying Agent, Conversion Agent, Transfer Agent and Calculation Agent, and Deutsche Bank Luxembourg SA as Registrar (such terms being defined in the Agency Agreement).
<b>"Agents"</b>	means the Principal Paying Agent, the Conversion Agent, the Transfer Agent, the Calculation Agent and the Registrar appointed under the Agency Agreement, at their Specified Offices, and their Successors.
<b>"Arrangers"</b>	means GMP, ISM and Byron.
<b>"Auditors"</b>	means the auditors for the time being of the Issuer or, if they are unable or unwilling to carry out any action requested of

“Authorised Officer”	means any Director or any other senior officer of the Issuer who has been authorised by the Issuer to sign the Global Bonds or other certificates required under this Trust Deed on behalf of, and so as to bind, the Issuer.
“Board of Directors”	means the board of directors of the Issuer.
“Bondholder”	means the person in whose name a Bond is registered in the Register.
“Bond Procurement Agreement”	means the bond procurement agreement dated 16 March 2012 made between the Arrangers and the Issuer on or about the date of this Trust Deed.
“Bonds”	means bonds in the denomination of US\$10,000 each, in registered form comprising the aggregate principal amount of US\$80,000,000. 8.00 per cent. secured convertible bonds due 2017 (and shall, unless otherwise indicated, include US\$10,000,000 bonds issued pursuant to the Over-allotment Option).
“Bond Security”	has the meaning given to it in the Conditions.
“Business Day”	means, in relation to any place, a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets are open for business in that place.
“Byron”	means Byron Capital Markets Ltd. of 121 King Street West, Suite 1810, Toronto, Ontario, Canada M5H 3T9.
“Calculation Agent”	means Deutsche Bank AG, London Branch or any successor Calculation Agent appointed under the Agency Agreement at its Specified Office.
“Change of Control Redemption Right”	means the right of the holder of each Bond to require the Issuer to redeem that Bond on the Change of Control Put Date (as defined in the Conditions) at its principal amount, together with accrued and unpaid interest to such date.
“Clearstream”	means Clearstream Banking, société anonyme, Luxembourg.
“Closed Periods”	means the periods listed in Condition 5.3.
“Common Depositary”	means a common depositary for Clearstream and Euroclear.
“Common Shares”	has the meaning given to it in the Conditions.
“Conditions”	means the terms and conditions of the Bonds set out in Schedule 2 as from time to time modified in accordance with this Trust Deed, and as modified, in their application to the Bonds in respect of which the Global Bond is issued, by the

	provisions of the Global Bond, and any reference to a particularly numbered condition shall be construed accordingly.
<b>“Conversion Agent”</b>	means Deutsche Bank AG, London Branch or any successor Conversion Agent appointed under the Agency Agreement at its Specified Office.
<b>“Conversion Date”</b>	has the meaning given to it in the Conditions.
<b>“Conversion Notice”</b>	has the meaning given to it in the Conditions.
<b>“Conversion Period”</b>	has the meaning given to it in the Conditions.
<b>“Conversion Price”</b>	has the meaning given to it in the Conditions.
<b>“Conversion Right”</b>	has the meaning given to it in the Conditions.
<b>“Current Market Price”</b>	has the meaning given to it in the Conditions.
<b>“De-listing Redemption Right”</b>	means the right of the holder of each Bond, following the occurrence of a De-Listing Event (as defined in the Conditions) to require the Issuer to redeem that Bond on the De-listing Event Put Date (as defined in the Conditions) at its Early Redemption Amount (as defined in the Conditions), together with accrued and unpaid interest to (but excluding) such date.
<b>“Directors”</b>	means the directors of the Issuer.
<b>“Equity Record Date”</b>	means a date fixed by the Directors of the Issuer or otherwise specified for the purpose of determining entitlements to dividends or other distributions to, or rights of, holders of Common Shares.
<b>“Escrow Agreement”</b>	means the escrow agreement dated contemporaneously herewith, made between, inter alios, Wilmington Trust (London) Limited as escrow agent, the Trustee and the Issuer setting out the terms upon which the Escrow Account (as defined therein) will be operated.
<b>“Euroclear”</b>	means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or any successor securities clearing agency.
<b>“Event of Default”</b>	has the meaning given to it in the Conditions.
<b>“Extraordinary Resolution”</b>	has the meaning set out in paragraph 18 of Schedule 4.
<b>“Fair Market Value”</b>	has the meaning given to it in the Conditions.
<b>“Fiscal Period”</b>	means, a period commencing on 1 January and ending on the succeeding 31 December, provided that if the Issuer shall change its financial year, as the case may be, the foregoing shall be amended as necessary.

<b>“Global Bond”</b>	means the permanent registered Global Bond which will represent Bonds, substantially in the form set out in Schedule 3.
<b>“GMP”</b>	means GMP Securities L.P. of 145 King Street West, Suite 300, Toronto, Ontario, Canada, M5H 1J8.
<b>“IFRS”</b>	means International Financial Reporting Standards as adopted by the International Accounting Standards Board.
<b>“Independent Financial Adviser”</b>	has the meaning given to it in the Conditions.
<b>“ISM”</b>	means ISM Capital LLP of 17 Old Court Place, London, United Kingdom, W8 4PL.
<b>“Issuer’s Subsidiaries”</b>	has the meaning given to it in the Bond Procurement Agreement.
<b>“Milestone Failure Event”</b>	means the failure to deliver a Mining Report Letter as more particularly set out in Condition 8.8.
<b>“Offering Circular”</b>	means the offering circular to be dated on or before the Closing Date prepared by the Issuer in connection with the Offering in the agreed form.
<b>“outstanding”</b>	means, in relation to the Bonds, all the Bonds issued except (a) those which have been redeemed in accordance with the Conditions, (b) those in respect of which the date for redemption has occurred and the redemption monies have been duly paid to or to the order of the Trustee as provided in Clause 2 ( <i>Amount of the Bonds and Covenant to Pay</i> ) or have been duly paid to the Principal Paying Agent as permitted by Clause 2 ( <i>Amount of the Bonds and Covenant to Pay</i> ) and remain available for payment following surrender of any definitive Bonds or certificates (if any) in respect of Bonds, (c) those claims that have become void under Condition 13 ( <i>Prescription</i> ), (d) those which have been purchased and cancelled as provided in the Conditions, (e) those mutilated or defaced Bonds which have been surrendered in exchange for replacement Bonds pursuant to Condition 14 ( <i>Replacement of Bonds</i> ), (f) 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 14 ( <i>Replacement of Bonds</i> ), (g) those in respect of which the Conversion Right has been duly exercised and discharged (and, for the avoidance of doubt, a Bond in respect of which a Conversion Date has occurred shall be deemed to remain outstanding for the purposes of Condition 11 ( <i>Events of Default</i> ), Condition 15 ( <i>Meetings of Bondholders, Modification and Waiver, Substitution</i> ) and Condition 16 ( <i>Enforcement</i> ) and Schedule 4 until the Conversion Right has been satisfied and discharged even if

the name of the holder is removed from the Register during the conversion process), and (h) the Global Bond to the extent that it shall have been exchanged for another Global Bond or definitive Bonds pursuant to its provisions; provided that for the purposes of (1) ascertaining the right to attend and vote at any meeting of the Bondholders, (2) determining how many Bonds are outstanding for the purposes of Condition 11 (*Events of Default*), Condition 15 (*Meetings of Bondholders, Modification and Waiver, Substitution*) and Condition 16 (*Enforcement*) and Schedule 4, and (3) 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 which are beneficially held by or on behalf of the Issuer and not yet cancelled shall be deemed not to remain outstanding.

<b>“Over-allotment Option”</b>	has the meaning given to it in the Bond Procurement Agreement.
<b>“Permitted Financial Indebtedness”</b>	has the meaning given to it in the Conditions.
<b>“Potential Event of Default”</b>	means an event or circumstance which would with the giving of notice and/or the lapse of time and/or the issuing of a certificate become an Event of Default.
<b>“Principal Paying Agent”</b>	means Deutsche Bank AG, London Branch, or any successor Principal Paying Agent appointed under the Agency Agreement at its Specified Office.
<b>“PSM”</b>	means the Professional Securities Market of the London Stock Exchange.
<b>“Register”</b>	means the register of Bondholders.
<b>“Registrar”</b>	means Deutsche Bank Luxembourg S.A., or any successor Registrar appointed under the Agency Agreement, at its Specified Office.
<b>“Relevant Stock Exchange”</b>	has the meaning given to it in the Conditions.
<b>“Savings Directive”</b>	means Council Directive 2003/48/EC on the taxation of savings income in the form of interest payments.
<b>“Secured Property”</b>	has the meaning given to it in the Conditions.
<b>“Security”</b>	means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect.
<b>“Shareholder”</b>	means those persons holding one or more Common Shares.
<b>“Specified Office”</b>	means, in relation to an Agent, the office identified with its name in Clause 21.1.3 or any other office approved by the Trustee and notified to the Bondholders by or on behalf of

	the Issuer pursuant to Clause 9.8 ( <i>Notices to Bondholders</i> ).
“Subsidiary”	has the meaning given to it in the Conditions.
“Successor”	means, in relation to the Agents, such other or further person as may from time to time be appointed by the Issuer as an Agent with the written approval of, and on terms approved in writing by, the Trustee and notice of whose appointment is given to Bondholders.
“Trading Day”	means the day when the Relevant Stock Exchange is open for business, but does not include a day when (a) no such last trade price or closing bid and offered prices is/are reported and (b) (if the Common Shares are not listed or admitted to trading on such exchange) no such closing bid and offered prices are furnished as aforesaid.
“Transaction Documents”	has the meaning given to it in the Conditions.
“Transfer Agent”	means Deutsche Bank AG, London Branch, or any successor Transfer Agent appointed under the Agency Agreement at its Specified Office.
“Trust Deed”	means this Trust Deed (as from time to time altered in accordance with this Trust Deed) and any other document executed in accordance with this Trust Deed (as from time to time so altered) and expressed to be supplemental to this Trust Deed.
“Trust Corporation”	means a corporation entitled by rules made under the Public Trustee Act 1906 (or any successor statute or re-enactment thereof) or entitled pursuant to any other legislation applicable to a trustee in any jurisdiction other than England to carry out the functions of a custodian trustee.
“Trustee Acts”	means the Trustee Act 1925 and the Trustee Act 2000.
“TSX Venture Exchange”	means the TSX Venture Exchange Inc.

## 1.2 Construction of certain references

Unless the context otherwise requires:

- 1.2.1 references to costs, charges, liabilities, remuneration or expenses include any withholding, value added, turnover or similar tax charged in respect thereof;
- 1.2.2 references to “U.S. dollars” and “US\$” are to the lawful currency for the time being of the United States of America;
- 1.2.3 references to an action, remedy or method of judicial proceedings for the enforcement of rights of creditors shall include references to the action, remedy or method of judicial proceedings in jurisdictions other than England as shall most nearly approximate thereto;

1.2.4 references to any statute or any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under any such modification or re-enactment; and

1.2.5 words or expressions used in this Trust Deed shall bear the same meanings as in the Companies Act 2006.

**1.3 Headings**

Headings shall be ignored in construing this Trust Deed.

**1.4 Schedules**

The Schedules are part of this Trust Deed and have effect accordingly.

**1.5 Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Trust Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Trust Deed except and to the extent (if any) that this Trust Deed expressly provides for such Act to apply to any of its terms.

**2. AMOUNT OF THE BONDS AND COVENANT TO PAY**

**2.1 Amount of the Bonds**

The aggregate principal amount of the Bonds is limited to US\$90,000,000.

**2.2 Covenant to pay**

The Issuer shall, on any date when the Bonds or any of them become due to be redeemed in accordance with the Conditions, unconditionally pay or procure to be paid to or to the order of the Trustee in London in U.S. dollars in immediately available funds the principal amount of the Bonds becoming due for redemption or repayment on that date (to be received by 2:00 p.m. London time) together with any applicable premium and will (subject to the Conditions) until such payment (both before and after any judgement or other order of a court of competent jurisdiction) unconditionally pay or procure to pay to or to the order of the Trustee interest in U.S. dollars on the principal amount of the Bonds outstanding as set out in the Conditions provided that (a) subject to the provisions of Clause 2.3 (*Payment after a default*) every payment of any sum due in respect of the Bonds made to or to the account of the Principal Paying Agent as provided in the Agency Agreement shall, to that extent, satisfy such obligation except to the extent that there is failure in its subsequent payment to the relevant Bondholders under the Conditions and (b) a payment made after the due date or pursuant to Condition 11 (*Events of Default*) will be deemed to have been made when the full amount due has been received by the Principal Paying Agent or the Trustee except to the extent that there is failure in the subsequent payment to the relevant Bondholders under the Conditions. The Trustee will hold the benefit of the covenants in this Clause 2.2 on trust for itself and the Bondholders.

**2.3 Payment after a default**

At any time whilst an Event of Default has occurred and is continuing the Trustee may:

2.3.1 by notice in writing to the Issuer and the Agents, require the Agents, until notified by the Trustee to the contrary, so far as permitted by applicable law:

- (a) to act as agents of the Trustee under this Trust Deed and the Bonds, *mutatis mutandis*, on the terms of the Agency Agreement (save for necessary consequential amendments and except that the Trustee's liability under any provisions of the Agency Agreement for the indemnification, remuneration and all other expenses of the Agents will be limited to the amounts for the time being held by the Trustee in respect of the Bonds on the terms of this Trust Deed) and thereafter to hold all Bonds (if issued) and all monies, documents and records held by them in respect of the Bonds to the order of the Trustee; and/or
- (b) to deliver all Bonds (if issued) and all monies, documents and records held by them in respect of the Bonds to the Trustee or as the Trustee directs in such notice, provided that this Clause 2.3.1(b) shall not apply to any documents or records which the relevant Agent is obliged not to release by any laws or regulations to which it is subject; and

2.3.2 by notice in writing to the Issuer, require the Issuer to make all subsequent payments in respect of the Bonds to or to the order of the Trustee and not to the Principal Paying Agent with effect from the issue of any such notice. Until such notice is withdrawn, Clause 2.2(a) shall have no effect.

### 3. FORM OF THE BONDS AND ISSUE OF THE BONDS

#### 3.1 The Global Bond

The Bonds will initially be represented by one or more global bonds in registered form (collectively the “**Global Bond**”) in the aggregate principal amount of the Bonds. The Registrar (or its agent on its behalf) shall, after checking that such Global Bond has been recorded in the Register correctly, authenticate the Global Bond upon the written order of the Issuer and arrange for its delivery to the Common Depository. The Global Bond will be issued in the name of a nominee of the Common Depository. The Issuer shall then deposit, or procure to be deposited, such Global Bond with the Common Depository on terms that such Common Depository shall hold the same for the account of the persons who would otherwise be entitled to receive the Bonds represented by that Global Bond and successors in title to such persons as appearing in the records of Euroclear and Clearstream for the time being. Upon receipt of the Global Bond, Euroclear and Clearstream will credit each subscriber with a principal amount of Bonds equal to the principal amount thereof for which such subscriber has subscribed and paid. The Global Bond need not be security printed. The holders of the Bonds evidenced by the Global Bond shall, subject to the Conditions, in all respects

be entitled to the same benefits under this Trust Deed as individual Bonds evidenced by definitive Bonds.

### **3.2 The definitive Bonds**

The definitive Bonds, if issued, shall be in denominations of US\$10,000 each, will be security printed in accordance with all applicable legal and Relevant Stock Exchange requirements and will be substantially in the form set out in Schedule 1 and endorsed with the Conditions.

### **3.3 Signature**

The Global Bond (and the definitive Bonds, if issued) shall be signed manually or in facsimile by one or more Director(s) or Authorised Officer(s) of the Issuer duly authorised for the purpose or manually or in facsimile by any duly authorised attorney of the Issuer and authenticated manually by or on behalf of the Registrar. The Issuer may use the facsimile signature of any person who at the date of this Trust Deed is a Director of the Issuer even if at the time of issue of any Bonds (including the Global Bond) he no longer holds such office. Bonds represented by any certificates or definitive Bonds (including the Global Bond) so executed and authenticated will be binding and valid obligations of the Issuer.

### **3.4 Redemption**

Upon full or partial redemption of any of the Bonds for any reason, a notation will be made by the Registrar in the register reflecting such event (or, in the case of any definitive Bonds that are outstanding, such definitive Bonds shall be surrendered to the Registrar and in the case of partial redemption, new definitive Bonds shall thereupon be issued in appropriate amounts).

### **3.5 Issue**

Issue and delivery of the Bonds shall be complete on the issue and delivery of the Global Bond to the Common Depository or to a custodian/nominee thereof, by, or at the order of, the Issuer and completion of the Register by or on behalf of the Registrar.

### **3.6 Entitlement to treat holder as owner**

A Bondholder will (save as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or any writing on or theft or loss of any definitive Bond or certificate issued in respect of it) and no person will be liable for so treating the holder. All payments made to any such holders of a Bond in definitive form or the holder of a Global Bond shall be valid and to the extent of the sums so paid effective to satisfy and discharge the liability of the Issuer and/or the Trustee for the equivalent amount which is payable in respect of the same.

## **4. STAMP DUTIES AND TAXES**

### **4.1 Stamp duties**

The Issuer will pay any stamp, issue, registration, transfer, documentary or other similar taxes and duties, including interest and penalties, payable in respect of the creation, issue and offering of the Bonds, the execution or delivery of this Trust Deed and the deposit of any definitive Bonds and Conversion Notices for the conversion of Bonds and the issue and delivery of Common Shares following such deposit, except for the taxes and duties required to be paid by Bondholders under Condition 7.7 (*Procedure for exercise of Conversion Rights*). The Issuer will also indemnify the Trustee and the Bondholders from and against all stamp, issue, registration, transfer, documentary or other taxes and duties paid by any of them in any jurisdiction in connection with any action taken by or on behalf of the Trustee or, as the case may be, (where entitled under Condition 16 (*Enforcement*) to do so) the Bondholders to enforce the obligations of the Issuer under this Trust Deed or the Bonds. The Trustee shall not be responsible or liable for: (a) determining whether a Bondholder or the Issuer is liable to pay any Taxes or the amounts payable (if any) in connection with Condition 7.7 (*Procedure for exercise of Conversion Rights*); (b) any failure by any Bondholder or the Issuer to make any such payment to the relevant authorities; or (c) determining the sufficiency or insufficiency of any amounts so paid.

#### **4.2 Change of taxing jurisdiction**

If the Issuer becomes subject generally to the taxing jurisdiction of any territory or any authority of or in that territory having power to tax other than or in addition to its jurisdiction of incorporation or any such authority of or in such territory which imposes taxes, duties, assessments or governmental charges of whatever nature with respect to this Trust Deed or the Bonds (other than taxes required to be paid by Bondholders under Condition 7.7 (*Procedure for exercise of Conversion Rights*)) then the Issuer will notify the Trustee in writing as soon as practicable and (unless the Trustee otherwise agrees) give to the Trustee an undertaking satisfactory to the Trustee in terms and manner corresponding to the terms of Condition 10 (*Taxation*), with the substitution for, or (as the case may require) the addition to, the references in that Condition to its jurisdiction of incorporation or references to that other or additional territory or authority to whose taxing jurisdiction the Issuer has become so subject and which has imposed such taxes, duties, assessments or governmental charges. In such event this Trust Deed and the Bonds will be read accordingly.

### **5. COVENANTS RELATING TO THE CONVERSION RIGHTS**

The Issuer hereby undertakes to and covenants with the Trustee that so long as any Conversion Right is, or is capable of being or becoming, exercisable, the Issuer will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in its opinion, it is not materially prejudicial to the interests of the Bondholders to give such approval unless otherwise required by applicable laws and regulations:

#### **5.1 Expenses**

pay the expenses of the issue of, and all expenses of obtaining listing for, the Common Shares arising on conversion of the Bonds on the TSX Venture Exchange or such Relevant Stock Exchange other than as may be expressed to be payable by a Bondholder pursuant to Condition 7.7 (*Procedure for exercise of Conversion Rights*);

## 5.2 Issues of shares

issue, allot and deliver Common Shares on exercise of Conversion Rights and at all times keep available for issue free from pre-emptive or other similar rights such number of Common Shares as would enable the Conversion Rights and all other rights of subscription and exchange for and conversion into Common Shares to be satisfied in full;

## 5.3 Capitalisation rights

not issue or pay up any Securities, in either case by way of capitalisation of profits or reserves, other than:

- 5.3.1 by the issue of fully paid Common Shares or other Securities to the Shareholders and other holders of shares in the capital of the Issuer which by their terms entitle the holders thereof to receive Common Shares or other Securities on a capitalisation of profits or reserves; or
- 5.3.2 by the issue of Common Shares paid up in full out of profits or reserves (in accordance with applicable law) and issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a cash dividend; or
- 5.3.3 by the issue of fully paid equity share capital (other than Common 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 Common Shares); or
- 5.3.4 by the issue of Common Shares or any equity share capital to, or for the benefit of, any employee or former employee, director or executive holding or formerly holding executive office of the Issuer or any of its Subsidiaries or any associated company or to trustees or nominees to be held for the benefit of any such person, in any such case pursuant to an employee, director or executive share or option scheme whether for all employees, directors, or executives or any one or more of them,

unless, in any such case, the same constitutes a Dividend or otherwise gives (or, in the case of an issue or payment up of Securities in connection with a Change of Control, will give) rise (or would, but for the provisions of Condition 7.6 (*Rounding Down and Notice of Adjustment to the Conversion Price*) relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price or is (or, in the case of any issue or payment up of Securities in connection with a Change of Control, will be) otherwise taken into account for the purposes of determining whether such an adjustment should be made

## 5.4 Modify rights

not in any way modify the rights attaching to the Common 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 such rights attaching to the Common Shares but so that nothing in this Clause 5.4 shall prevent:

- 5.4.1 the issue of any equity share capital to employees (including officers and directors holding or formerly holding executive or non-executive office or the personal service company of any such person) whether of the Issuer or any of the Issuer's Subsidiaries or associated companies by virtue of their office or employment 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
- 5.4.2 any consolidation, reclassification or subdivision of the Common Shares or the conversion of any Common Shares into stock or vice versa; or
- 5.4.3 any modification of such rights which is not, in the determination in good faith of an Independent Financial Adviser, materially prejudicial to the interests of the holders of the Bonds; or
- 5.4.4 any alteration to the articles or by-laws of the Issuer made in connection with the matters described in this Clause 5 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 Common Shares, dealt with under such procedures); or
- 5.4.5 any issue of equity share capital where the issue of such equity share capital results or would, but for the provisions of Condition 7.6 (*Rounding Down and Notice of Adjustment to the Conversion Price*) relating to roundings or the carry forward of adjustments or, where comprising Common Shares, the fact that the consideration per Common Share receivable therefor is at least 95 per cent. of the Current Market Price per Common Share on the relevant date, otherwise result, in an adjustment to the Conversion Price; or
- 5.4.6 any issue of equity share capital or modification of rights attaching to the Common Shares where prior thereto the Issuer shall have instructed an Independent Financial Adviser to determine in good faith what (if any) adjustments should be made to the Conversion Price as being fair and reasonable to take account thereof and such Independent Financial Adviser shall have determined in good faith either that no adjustment is required or that an adjustment to 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); or
- 5.4.7 without prejudice to Condition 7.2.10 (*Adjustment of Conversion Price*) and Condition 8.6 (*Redemption at the Option of Bondholders upon a Change of Control*), the amendment of the articles or by-laws of the Issuer following a Change of Control to ensure that any Bondholder exercising its Conversion Right after the occurrence of a Change of Control will receive the same consideration for the Common Shares arising on conversion as it would have received had it exercised its

Conversion Right at the time of the occurrence of the Change of Control;  
or

5.4.8 without prejudice to any rule of law or legislation (including regulations made under the Canada Business Corporations Act or any other provision of that or any other legislation), the conversion of Common Shares into, or the issue of any Common Shares in, uncertificated form (or the conversion of Common Shares in uncertificated form to certificated form) or the amendment of the articles or by-laws of the Issuer to enable title to securities in the Issuer (including Common Shares) to be evidenced and transferred without a written instrument or any other alteration to the articles or by-laws of the Issuer made in connection with the matters described in this Condition 12.1.3 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 Common Shares, dealt with under such procedures);

#### **5.5 Securities Consideration**

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 member of the Group or procured by the Issuer or any member of the Group to be issued) issued without rights to convert into, or exchange or subscribe for, Common Shares shall subsequently be granted such rights exercisable at a consideration per Common Share which is less than 95 per cent. of the Current Market Price per Common 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 7.6 (*Rounding Down and Notice of Adjustment to the Conversion Price*) 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 Common Shares of differing nominal values, save where such Common Shares have the same economic rights;

#### **5.6 Distributions**

not make any issue, grant or distribution or take or omit to take any other action if the effect thereof would be that, on conversion of the Bonds, Common Shares could not, under any applicable law then in effect, be legally issued as fully paid

#### **5.7 Reductions**

not reduce its issued share capital, share premium account or capital redemption reserve or any uncalled liability in respect thereof except (1) pursuant to the terms of issue of the relevant share capital or (2) by means of a purchase or redemption of share capital of the Issuer or (3) as permitted by the Canada Business Corporations Act or (4) where the reduction does not involve any distribution of assets to Shareholders or (5) solely in relation to a change in the currency in which the nominal value of the Common Shares is expressed or (6) a reduction of its share premium account to facilitate the writing off of goodwill arising on consolidation which requires the confirmation of the High Court and which does not involve the return to

Shareholders, either directly or indirectly, of an amount standing to the credit of the share premium account of the Issuer in respect of which the Issuer shall have tendered to the High Court such undertaking as it may require prohibiting, so long as any of the Bonds remains outstanding, the distribution (except by way of capitalisation issue) of any reserve which may arise in the books of the Issuer as a result of such reduction or (7) to create distributable reserves (to which, in respect of any such creation of distributable reserves by the Issuer, the Trustee will be deemed to have irrevocably given its consent (without any liability for so doing) prior to such creation of distributable reserves occurring and, to the extent that express consent is required, the Bondholders authorise and direct the Trustee to give its consent (without any liability for so doing) to such creation of distributable reserves) or (8) by way of transfer to reserves as permitted under applicable law or (9) 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 (10) where the reduction is permitted by applicable law and results (or, in the case of a reduction in connection with a Change of Control, will result) in (or would, but for the provisions of Condition 7.6 (*Rounding Down and Notice of Adjustment to the Conversion Price*)) relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is (or, in the case of a reduction in connection with a Change of Control, will be) otherwise taken into account for the purposes of determining whether such an adjustment should be made, provided that, without prejudice to the other provisions of these Conditions, the Issuer may exercise such rights as it may from time to time be entitled pursuant to applicable law to purchase, redeem or buy back its Common Shares and any depositary or other receipts or certificates representing Common Shares without the consent of Bondholders;

#### 5.8 Extend Offer

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) such Shareholders other than the offeror and/or any associates (as defined in Multilateral Instrument 62-104 – *Take-Over Bids and Issuer Bids*), or any modification or re-enactment thereof) of the offeror to acquire all or a majority of the issued Common Share capital of the Issuer, or if a scheme is proposed with regard to such acquisition, give notice of such offer or scheme to the Trustee and the Bondholders at the same time as any notice thereof is sent to its Shareholders (or as soon as practicable thereafter) that details concerning such offer or scheme may be obtained from the specified offices of the Paying, Transfer and Conversion Agents and, where such an offer or scheme has been recommended by the Board of Directors of the Issuer, or where such an offer has become or been declared unconditional in all respects or such scheme has become effective, use its reasonable endeavours to procure that a like offer or scheme is extended to the holders of any Common 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 (which like offer or scheme in respect of such Bondholders shall entitle any such Bondholders to receive the same type and amount of consideration it would have received had it held the number of Common Shares to which such Bondholder would be entitled assuming he were to exercise his Conversion Rights in the relevant Change of Control Period);

**5.9 Listing**

use its reasonable commercial endeavours to ensure that the Common Shares issued upon conversion of the Bonds will as soon as practicable be admitted to trading by the TSX Venture Exchange in accordance with their respective rules and will be listed, quoted or accepted for dealing as soon as practicable on any other stock exchange or securities market on which the Common Shares may then be listed or quoted or dealt in;

**5.10 Miscellaneous**

whilst any Bond remains outstanding, the Issuer will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in the Trustee's opinion, it is not materially prejudicial to the interests of the Bondholders to give such approval:

- 5.10.1 comply with the obligations assumed by it under the articles or by-laws of the Issuer and not make any amendment to the articles or by-laws of the Issuer which would vary, abrogate or modify the rights appertaining to the Common Shares;
- 5.10.2 not issue any other share capital with rights which are more favourable than the rights attaching to the Common Shares in respect of dividends or payment or on a return of capital or otherwise.
- 5.10.3 for so long as any Bond remains outstanding, use reasonable endeavours to maintain the listing of the Bonds on the Professional Securities Market, provided that if at any time the Issuer determines that it is unable to list or can no longer reasonably comply with the requirements for listing the Bonds on the Professional Securities Market, or if maintenance of such listing becomes unduly onerous, it will not be required to maintain a listing of the Bonds on the Professional Securities Market and will use reasonable endeavours to obtain and maintain a listing of such Bonds on another recognised stock exchange (as defined in section 1005 of the Income Tax Act 2007).

**6. NOTICES RELATING TO THE CONVERSION RIGHT**

**6.1 Requirement to give notice**

If:

- 6.1.1 the Issuer authorises the grant, issue or offer to all of the holders of Common Shares of options, rights or warrants to subscribe for or purchase either any Common Shares or any securities convertible into, or exchangeable for or which confer rights to purchase, Common Shares; or
- 6.1.2 the Issuer declares a dividend in or makes any other distribution on, or pays or makes any cash or other distribution in respect of, all of the Common Shares then issued and outstanding, other than regular periodic dividends in cash out of the Issuer's distributable earnings and profits, or authorises the grant, issue or offer to all of the holders of Common Shares

then issued and outstanding of rights or warrants to subscribe for or purchase any shares or securities other than Common Shares or any securities convertible into or exchangeable for or which confer rights to purchase Common Shares; or

- 6.1.3 there is a re-classification of the Common Shares (including a division or consolidation of the Issuer's outstanding Common Shares) or a consolidation, merger or amalgamation to which the Issuer is a party (whether or not the Issuer will be a continuing corporation) or any sale or transfer of all or substantially all of the assets or business of the Issuer; or
- 6.1.4 the Issuer authorises the issue of any securities convertible into or exchangeable for Common Shares or rights or warrants to subscribe for or purchase Common Shares or securities (other than those referred to in Clause 6.1.1 or 6.1.2) which will, or authorises the issue of any Common Shares which will, (or, if in any such case a relevant consideration or offering price fixed by the Directors of the Issuer to be recommended at a relevant general meeting of shareholders is adopted, will) upon issue give rise to an adjustment to the Conversion Price pursuant to Clause 7 (*Adjustments to the Conversion Price*); or
- 6.1.5 there is a voluntary or involuntary dissolution, liquidation or winding-up of the Issuer;

the Issuer shall forthwith give 14 days written notice thereof to the Trustee and the Principal Paying Agent and, in addition, it will at least 10 days before the applicable Equity Record Date (provided however that if there is no applicable Equity Record Date, the date by which the Issuer shall give such written notice shall be the earlier of the effective date or the date of submission) give notice to the Bondholders.

## 6.2 Contents of notice

The Issuer shall ensure that the notice referred to in Clause 6.1 shall, as the case may require, state:

- 6.2.1 the Equity Record Date for such grant, issue or offer of options, rights or warrants, dividend, distribution or payment or such re-classification (and, in the case of the grant, issue or offer of options, rights or warrants, the period during which such options, rights or warrants may be exercised); or
- 6.2.2 the date:
  - (a) on which such re-classification, consolidation, merger, amalgamation, sale, transfer, dissolution, liquidation or winding-up is to be submitted to a general meeting of shareholders of the Issuer for approval;
  - (b) which is the Equity Record Date for the same (if applicable);

- (c) on which such re-classification, consolidation, merger, amalgamation, sale, transfer, dissolution, liquidation or winding-up is expected to become effective; and
- (d) as of which it is expected that holders of Common Shares will be entitled, if at all, to exchange their Common Shares for securities or other property deliverable upon such re-classification, consolidation, merger, amalgamation, sale, transfer, dissolution, liquidation or winding-up; or

6.2.3 (in the event of the declaration of a dividend or other distribution referred to in Clause 6.1.2 above, the payment of which must, under mandatory provisions of the laws of Canada, be submitted for approval to a general meeting of shareholders or to a meeting of the Directors of the Issuer before such dividend or other distribution may be paid or made) the date of such submission; or

6.2.4 (in the event of an issue referred to in Clause 6.1.4) the date of such issue; or

6.2.5 (in the event of such re-classification, consolidation, merger, amalgamation, sale, transfer, dissolution, liquidation or winding-up not being submitted to a general meeting of shareholders of the Issuer for approval) (i) the Equity Record Date for the same (if applicable), and (ii) the date when the same becomes effective;

provided that:

- (a) if the exact date of any such submission referred to in Clause 6.1.2 or 6.1.3 is not known at the time of such notice in writing to the Trustee and the Principal Paying Agent, such notice shall indicate the approximate date thereof and the Issuer shall give a second notice in writing to the Trustee and the Principal Paying Agent as soon as practicable, specifying the exact date of submission;
- (b) if the period referred to in Clause 6.1.1 or the effective date or exchange date referred to in Clause 6.1.2 or the date of issue or effective date referred to in Clauses 6.1.4 or 6.1.5 is not known at the time of such first notice to the Trustee and the Principal Paying Agent, the Issuer shall give a second notice in writing to the Trustee and the Principal Paying Agent, at least 10 days before the commencement of such period or (as the case may be) before such date specifying such period (and the date of its commencement), effective date, exchange date or date of issue specifying such period and the date of commencement thereof and/or such effective date and/or such exchange date and/or such date of issue and shall also (in a case within Clauses 6.1.1, 6.1.2 or 6.1.5) cause such second written notice to be given to Bondholders at least 10 days before the commencement of the applicable period or (as the case may be) before the effective date or exchange date except

where such period or date has already been specified in the first notice to the Trustee and the Bondholders; and

- (c) in the case of any issue referred to in Clause 6.1.4, the Issuer need not give any notice mentioned above before the date on which the relevant consideration per Common Share for such issue is fixed by the Issuer but in any such case the Issuer shall promptly upon the fixing of such consideration give notice in accordance with this Clause 6.1.

### 6.3 Where adjustment to Conversion Price required

- 6.3.1 If the event referred to in a notice required pursuant to Clause 6.1 (*Requirement to give notice*) would result in an adjustment to the Conversion Price, such notice shall also state the Conversion Price in effect at the time such notice is required to be given and the Conversion Price which will result after giving effect to such event or, if such adjusted Conversion Price is not then determinable, the fact that an adjustment in the Conversion Price may result. Without prejudice to Clause 6.4 (*Notice of adjustment*), if, after giving effect to the event covered by any such notice and to any adjustment in the Conversion Price, the Common Shares could not or might not (but for Condition 7.6 (*Rounding Down and Notice of Adjustment to the Conversion Price*)) under applicable law then in effect, be legally issued upon conversion of Bonds as fully-paid, any such notice shall also state such fact and the extent to which, by reason of such provisions, effect will not be given to such adjustment.
- 6.3.2 Notwithstanding anything contained hereinabove, the Issuer covenants that it shall not undertake any corporate action which the Issuer knows or reasonably believes would trigger an adjustment to the Conversion Price pursuant to Condition 7 (*Conversion of Bonds*) such that the conversion of the Bonds to the Common Shares at such adjusted Conversion Price requires any subsequent approval of any governmental/regulatory authority in Canada. The Issuer further covenants that prior to taking any action which the Issuer knows or reasonably believes would cause an adjustment to the Conversion Price, the Issuer shall provide the Trustee with an opinion of a reputed legal counsel in Canada, stating that the Conversion Price as proposed to be adjusted pursuant to such action, would be in conformity with applicable law and that the conversion of the Bonds to the Common Shares at such adjusted Conversion Price would not require approval of any governmental/regulatory authority in Canada.

### 6.4 Notice of adjustment

- 6.4.1 If the Conversion Price is to be adjusted, the Issuer shall:
  - (a) as soon as reasonably practicable notify in writing the Trustee and each of the Agents of particulars of the event giving rise to the adjustment, the Conversion Price after the adjustment, the date on which the adjustment takes effect and such other information as

the Trustee may reasonably require (including confirmation of the Current Market Price data on which the calculation is based and a summary of the calculation, if applicable); and

- (b) promptly after the adjustment takes effect, give notice to the Bondholders and the Trustee stating that the Conversion Price has been adjusted and setting out the Conversion Price in effect before the adjustment, the adjusted Conversion Price and the effective date of the adjustment.

6.4.2 A notice pursuant to Clause 6.1 (*Requirement to give notice*) correctly stating any information required to be given pursuant to this Clause 6.4 shall, as to such information, satisfy the requirements of this Clause 6.4 save to the extent that further or different information should be notified.

## 6.5 Notification of Closed Periods

6.5.1 The Issuer shall give not less than ten days and not more than thirty days' written notice to the Trustee, the Bondholders and each of the Agents of;

- (a) any Closed Period;
- (b) any days during the Conversion Period on which the Issuer's register of shareholders is to be closed by reason of Canadian law or regulation or the charter or by-laws of the Issuer or for the purpose of establishing any dividend or other rights attaching to the Common Shares; and
- (c) any other day during the Conversion Period on which it is aware that its register of shareholders is to be closed.

6.5.2 The notice shall state the reason for such closure. Notwithstanding the foregoing, for each Closed Period, the Issuer will give written notice to the Trustee, the Bondholders and each of the Agents at the beginning of such period.

## 7. ADJUSTMENTS TO THE CONVERSION PRICE

7.1 The Conversion Price shall be subject to adjustment in certain events occurring after the Closing Date in the manner set out in Condition 7 (*Conversion of Bonds*).

7.2 Neither the Trustee nor the Agents shall be responsible or liable to the Bondholders or any person for:

- 7.2.1 any failure of the Issuer to make any cash payment or to issue, transfer or deliver any Common Shares or other securities or property upon the surrender of any Bond for the purposes of Conversion; or
- 7.2.2 any failure of the Issuer to comply with any of its covenants in relation to conversion as set out in this Clause 7 and Condition 7 (*Conversion of Bonds*).

- 7.3 All calculations under the Conditions, this Trust Deed and the Agency Agreement shall be performed by the Issuer or any other person so nominated or authorised by the Issuer. Neither the Trustee nor the Agents shall be liable in any respect for the accuracy or inaccuracy in any mathematical calculation or formula under the Conditions, the Agency Agreement or this Trust Deed, whether by the Issuer, its Auditors or any other person so nominated or authorised by the Issuer for the purposes of the Conditions, the Agency Agreement or this Trust Deed.
- 7.4 If any Bondholder shall have any reasonable doubts as to the appropriate adjustment to the Conversion Price, and if such Bondholder is unable to resolve such reasonable doubts after consulting with the Trustee, the Issuer shall at its expense and at the request of the Trustee (acting on the instructions of the Bondholder) and as soon as practicable, provide the Trustee with a certificate signed by two of its Authorised Officers setting out the method by which the adjustment is calculated and a certificate of a leading investment company acting as an expert, certifying the appropriate adjustment to the Conversion Price and such a certificate shall be conclusive and binding on all concerned.
- 7.5 Neither the Trustee nor the Agents shall be under any duty or obligation to monitor whether any event or circumstance has happened or exists pursuant to Condition 7 (*Conversion of Bonds*) or this Clause 7 and may assume until they have received express notice in writing from the Issuer to the contrary that no such event has occurred and will not be responsible or liable to the Bondholders or any other person for any loss arising from any such assumption or failure by any of them to monitor so.

## 8. APPLICATION OF MONIES RECEIVED BY THE TRUSTEE

### 8.1 Declaration of Trust

All monies received by the Trustee in respect of the Bonds or amounts payable under this Trust Deed will, despite any appropriation of all or part of them by the Issuer, be held by the Trustee on trust to apply them:

- 8.1.1 first, in payment or satisfaction of all costs, charges, expenses and liabilities properly incurred by the Trustee and the Agents (including remuneration payable to the Trustee and the Agents) in carrying out their functions under this Trust Deed and the Agency Agreement;
- 8.1.2 secondly, in payment of interest owing in respect of the Bonds *pari passu* and rateability;
- 8.1.3 thirdly, in payment of any principal owing in respect of the Bonds *pari passu* and rateability;
- 8.1.4 fourthly, in payment of any other amounts owing in respect of the Bonds *pari passu* and rateably; and
- 8.1.5 fifthly, in payment of any balance (if any) to the Issuer for itself.

If the Trustee holds any monies in respect of Bonds which have become void under Condition 13 (*Prescription*), such funds shall be returned to the Issuer without delay.

## 8.2 Investment

Monies held by the Trustee may, in the Trustee's absolute discretion, be invested in its name or under its control in any investments or other assets anywhere whether or not they produce income or deposited in its name or under its control at such bank or other financial institution in such currency as the Trustee may, in its absolute discretion, think fit and the Trustee may at any time vary or transfer any of such investments for or into other such investments or convert any monies so deposited into any other currency. If that bank or institution is the Trustee or a subsidiary, holding or associated company of the Trustee, it need only account for an amount of interest calculated by reference to the rate of interest which at the relevant time would be payable by it on such a deposit to an independent customer. The Trustee may at any time vary or transpose any such investments or assets or convert any monies so deposited into any other currency, and will not be responsible for any resulting loss, whether by depreciation in value, change in exchange rates or otherwise.

## 9. GENERAL COVENANTS

So long as any Bond is outstanding, the Issuer will:

### 9.1 General compliance

comply with, perform and observe the provisions of the Transaction Documents to which it is party. The Conditions shall be binding on the Issuer and the Bondholders. The Trustee shall be entitled to enforce the obligations of the Issuer under the Bonds and the Conditions as if the same were set out and contained in this Trust Deed which shall be read and construed as one document with the Bonds. The provisions contained in Schedule 4 (*Provisions for meetings of Bondholders*) shall have effect in the same manner as if set forth herein;

### 9.2 Books of Account

keep, and use reasonable commercial endeavours to procure that its Affiliates keep, proper books of account and, so far as permitted by applicable law, allow, and use reasonable commercial endeavours to procure that each of its respective Affiliates will allow, the Trustee and anyone appointed by it to whom the Issuer has no reasonable objection access to the books of account at such place where the books of accounts are ordinarily maintained by the Issuer and each of its respective Affiliates at all times during normal business hours on reasonable written notice;

### 9.3 Notice of Events of Default

notify the Trustee in writing immediately on becoming aware of the occurrence of any Event of Default or Potential Event of Default and without waiting for the Trustee to take any action;

### 9.4 Information

so far as permitted by applicable law, give or procure to be given to the Trustee such opinions, certificates, information and evidence as it shall reasonably require and in such form as it shall reasonably require for the purpose of the discharge or exercise of

the duties, trusts, powers, authorities and discretions vested in it under this Trust Deed or by operation of law;

**9.5 Financial Statements, etc.**

send to the Trustee, as promptly as practicable and in any event within six months of the end of each annual Fiscal Period, two copies in (or translated into) the English language of:

- 9.5.1 its annual financial statements in respect of such Fiscal Period; and
- 9.5.2 its annual report containing audited financial statements as at the end of, and for, such Fiscal Period, reported on by the Auditors and prepared in accordance with generally accepted accounting principles in Canada and with IFRS,

provided that if and to the extent that the financial statements are not prepared or adjusted on a basis consistent with that used for the preceding corresponding Fiscal Period, that fact shall be stated and also that two copies in (or translated into) the English language of any restated financial statements or documents referred to above also be provided to the Trustee as soon as practicable;

**9.6 Information Material to Bondholders**

send to the Trustee in (or translated by a certified translator into) the English language a summary of or a copy of all notices, statements, reports, circulars and documents which are issued (or which under any legal or contractual obligation should be issued) to the holders of its shares or its creditors generally as soon as practicable (but not later than 30 days) after their date of issue and as many further copies or translations as it may reasonably request in order to satisfy requests from Bondholders from time to time;

**9.7 Certificate of Directors or Authorised Officers**

send to the Trustee, within 14 days of its annual audited financial statements being made available to its shareholders and also within 14 days after any request by the Trustee, a certificate of the Issuer in (or translated into) the English language and signed by two Directors or two Authorised Officers on behalf of the Issuer, to the effect that, having made all reasonable enquiries, to the best of the knowledge, information and belief of the Issuer, as at a date (the "Certification Date") being not more than five days before the date of the certificate:

- 9.7.1 no Event of Default or Potential Event of Default has occurred since the date of this Trust Deed or the Certification Date of the last such certificate (if any), whichever is the later, and is continuing as at the Certification Date or, if such an event had occurred and is continuing, giving details of it;
- 9.7.2 the Issuer, has complied with all its obligations under this Trust Deed or, if it has not, giving details of it; and

9.7.3 to their knowledge without any inquiry, there has been no change in the laws or regulations of any applicable jurisdiction adversely affecting the conversion of the Bonds (or the Conversion Right being exercisable or, if it has not, giving details of it).

Such certificates shall be accompanied in each case by an up-to-date list of the Authorised Officers of the Issuer and each of their specimen signatures. The Trustee shall be entitled to conclusively rely upon such certificates and shall not be liable to any person for relying upon such certificates;

**9.8 Notices to Bondholders**

send to the Trustee, at least 10 days before the date of publication, a copy of the form of each notice in the English language to be given to Bondholders for approval by the Trustee and shall not be given to Bondholders without such approval, and once given, send to the Trustees two copies of each such notice, (if appropriate) complying with the requirements of the PSM. Any approval of a notice by the Trustee shall not constitute approval for the purpose of Section 21 of the Financial Services and Markets Act 2000. All notices shall be issued at the expense of the Issuer. The Trustee shall have no obligation to monitor compliance with such requirements and it shall be the sole responsibility of the Issuer to ensure such compliance;

**9.9 Further acts**

so far as permitted by applicable law, execute all such further documents and do such further things as may be necessary in the reasonable opinion of the Trustee to give effect to this Trust Deed;

**9.10 Appointment of independent experts**

pay all reasonable costs, expenses and charges associated with the appointment, retention and consultation of any independent expert as may be reasonably required by the Trustee under this Trust Deed following prior consultation with the Issuer;

**9.11 Listing of the Common Shares**

9.11.1 in accordance with Condition 12.1 (*Undertakings of the Issuer*), use its reasonable commercial endeavours to obtain and maintain a listing for all Common Shares issued on exercise of the Conversion Right attaching to the Bonds on the TSX Venture Exchange or other Relevant Stock Exchange; and

9.11.2 give notice in writing to the Trustee in the event that (i) any listing of the Common Shares on any Relevant Stock Exchange is withdrawn or suspended for any reason; and/or (ii) any governmental or regulatory agency or any stock exchange on which the Common Shares are listed issues a public statement or announcement that is adverse to the Issuer, in each case together with a certificate in English language executed by one or more Directors or Authorised Officers of the Issuer which shall contain in details the reasons for such withdrawal or suspension.

**9.12 Change in Agents**

give at least 14 days' prior notice to the Bondholders of any future appointment, resignation or removal of any Agent or of any change by any Agent of its Specified Office and not make any such appointment or removal without the Trustee's prior written approval;

**9.13 Notices to Trustee**

provide to the Trustee in English and in writing all notices to be given to the Trustee under this Trust Deed and the Conditions and deliver all notices to the Bondholders in accordance with Condition 18 (*Notices*);

**9.14 Filing, registration and reporting**

duly and punctually comply with or procure compliance with all filing, registration, reporting and similar requirements required in accordance with applicable laws and regulations of Canada from time to time relating in any manner whatsoever to this Trust Deed and the Bonds;

**9.15 Consents, approvals and authorisations**

obtain, comply with and do all that is necessary to maintain in full force and effect any governmental or regulatory consents, approval, authorisation, resolution, license or exemption required by it directly in relation to this Trust Deed and the Bonds;

**9.16 Early redemption**

give to the Trustee notice and details of any proposed early redemption pursuant to Condition 8 (*Redemption and Purchase*);

**9.17 Notification of satisfaction of Conversion Rights**

notify the Trustee promptly when any Conversion Right has been duly exercised and discharged of that fact and of the identifying numbers of the Bonds in respect of which such Conversion Right has been duly exercised and discharged;

**9.18 Notification upon De-listing Event, Milestone Failure Event or Change of Control**

promptly upon the occurrence of a De-listing Event, a Milestone Failure Event or Change of Control (as applicable) give notice thereof to the Trustee and otherwise comply with Condition 8 (*Redemption and Purchase*);

**9.19 Bonds held by Issuer etc.**

send to the Trustee as soon as reasonably practicable after being so requested by the Trustee, solely for the purpose of determining how many Bonds are outstanding, a certificate of the Issuer signed by an Authorised Officer stating the number of Bonds held at the date of such certificate by or on behalf of the Issuer or its Subsidiaries;

**9.20 Use of proceeds**

use the net proceeds received by it from the issue of the Bonds in the manner specified in the Offering Circular relating to the Bonds under the heading "Use of Proceeds,"

**9.21 Principal Paying Agent and Conversion Agent Specified Offices**

ensure that it maintains or appoints, as the case may be, a Principal Paying Agent and Conversion Agent having Specified Offices in an EU member state that will not be required to withhold or deduct tax pursuant to the Savings Directive; and

**9.22 PSM requirements**

ensure for so long as the Bonds are listed on the PSM and the rules of the PSM so require, the Issuer shall appoint and maintain a paying agent in London, where the Bonds may be presented or surrendered for payment or redemption, in the event that the Global Bond is exchanged for Bonds in definitive form in the circumstances set out above. In addition, in the event that the Global Bond is exchanged for Bonds in definitive form in the circumstances set out above, announcement of such exchange shall be made through the PSM and such announcement will include all material information with respect to the delivery of the Bonds in definitive form and such notifications shall also be published in accordance with Condition 18 (*Notices*).

**10. REMUNERATION AND INDEMNIFICATION OF THE TRUSTEE**

**10.1 Normal remuneration**

So long as any Bond is outstanding the Issuer will pay the Trustee as remuneration for its services as Trustee such sum on such dates in each case as they may from time to time agree in writing, which sums, for the avoidance of doubt, shall be paid free and clear of deduction, withholding, set-off or counter claim on account of taxation. Such remuneration will accrue from day to day from the date of this Trust Deed and shall be payable in priority to payments to the Bondholders.

**10.2 Extra remuneration**

If an Event of Default or a Potential Event of Default shall have occurred and is continuing the Trustee shall be entitled to be paid additional remuneration calculated at its nominal hourly rates in force from time to time. In any other case, if the Trustee finds it expedient or necessary or is requested by the Issuer to undertake duties which they both agree to be of an exceptional nature or otherwise outside the scope of the Trustee's normal duties under this Trust Deed, the Issuer will pay such additional remuneration as they may agree or, failing agreement as to any of the matters in this Clause 10.2 (or as to such sums referred to in Clause 10.1 (*Normal remuneration*)), as determined by a merchant bank (acting as an expert) selected by the Trustee and approved by the Issuer or, failing such approval, nominated by the President for the time being of the Law Society of England and Wales. The expenses involved in such nomination and such merchant bank's fee will be paid by the Issuer, which sums, for the avoidance of doubt, shall be paid free and clear of deduction and withholding on account of taxation. The determination of such merchant bank will be conclusive and binding on the Issuer, the Trustee and the Bondholders.

### 10.3 Expenses

The Issuer will on demand by the Trustee pay or discharge all costs, charges, liabilities and expenses incurred by the Trustee (including reasonable legal fees) in the preparation and execution of this Trust Deed and the performance of its functions under, and in any other manner in relation to, this Trust Deed and the Conditions including, but not limited to, expenses incurred seeking legal or financial advice to discharge its duties in accordance with the Conditions, legal and travelling expenses and any stamp, documentary or other taxes or duties paid or payable by the Trustee in connection with any action or legal proceedings brought or contemplated by the Trustee against the Issuer to enforce any provision of this Trust Deed, the Conditions or the Bonds. Such costs, charges, liabilities and expenses will:

- 10.3.1 in the case of payments made by the Trustee before such demand carry interest from the date falling two Business Days after of the demand at the cost of funding of the Trustee on the date on which the Trustee made such payments plus two per cent.; and
- 10.3.2 in other cases carry interest at such rate from 15 days after the date of the demand or (where the demand specifies that payment is to be made on an earlier date) from such earlier date.

### 10.4 Indemnity

The Issuer will indemnify the Trustee in respect of all legal fees incurred by the Trustee in respect of the preparation and execution of this Trust Deed, all liabilities and reasonable expenses paid or incurred by it or by anyone appointed by it or to whom any of its functions may be delegated by it in the carrying out of its functions and against any loss, liability, cost, claim, action, demand or expense (including, but not limited to, all costs, charges and expenses paid or incurred in disputing or defending any of the foregoing) which any of them may pay or incur or which may be made against any of them arising out of or in relation to or in connection with, its appointment or the exercise of its functions except such as may result from its wilful misconduct, gross negligence or fraud or that of the Trustee's directors, officers and employees or any of them. The Contracts (Rights of Third Parties) Act 1999 applies solely to this Clause 10.4.

All payments by the Issuer under this Clause 10.4 will be made without withholding or deduction for any taxes, duties, or other charges of whatever nature imposed, levied, collected, withheld or assessed by any jurisdiction or any political subdivision or authority thereof or therein having power to tax. If any withholding or deduction is required by law in respect of payments made by the Issuer to the Trustee under this Clause 10.4, the Issuer shall pay additional amounts as may be necessary in order that the net amounts received by the Trustee after such deduction or withholding shall equal the amounts which would have been receivable by the Trustee had no such deduction or withholding been required.

### 10.5 Continuing effect

Clauses 10.3 (*Expenses*) and 10.4 (*Indemnity*) will continue in full force and effect as regards the Trustee even if it no longer is trustee under this Trust Deed or the Bonds are no longer outstanding or this Trust Deed has been discharged.

## 11. PROVISIONS SUPPLEMENTAL TO TRUSTEE ACTS

By way of supplement to the Trustee Acts it is expressly declared as follows:

### 11.1 Advice

The Trustee may conclusively rely, and acting in good faith shall not be liable for acting or refraining from acting, upon the direction, opinion or advice of, or information obtained (whether by the Trustee, the Issuer or any Agent or any other person) from, any lawyer, bank, auditor, valuer or any other expert, whether obtained by or addressed to the Issuer, the Trustee, the Agents or otherwise, and, notwithstanding any monetary or other limit on liability in respect thereof, the Trustee will not be responsible to anyone for any loss occasioned by so acting or refraining from acting.

Any such direction, opinion, advice or information may be sent or obtained by letter, telex, fax or electronic mail and the Trustee will not be liable to anyone for acting or refraining from acting in good faith on any direction, opinion, advice or information purporting to be conveyed by such means, notwithstanding any monetary or other limit on liability in relation to such person's opinion or advice and even if it contains some error or is not authentic.

### 11.2 Trustee to assume due performance

The Trustee need not notify anyone of the execution of this Trust Deed or do anything to find out if an Event of Default or Potential Event of Default has occurred. Until it has express notice in writing from the Issuer to the contrary, the Trustee may assume that no such event has occurred and that the Issuer is performing all its obligations under this Trust Deed and the Bonds and no event has happened as a consequence of which any of the Bonds may become repayable.

### 11.3 Resolutions of Bondholders

The Trustee will not be responsible for having acted in good faith upon a resolution in writing purporting to have been signed by the requisite Bondholders or upon a resolution purporting to have been passed at a meeting of Bondholders in respect of which minutes have been made and signed even if it is later found that there was a defect in the constitution of the meeting or the passing of the resolution or that the resolution was not valid or binding on the Bondholders.

### 11.4 Certificate signed by Directors or Authorised Officers

If the Trustee, in the exercise of its functions, requires to be satisfied or to have information as to any fact or the expediency of any act, it may call for and accept as sufficient evidence of that fact or the expediency of that act a certificate signed by two Directors or two Authorised Officers of the Issuer as to that fact or to the effect that, in their opinion, that act is expedient and the Trustee need not call for further evidence and will not be responsible for any loss occasioned by acting on such a certificate.

## **11.5 Deposit of documents**

The Trustee may deposit this Trust Deed and any other documents prepared in connection with the issue of the Bonds on any terms in any part of the world with any custodian, bank or entity whose business includes undertaking the safe custody of documents or with any lawyer or firm of lawyers believed by the Trustee to be of good repute and may pay all sums due in respect thereof and the Trustee shall not be responsible for or required to insure against any loss incurred in connection with such deposit.

## **11.6 Discretion**

Save as expressly provided in this Trust Deed, the Trustee shall have absolute and uncontrolled discretion as to the exercise or non-exercise of its functions and will not be responsible for any loss, liability, cost, claim, action, demand, expense or inconvenience which may result from their exercise or non-exercise. Whenever in this Trust Deed, the Agency Agreement or by law, the Trustee shall have discretion or permissive power it may decline to exercise the same in the absence of approval by the Bondholders and need not exercise the same unless it has been indemnified, and/or prefunded and/or provided with security to its satisfaction.

## **11.7 Agents**

The Trustee may, in the conduct of the trusts of this Trust Deed, instead of acting personally, employ and pay an agent (whether being a lawyer or other professional person), to transact or conduct, or concur in transacting or conducting, any business and to do or concur in doing all acts required to be done by the Trustee in connection with this Trust Deed (including the receipt and payment of money). The Trustee shall not be responsible to anyone for any misconduct or omission by any such agent or be bound to supervise the proceedings or acts of any such agent, provided that the Trustee has exercised reasonable care in the selection of such agent.

## **11.8 Delegation**

The Trustee may delegate to any person on any terms (including power to delegate) all or any of its functions. The Trustee will not have any obligation to supervise such delegate or be responsible for any loss, liability, cost, claim, action, demand or expense incurred by reason of any misconduct or default by any such delegate, provided that the Trustee has exercised reasonable care in the selection of such delegate.

## **11.9 Nominees**

In relation to any asset held by it under this Trust Deed, the Trustee may appoint any person to act as its nominee on any terms. The Trustee will not be responsible to anyone for any misconduct or omission by any such nominee so employed by it or be bound to supervise the proceedings or acts of any such nominee, provided that the Trustee has exercised reasonable care in the selection of such nominee.

## **11.10 Confidentiality**

Unless ordered to do so by a court of competent jurisdiction the Trustee shall not be required to disclose to any Bondholder any confidential financial or other information made available to the Trustee by the Issuer or any other person in connection with the trusts of this Trust Deed and no Bondholder shall be entitled to take any action to obtain from the Trustee any such information.

#### **11.11 Determinations conclusive**

As between itself and the Bondholders, the Trustee may determine all questions and doubts arising in relation to any of the provisions of this Trust Deed. Such determinations, whether made upon such a question actually raised or implied in the acts or proceedings of the Trustee, will be conclusive and shall bind the Trustee and the Bondholders.

#### **11.12 Events of default**

The Trustee may determine in its absolute discretion whether or not an Event of Default or Potential Event of Default is in its opinion capable of remedy and/or materially prejudicial to the interests of the Bondholders. Any such determination will be conclusive and binding on the Issuer and the Bondholders.

#### **11.13 Payment for Bonds**

The Trustee will not be responsible for the receipt or application by the Issuer of the proceeds of the issue of the Bonds or the delivery of definitive bonds (if any) to the persons entitled to them.

#### **11.14 Bonds held by the Issuer or its Subsidiaries**

In the absence of express written notice to the contrary, the Trustee may assume without enquiry that no Bonds are for the time being held beneficially by or on behalf of the Issuer or its Subsidiaries.

#### **11.15 Conversion price**

The Trustee shall have no duty or responsibility to determine whether facts exist which may require an adjustment of the Conversion Price or to determine the nature or extent of any such adjustment when made or the method used or to be used in making it and shall incur no liability for any failure to do so.

#### **11.16 The Common Shares**

The Trustee shall have no duty or responsibility at any time to determine the validity or value (or the kind or amount) of the Common Shares or any other property which may at any time be issued or delivered on the conversion of any Bond or the sale or other disposal of any Common Shares. The Trustee shall not be responsible for any failure of the Issuer to make available or deliver any Common Shares, share certificates or any other securities or property or make any payment on the exercise of any Conversion Right.

#### **11.17 Responsibility**

- 11.17.1 The Trustee assumes no responsibility for the correctness of any representation or warranty given by any person in this Trust Deed, nor shall the Trustee by the execution of this Trust Deed be deemed to make any representation as to the validity, sufficiency or enforceability of this Trust Deed or any part thereof;
- 11.17.2 The Trustee shall not be responsible for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, performance, enforceability or admissibility in evidence of this Trust Deed or the Bonds or any other document relating or expressed to be supplemental thereto and shall not be liable for any failure to obtain any licence, consent or other authority for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, performance, enforceability or admissibility in evidence of this Trust Deed or the Bonds or any other document relating or expressed to be supplemental thereto; and
- 11.17.3 The Trustee shall not be responsible for, or for investigation of any matter which is the subject of, any recital, statement, representation, warranty or covenant of any person other than the Trustee contained in this Trust Deed or any other agreement or document relating to the transactions contemplated in this Trust Deed or under such other agreement or document.

#### **11.18 Action by the Trustee**

Notwithstanding anything else contained in this Trust Deed the Trustee shall not be required to take any action prior to making any declaration under Condition 11 (*Events of Default*) that the Bonds are immediately due and payable if such action would require the Trustee to incur any expenditure or other financial liability or risk its own funds (including obtaining any advice which it might otherwise have thought appropriate to obtain) unless it shall have been indemnified, and/or prefunded and/or provided with security to its satisfaction in respect of all costs, claims and liabilities which it has incurred to that date and which it may thereby and as a consequence thereof render itself liable. The Trustee shall not be under any obligation to take proceedings against the Issuer to enforce payment of the Bonds after the Bonds have become due and payable unless it shall have been indemnified, and/or prefunded and/or secured to its satisfaction.

#### **11.19 Bonds and documents**

The Trustee shall not be liable to the Issuer or any Bondholder if it has accepted as valid or has not rejected any definitive Bond (if any) purporting to be such and subsequently found to be forged or not authentic nor shall it be liable for any action taken or omitted to be taken in reliance on any document, certificate or communication believed by it to be genuine and to have been presented or signed by the proper parties, including, for the avoidance of doubt, the Registrar.

#### **11.20 Trustee's Funds**

Nothing herein shall be construed to require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the discharge of its duties and

responsibilities hereunder except for any liability established in accordance with this Trust Deed.

#### **11.21 Transactions with Issuer**

Nothing herein shall prevent the Trustee from entering into financial transactions with the Issuer or its Subsidiaries and it shall not be under any obligation to account to the Bondholders with respect to any profits derived therefrom.

#### **11.22 Interests of Bondholders**

In connection with the exercise of its powers, trusts, authorities or discretions (including, but not limited to, those in relation to any proposed modifications, waiver or authorisation of any breach or proposed breach of any of the Conditions or any of the provisions of this Trust Deed), the Trustee shall have regard to the general interests of the Bondholders as a class and shall not have regard to any interest arising from circumstances particular to individual Bondholders (whatever their number) and, in particular but without limitation, shall not have regard to the consequences of such exercise for individual Bondholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or otherwise to the tax consequences thereof and the Trustee shall not be entitled to require from the Issuer, nor shall any Bondholder be entitled to claim from the Issuer or the Trustee, any indemnification or payment in respect of any tax consequence of any such exercise upon individual Bondholders except to the extent provided for in Condition 10 (*Taxation*) and/or in any undertakings given in addition thereto or in substitution therefor pursuant to this Trust Deed.

#### **11.23 Action Contrary to Law**

The Trustee may refrain from doing anything in any jurisdiction if doing the relevant thing in that jurisdiction would, in its opinion based upon legal advice in the relevant jurisdiction, be contrary to any law of that jurisdiction, or would otherwise render it liable to any person in that jurisdiction or if, in its opinion based upon such legal advice, it would not have power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power.

#### **11.24 Reliance on information**

The Trustee may conclusively rely, as to the truth of the statements, the accuracy of any mathematical calculations and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Trust Deed.

#### **11.25 Not responsible for error of judgement**

The Trustee shall not be liable for any error of judgement made in good faith by a responsible officer or responsible officers of the Trustee.

#### **11.26 Trustee Act 2000**

For the avoidance of doubt, the Trustee may retain or invest in securities payable to bearer without appointing a person to act as custodian.

#### **11.27 Compliance**

The Conditions shall be binding on the Issuer and the Bondholders. The Trustee shall be entitled to enforce the obligations of the Issuer under the Bonds and the Conditions as if the same were set out and contained in this Trust Deed which shall be read and construed as one document with the Bonds. The provisions contained in Schedule 4 (*Provisions for meetings of Bondholders*) shall have effect in the same manner as if herein set forth.

#### **11.28 No obligation to monitor**

The Trustee shall be under no obligation to monitor or supervise the functions of any other person under the Bonds or any other agreement or document relating to the transactions herein or therein contemplated and shall be entitled, in the absence of actual knowledge of a breach of obligation, to assume that each such person is properly performing and complying with its obligations.

#### **11.29 Document requests**

The Trustee shall not be responsible to any person for failing to request, require or receive any legal opinion relating to the Bonds, or translations of documents, circulars, notices and statements provided by the Issuer pursuant to this Trust Deed, or for checking or commenting upon the content of any such legal opinion or document, circular, notice or statement and shall not be responsible for any liability incurred thereby. Any aforesaid documents, circulars, notices, statements or opinions received by the Trustee pursuant to this Trust Deed shall be made available for inspection by Bondholders during normal business hours at the specified office of the Trustee.

#### **11.30 Satisfaction as to indemnity**

The Trustee shall not be bound to take any action in connection with this Trust Deed or any obligations arising pursuant thereto, including, without prejudice to the generality of the foregoing, forming any opinion or employing any financial adviser, where it is not reasonably satisfied that the Issuer will be able to indemnify it against all liabilities which may be incurred in connection with such action and may demand prior to taking any such action that there be paid to it in advance such sums as it reasonably considers (without prejudice to any further demand) shall be sufficient so to indemnify it and on such demand being made the Issuer shall be obliged to make payment of all such sums in full.

#### **11.31 No liability for losses**

Notwithstanding any provision of this Trust Deed to the contrary, the Trustee shall not be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), whether or not foreseeable, even if it has been advised of the likelihood of any such loss or damage and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise.

#### **11.32 Retention of lawyers**

The Trustee may, when it deems necessary, engage competent lawyers or other experts and obtain advice from them, and rely on any advice so obtained and shall be protected and shall incur no liability whatsoever in respect of any action taken or omitted to be taken in accordance with such advice in good faith, save where the same results from the gross negligence, wilful misconduct or fraud of the Trustee in the selection of such lawyers or other experts. The Issuer shall bear any expenses incurred by the Trustee in engaging any such lawyer or other experts as aforesaid. Any advice may be sent or obtained by letter, telegram, facsimile, email, cable or similar form of electronic communication and the Trustee shall not be liable for acting in good faith on any such advice although the same shall contain some error or shall not be authentic provided such error or lack of authenticity is not manifest.

#### **11.33 No liability under certain conditions**

In no event shall the Trustee be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond the Trustee's control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, embargo, labour dispute, any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services or the performance of obligations by the Trustee contemplated by this Trust Deed, inability to obtain or the failure of equipment, or interruption of communications or computer facilities, and other causes beyond the Trustee's control whether or not of the same class or kind as specifically named above.

#### **11.34 Assumption of genuine instructions**

The Trustee may rely upon and shall not be liable for acting or refraining from acting upon any written notice, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document.

#### **11.35 Reliance on certificates**

Any certificate or report of the Auditors or any other person called for by or provided to the Trustee (whether or not addressed to the Trustee) in accordance with or for the purposes of this Trust Deed may be relied upon by the Trustee as sufficient evidence of the facts stated therein notwithstanding that such certificate or report and/or any engagement letter or other document entered into by the Trustee in connection therewith contains a monetary or other limit on the liability of the Auditors or such other person in respect thereof and notwithstanding that the scope and/or basis of such certificate or report may be limited by any engagement or similar letter or by the terms of the certificate or report itself.

#### **11.36 Assumptions regarding the Secured Property**

The Trustee shall not be bound or concerned to make any investigation into, or be responsible for:

- 11.36.1 the value of the Secured Property or the creditworthiness of any person which is a party to any other agreement or document constituting or evidencing any of the Secured Property; or
- 11.36.2 the validity or enforceability of the obligations of any such person as is referred to in sub-paragraph 11.36.1 above or of the security constituted by or pursuant to this Trust Deed or any of the Transaction Documents.

## **12. TRUSTEE LIABLE FOR NEGLIGENCE**

The duty of care that applies to a trustee under section 1 of the Trustee Act 2000 shall not apply to the Trustee provided that, if the Trustee fails to show the degree of care and diligence required of it as trustee having regard to the provisions hereof or indulges in gross negligence, fraud or wilful misconduct, nothing in this Trust Deed shall relieve or indemnify it from or against any liability which by any rule of law would otherwise attach to it in respect of any negligence, fraud or wilful default of which it may be guilty in relation to its duties under this Trust Deed.

## **13. WAIVER AND PROOF OF DEFAULT**

### **13.1 Waiver**

The Trustee may (but shall not be in any way obligated to), without the consent of the Bondholders and without prejudice to its rights in respect of any subsequent breach, from time to time and at any time, if in its opinion the interests of the Bondholders shall not be materially prejudiced thereby, waive or authorise any breach or proposed breach by the Issuer of the covenants or provisions contained in this Trust Deed or the Conditions or determine that an Event of Default or Potential Event of Default shall not be treated as such provided that the Trustee will not do so in contravention of an express direction given by an Extraordinary Resolution or a request made pursuant to Condition 11 (*Events of Default*). No such direction or request will affect a previous waiver, authorisation or determination. The Trustee's waiver or authorisation may be subject to it being indemnified, and/or prefunded and/or secured to its satisfaction and to any other condition which the Trustee requires, including but not limited to obtaining, at the sole expense of the Issuer, advice from or an opinion of the Auditors and a certificate signed by two Directors or Authorised Officers. The Trustee shall not be liable for any loss or liability occasioned by any such modification or variation as aforesaid. Any such waiver, authorisation or determination will be binding on the Bondholders and, if the Trustee so requires, will be notified to the Bondholders as soon as practicable.

### **13.2 Proof of default**

Proof that the Issuer has failed to pay a sum due to the holder of any one Bond will (unless the contrary be proved) be sufficient evidence that it has made the same default as regards all other Bonds which are then payable.

### **13.3 Consents**

Where under this Trust Deed provision is made for the giving of any consent or approval or the exercise of any discretion by the Trustee, any such consent or

approval may be given and any such discretion may be exercised on such terms and conditions (if any) as the Trustee may think fit and all such consents and approvals may be given or exercised with retrospective effect. The Issuer shall observe and perform any such terms and conditions and the Trustee may at any time waive or agree a variation of such terms and conditions.

**14. TRUSTEE NOT PRECLUDED FROM ENTERING INTO CONTRACTS**

The Trustee and any other person, whether or not acting for itself, may acquire, hold or dispose of any Bond or other security (or any interest therein) of the Issuer or any other person, may enter into or be interested in any contract or transaction with any such person and may act on, or as depositary or agent for, any committee or body of holders of any securities of any such person in each case with the same rights as it would have had if the Trustee were not acting as Trustee and need not account for any profit.

**15. MODIFICATION OF BONDS, CONVERSION RIGHT OR THIS TRUST DEED**

- 15.1 The Trustee may (but shall not be in any way obligated to) agree without the consent of the Bondholders to any modification to or variation of the Bonds or this Trust Deed which, in the Trustee's sole opinion, is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of law.
- 15.2 The Trustee may also so agree to any modification to or variation of this Trust Deed and Bondholders' Conversion Rights, which is in its opinion necessary or desirable to effect or facilitate conversion as contemplated in the Conditions and which is not, in the Trustee's opinion, materially prejudicial to the interests of the holders of the Bonds.
- 15.3 The Trustee's agreement to such modifications may be subject to it being indemnified, and/or prefunded and/or secured to its satisfaction and to any other condition which the Trustee requires, including but not limited to obtaining, at the sole expense of the Issuer, advice from or an opinion of any investment bank or legal or other expert and a certificate signed by two Directors or Authorised Officers. The Trustee shall be entitled to but shall not be obligated to rely on such advice. The Trustee shall not be liable for any loss or liability occasioned by any such modification or variation as aforesaid. Any such modification will be binding on the Bondholders and, if the Trustee so requires, will be notified to the Bondholders by the Issuer as soon as practicable.
- 15.4 The Issuer shall, upon a modification pursuant to this Clause 15 give notice to the Bondholders as soon as practicable, in accordance with Condition 18 (*Notices*). In connection with the foregoing, the Issuer shall provide the Trustee with, at the sole expense of the Issuer, a certificate of the Issuer certifying that the modification is for any of the above purposes and such opinions of counsel and of experts as the Trustee deems fit.

**16. APPOINTMENT, RETIREMENT AND REMOVAL OF THE TRUSTEE**

**16.1 Appointment**

Subject as provided in Clause 16.2, the Issuer has the power of appointing new trustees but no one may be so appointed unless previously approved by an Extraordinary Resolution. A trust corporation will at all times be a Trustee and may be the sole Trustee. Any appointment of a new Trustee will be notified by the Issuer to the Bondholders as soon as practicable.

#### 16.2 Retirement and removal

16.2.1 Any Trustee may retire at any time on giving at least 30 days advance written notice to the Issuer without giving any reason and without being responsible for any costs occasioned by such retirement or, the appointment of a new trustee which shall be borne by the Issuer; or

16.2.2 The Bondholders may by Extraordinary Resolution remove any Trustee,

provided that in either case the retirement or removal of a sole trust corporation will not become effective until a trust corporation is appointed as successor Trustee. If a sole trust corporation gives notice of retirement or an Extraordinary Resolution is passed for its removal, the Issuer will use all reasonable commercial endeavours to procure that another trust corporation be appointed as Trustee and if, after 60 days of such notice having been given the Issuer has failed to do so, the Trustee shall be entitled (at the expense of the Issuer) but not obliged to appoint another trust corporation selected by the Trustee as its successor.

#### 16.3 Co-Trustees

The Trustee may, despite Clause 16.1 (*Appointment*), by 2 days advance written notice to the Issuer appoint anyone to act as an additional Trustee jointly with the Trustee:

- 16.3.1 if the Trustee considers such appointment to be in the interests of the Bondholders;
- 16.3.2 to conform with any legal requirement, restriction or condition in any jurisdiction in which a particular act is to be performed; or
- 16.3.3 to obtain a judgement or to enforce a judgement in any jurisdiction or any provision of this Trust Deed in any jurisdiction.

Subject to the provisions of this Trust Deed the Trustee may confer on any person so appointed such functions as it thinks fit in order to allow such person to carry on its duties in relation to this Trust Deed. The Trustee may by written notice to the Issuer and that person remove that person. At the Trustee's request, the Issuer will forthwith do all things as may be required to perfect such appointment or removal and it irrevocably appoints the Trustee to be its attorney in its name and on its behalf to do so. The Trustee shall not be responsible for supervising any such additional trustee.

#### 16.4 Competence of a majority of Trustees

If there are more than two Trustees the majority of them will be competent to perform the Trustee's functions provided the majority includes a trust corporation.

## 16.5 Successor

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor to the Trustee hereunder (provided it is a trust corporation) without the execution or filing of any papers or any further act on the part of any of the parties hereto.

## 17. PROVISIONS OF TRUST DEED FOR THE SOLE BENEFIT OF PARTIES AND BONDHOLDERS

Save in respect of Clause 10.4, nothing in this Trust Deed or in the Bonds, expressed or implied, shall give or be construed to give any person other than the parties hereto and their successors and the Bondholders any legal or equitable right, remedy or claim under this Trust Deed or any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the parties hereto and their successors and of the Bondholders.

## 18. RESTORATION OF RIGHTS AND ABANDONMENT OF PROCEEDINGS

In case the Trustee shall have proceeded to enforce any right of Bondholders under this Trust Deed and such proceedings shall have been discontinued or abandoned for any reason, then and in every such case, the Issuer and the Trustee, subject to any determination of the proceedings shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Issuer the Trustee and the Bondholders shall continue as though no such proceedings had been taken.

## 19. POWERS AND REMEDIES CUMULATIVE

Except as otherwise provided in this Trust Deed, no right or remedy herein conferred upon or reserved to the Trustee or to the Bondholders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

## 20. CURRENCY INDEMNITY

### 20.1 Currency of account and payment

U.S. dollars (the "Contractual Currency") is the sole currency of account and payment for all sums payable by the Issuer under or in connection with this Trust Deed and the Bonds, including damages.

### 20.2 Extent of discharge

Any amount received or recovered in a currency other than the Contractual Currency (whether as a result of, or of the enforcement of, a judgement or order of a court of

any jurisdiction, in the insolvency, winding-up or dissolution of the Issuer or otherwise), by the Trustee or any Bondholder in respect of any sum expressed to be due to it from the Issuer will only discharge the Issuer to the extent of the Contractual Currency amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so).

#### 20.3 **Indemnity**

If the Contractual Currency amount is less than the Contractual Currency amount expressed to be due to the recipient under this Trust Deed or the Bonds, the Issuer will indemnify it against any loss sustained by it as a result. In any event, the Issuer will indemnify the recipient against the cost of making any such purchase.

#### 20.4 **Indemnities separate**

The indemnity in this Clause 20.4 and the indemnity in Clause 20.3 (*Indemnity*) constitute separate and independent obligations from the other obligations in this Trust Deed, will give rise to a separate and independent cause of action, will apply irrespective of any indulgence granted by the Trustee and/or any Bondholder and will continue in full force and effect despite any judgement, order, claim or proof for a liquidated amount in respect of any sum due under this Trust Deed and/or the Bonds or any judgement or order.

### 21. **COMMUNICATIONS**

Any communication shall be by letter sent by registered post or courier or by fax:

21.1.1 in the case of the Issuer, to it at:

**Address:** Great Western Minerals Group Ltd.  
219 Robin Crescent  
Saskatoon  
Saskatchewan  
Canada S7L 6M8

**Fax:** +1 (306) 659 4501

**Attention:** James B. Engdahl  
*President and CEO*

21.1.2 in the case of the Trustee, to it at:

**Address:** Wilmington Trust (London) Limited  
Third Floor  
1 King's Arms Yard,  
London  
EC2R 7AF  
United Kingdom

**Fax:** +44 (0)20 7397 3601

**Attention:** London Administration

21.1.3 The initial Agents and Registrar and their initial Specified Offices are listed below:

the Principal Paying Agent Deutsche Bank AG, London Branch

Address: Winchester House  
1 Great Winchester Street  
London EC2N 2DB

Attention: Debt and Agency Services

Fax no: +44 207 547 6149

the Conversion Agent Deutsche Bank AG, London Branch

Address: Winchester House  
1 Great Winchester Street  
London EC2N 2DB

Attention: Debt and Agency Services

Fax no: +44 207 547 6149

the Transfer Agent Deutsche Bank AG, London Branch

Address: Winchester House  
1 Great Winchester Street  
London EC2N 2DB

Attention: Debt and Agency Services

Fax no: +44 207 547 6149

the Registrar Deutsche Bank Luxembourg S.A.

Address: 2, Boulevard Konrad Adenauer  
L-1115  
Luxembourg

Attention: Coupon Paying Department

Fax no: +352 460 241

Communications will take effect, in the case of a letter sent by registered post, on the seventh Business Day after posting; in the case of a letter sent by courier, at the time of delivery; in the case of fax, at the time of despatch if the correct error-free transmission report is received; provided that if such communication would take

effect outside business hours in the place of receipt then it shall be deemed to be received on the next Business Day in the place of receipt. Any communication not by letter shall be confirmed by letter but failure to send or receive the letter of confirmation shall not invalidate the original communication.

## 22. SATISFACTION AND DISCHARGE OF TRUST DEED; UNCLAIMED MONIES

### 22.1 Satisfaction and Discharge of Trust Deed

If at the time:

- 22.1.1 the Issuer has paid or caused to be paid the principal or premium (if any) and interest (if any) on the outstanding Bonds hereunder, as and when the same shall have become due and payable, or
- 22.1.2 the Issuer shall have delivered to the Trustee for cancellation all the Bonds theretofore authenticated (other than the Bonds which shall have been mutilated, defaced, destroyed, lost or stolen and which shall have been replaced or paid as provided in Condition 14 (*Replacement of Bonds*)),

then this Trust Deed shall cease to be of further effect with respect to the Bonds (except that the obligations of the Issuer under Clauses 10 (*Remuneration and Indemnification of the Trustee*) and 20 (*Currency Indemnity*) shall survive).

### 22.2 Repayment of Monies Held by Agents; Repayment of Excess Funds

In connection with the satisfaction and discharge of this Trust Deed under Clause 22.1 (*Satisfaction and Discharge of Trust Deed*), all monies then held by any of the Agents under the provisions of the Agency Agreement shall, upon written demand of the Issuer be promptly repaid to the Trustee, and thereupon such Agent shall be released from all further liability with respect to such monies.

In the case where the Trustee holds in trust money deposited with it pursuant to this Clause 22.2, the Trustee shall promptly pay to the Issuer upon written request any money held by the Trustee at such time (and which is not required to make payments hereunder) and thereupon the Trustee shall be relieved from all liability with respect to such money.

### 22.3 Return of Monies Held by Trustee or Other Agent

Any monies deposited with or paid to the Trustee or to any Agent for the payment of principal and premium (if any) and interest (if any) on the Bonds and not applied but remaining unclaimed for one month after the date upon which such principal and premium (if any) and interest (if any) shall have become due and payable shall promptly be repaid to or for the account of the Issuer by the Trustee or such Agent, the receipt of such repayment to be confirmed promptly in writing by or on behalf of the Issuer, and, to the extent permitted by law, the Bondholders shall only look to the Issuer for any payment which such Bondholders may be entitled to collect, and all liability of the Trustee or such Agent with respect to such monies shall thereupon cease.

## 22.4 Prescription

Claims in respect of payment of principal, premium (if any) and interest (if any) on the Bonds will be prescribed unless made within a period of six years, in the case of principal, and five years, in the case of premium (if any) and interest (if any) as the case may be, from the relevant date of payment in respect thereof. Neither the Trustee nor the Agents shall have any responsibility, obligation or liability towards the Bondholders or any person for any amounts so prescribed.

## 23. FURTHER ISSUES - SUPPLEMENTAL TRUST DEED

If the Issuer issues further securities as provided in the Conditions and the Trustee is appointed to act as trustee thereof, the Issuer shall, before their issue, execute and deliver to the Trustee a deed supplemental to this Trust Deed containing such provisions (corresponding to any of the provisions of this Trust Deed) as the Trustee may require.

## 24. ENFORCEMENT

### 24.1 Enforcement

At any time after the Bonds have become due and repayable, the Trustee may, at its discretion and without further notice, take such proceedings against the Issuer as it may think fit to enforce repayment of the Bonds together with premium (if any) and to enforce the provisions of this Trust Deed and/or enforce (or take any action in respect of) the Bond Security, but it will not be bound to take any such proceedings unless (a) it shall have been so requested in writing by the holders of not less than 25 per cent. in principal amount of the Bonds then outstanding or so directed by an Extraordinary Resolution and (b) it shall have been indemnified and/or prefunded and/or secured to its satisfaction. No holder of the Bonds will be entitled to proceed directly against the Issuer, unless the Trustee, having become bound to do so, fails to do so and such failure shall have continued for a period of 60 days and no direction inconsistent with such written request or Extraordinary Resolution has been given to the Trustee during such 60 day period by the holders of a majority in principal amount of the outstanding Bonds.

### 24.2 Application of moneys upon enforcement

Any moneys received by the Trustee upon enforcement of the security in respect of the Secured Property shall be applied in the order set out below:

24.2.1 first, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Trustee or any receiver in preparing and performing the trusts constituted by and its rights, powers, duties and authorities under the Trust Deed and/or the other Transaction Documents (including holding and enforcing the security constituted by the Trust Deed and including any taxes required to be paid, the costs of realising any Secured Property and the remuneration of the Trustee and any receiver appointed by it); and

24.2.2 thereafter, in accordance with Clause 8.1.

## **25. GOVERNING LAW AND JURISDICTION**

### **25.1 Governing law**

This Trust Deed, the Conditions and the Bonds, including any non-contractual obligations arising out of, or in connection with, this Trust Deed, the Conditions and the Bonds, shall be governed by and construed in accordance with English law.

### **25.2 Jurisdiction**

The courts of England and Wales are to have jurisdiction to settle any disputes which may arise out of or in connection with this Trust Deed, the Conditions or the Bonds, including any non-contractual obligations arising out of, or in connection with, this Trust Deed, the Conditions or the Bonds, and accordingly any legal action or proceedings arising out of or in connection with this Trust Deed, the Conditions or the Bonds ("Proceedings") may be brought in such courts. The Issuer irrevocably submits to the jurisdiction of such courts and waive any objections to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is for the benefit of the Trustee and each of the Bondholders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

### **25.3 Service of process**

The Issuer irrevocably appoints Watson, Farley & Williams LLP, of 15 Appold Street, London, EC2A 2HB, as its authorised agent for service of process in England. Subject to applicable law, such service shall be deemed to be completed on delivery to such process agent (whether or not it is forwarded to and received by the Issuer). The Issuer will each procure that, so long as any of the Bonds is outstanding, there shall be in force an appointment of such a person with an office in England with authority to accept service as aforesaid on behalf of the Issuer and, failing such appointment within 15 days after demand by or on behalf of the Trustee, the Trustee shall be entitled by notice to the Issuer (and at the cost of the Issuer) as the case may be, to appoint such person. Nothing herein shall affect the right to serve process in any other manner permitted by law.

## **26. COUNTERPARTS**

This Trust Deed may be executed in one or more counterparts each of which so executed shall constitute an original and all of which together shall constitute one and the same agreement. Delivery of counterparts may be effected by facsimile transmission or other electronic communication (including by email in portable document format (pdf)).

## **27. NOTIFICATION TO THIRD PARTIES BY THE TRUSTEE**

Upon the reasonable written request and at the expense of the Issuer, the Trustee shall provide notice relating to the outstanding amount of the Bonds at the time of the request to any third party in accordance with the instructions of the Issuer, provided

and to the extent that the Trustee has received such information from the Principal Paying Agent and/or the Registrar.

Under no circumstances shall the Trustee be required to provide such information on more than one occasion in any calendar month. The Trustee will not make and shall not be deemed to have made any representation and shall bear no responsibility as to the correctness of the stated amount contained in any notice provided under this Clause 27.

#### **28. WAIVER OF IMMUNITY**

The Issuer irrevocably agrees that in any legal action or proceedings against it or its respective assets in connection with this Trust Deed, no immunity (whether on the grounds of sovereignty or otherwise) from such legal action or proceedings (which shall include, without limitation, suit, attachment prior to judgement, other attachment, the obtaining of judgement, execution or other enforcement) shall be claimed by or on behalf of the Issuer or with respect to its respective assets and the Issuer irrevocably waives any such right of immunity which it or its respective assets now have or may hereafter acquire or which may be attributed to it or its respective assets.

SCHEDULE 1  
FORM OF DEFINITIVE BOND

[THE BONDS EVIDENCED HEREBY (THE "BONDS") OR THE COMMON SHARES OF GREAT WESTERN MINERALS GROUP LTD. (THE "ISSUER") ISSUABLE UPON CONVERSION OF THE BONDS (THE "COMMON 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 40 DAYS AFTER THE LATER OF THE COMMENCEMENT OF THE OFFERING OF THE BONDS AND THE LATEST CLOSING DATE (THE "DISTRIBUTION COMPLIANCE PERIOD"), THE BONDS AND THE COMMON SHARES ISSUABLE UPON CONVERSION OF THE BONDS MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED TO ANY US PERSON OUTSIDE THE UNITED STATES OR ANY PERSON IN THE UNITED STATES. EACH HOLDER AND BENEFICIAL OWNER, BY ITS ACCEPTANCE OF THE BONDS EVIDENCED HEREBY, REPRESENTS THAT IT UNDERSTANDS AND AGREES TO THE FOREGOING AND FOLLOWING RESTRICTIONS. THIS LEGEND WILL NO LONGER BE EFFECTIVE AFTER THE END OF THE DISTRIBUTION COMPLIANCE PERIOD, AFTER WHICH THE BONDS EVIDENCED HEREBY AND THE COMMON SHARES ISSUABLE UPON CONVERSION OF THE BONDS WILL NO LONGER BE SUBJECT TO THE RESTRICTIONS SET FORTH IN THIS LEGEND, PROVIDED THAT AT SUCH TIME AND THEREAFTER THE OFFER OR SALE OF THE BONDS EVIDENCED HEREBY OR THE COMMON SHARES ISSUABLE UPON CONVERSION OF THE BONDS WOULD NOT BE RESTRICTED UNDER ANY APPLICABLE SECURITIES LAWS OF THE UNITED STATES OR OF THE STATES OR TERRITORIES OR JURISDICTIONS OF THE UNITED STATES.]

[THE SECURITIES REPRESENTED HEREBY [FOR COMMON SHARES: AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF] HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR UNDER ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THESE SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE 1933 ACT AND IN COMPLIANCE WITH LOCAL LAWS AND REGULATIONS, (C) IN COMPLIANCE WITH (I) RULE 144A OF THE 1933 ACT, IF AVAILABLE, TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER", AS DEFINED IN RULE 144A UNDER THE 1933 ACT ("QUALIFIED INSTITUTIONAL BUYER"), THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE OFFER, SALE OR TRANSFER IS BEING MADE IN RELIANCE OF RULE 144A

UNDER THE 1933 ACT, OR (II) RULE 144 UNDER THE 1933 ACT, IF AVAILABLE, AND, IN EACH CASE, IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN ANOTHER TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS, AND, IN THE CASE OF (C)(II) AND (D), THE SELLER FURNISHES TO THE COMPANY AN OPINION OF COUNSEL OF RECOGNIZED STANDING IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY TO SUCH EFFECT. DELIVERY OF THIS BOND MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA.]

[UNLESS PERMITTED BY APPLICABLE SECURITIES LEGISLATION IN CANADA, THE HOLDER OF THIS SECURITY MAY NOT TRADE THIS SECURITY IN CANADA BEFORE [INSERT DATE THAT IS FOUR MONTHS PLUS ONE DAY AFTER THE DISTRIBUTION DATE].]

#### Identifying Number

**GREAT WESTERN MINERALS GROUP LTD.**  
(incorporated with limited liability under the laws of Canada)  
**US\$90,000,000 8.00 per cent. Secured Convertible Bonds due 2017**

The Bond or Bonds in respect of which this definitive Bond is issued, the identifying numbers of which are noted above, are in registered form and form part of a series designated as specified in the title (the "Bonds") of Great Western Minerals Group Ltd. (the "Issuer") and constituted by the Trust Deed referred to on the reverse hereof. The Bonds are subject to, and have the benefit of, that Trust Deed and the terms and conditions (the "Conditions") set out on the reverse hereof.

The Issuer hereby certifies that [•] of [•] is, at the date hereof, entered in the Register as the holder of Bonds in the principal amount of US\$[•] ([•] United States dollars). For value received, the Issuer promises to pay the person who appears at the relevant time on the Register as holder of the Bonds in respect of which this definitive Bond is issued such amount or amounts as shall become due in respect of such Bonds and otherwise to comply with the Conditions.

The Bonds in respect of which this definitive Bond is issued are convertible into fully paid equity shares of the Issuer with full voting rights ("Common Shares") of the Issuer, subject to and in accordance with the Conditions and the Trust Deed.

This definitive Bond is evidence of entitlement only. Title to the Bonds passes only on due registration on the Register and only the duly registered holder is entitled to payments on Bonds in respect of which this definitive Bond is issued.

This definitive Bond shall not be valid for any purpose until authenticated by or on behalf of the Registrar.

This definitive Bond, including any non-contractual obligations arising out of, or in connection with, this Certificate, is governed by, and shall be construed in accordance with, English law.

IN WITNESS whereof the Issuer has caused this definitive Bond to be signed on its behalf.

Dated [•]

By:

Director

Certificate of Authentication

Certified that the above-named holder is at the date hereof entered in the Register as holder of the above-mentioned principal amount of Bonds with identifying numbers:

Deutsche Bank Luxembourg S.A., as Registrar (without recourse, warranty or liability)

By:

Authorised Signatory

**SCHEDULE 2**  
**TERMS AND CONDITIONS OF THE BONDS**

The issue of the US\$90,000,000. 8 per cent. Secured Convertible Bonds due 2017 (the "Bonds", which expression shall, unless otherwise indicated, include any further bonds issued pursuant to Condition 19 and consolidated and forming a single series therewith) was (save in respect of any such further bonds) authorised by a resolution of the Board of Directors of Great Western Minerals Group Ltd., (the "Issuer") passed on 15th March 2012.

The Bonds are constituted by a trust deed dated 5 April 2012 (the "Trust Deed") between the Issuer and Wilmington Trust (London) Limited (the "Trustee", which expression shall include all persons for the time being appointed as the trustee or trustees under the Trust Deed) as trustee for itself and the holders (as defined below) of the Bonds. The statements set out in these Terms and Conditions (the "Conditions") are summaries of, and are subject to, the detailed provisions of the Trust Deed, which includes the form of the Bonds in both global and definitive form. The Bondholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and those provisions applicable to them which are contained in the Agency Agreement dated 5 April 2012 (the "Agency Agreement") relating to the Bonds between the Issuer, the Trustee and Deutsche Bank A.G., London in its capacity as principal paying (the "Principal Paying Agent"), transfer, calculation and conversion agent (the "Principal Paying, Transfer, Calculation and Conversion Agent", which expression shall include any successor as Principal Paying, Transfer, Calculation and Conversion Agent under the Agency Agreement) and any other Paying, Transfer, Calculation and Conversion Agents for the time being (such persons, together with the Principal Paying, Transfer, Calculation and Conversion Agent, being referred to below as the "Paying, Transfer, Calculation and Conversion Agents", which expression shall include their successors as Paying, Transfer, Calculation and Conversion Agents under the Agency Agreement) and any other paying, transfer, calculation and conversion agent appointed under these Conditions, and the registrar named therein (the "Registrar" which expression shall include any successor registrar under the Agency Agreement).

Copies of each of the Trust Deed and the Agency Agreement are available for inspection during normal business hours at the registered office for the time being of the Trustee (being at the Closing Date at Third Floor, 1 King's Arms Yard, London EC2R 7AR), and at the specified offices of the Paying, Transfer, Calculation and Conversion Agents and the Registrar.

Capitalised terms used but not defined in these Conditions shall have the meanings provided in the Trust Deed unless, in any case, the context otherwise requires or unless otherwise stated.

**1. FORM, DENOMINATION, TITLE AND STATUS**

**1.1 Form and Denomination**

The Bonds are in registered form, serially numbered in principal amounts of US\$10,000 (an "Authorised Denomination") without coupons attached.

The Bonds will be represented by one or more global bonds in registered form (collectively the "Global Bond"). The Global Bond will be exchangeable in limited circumstances into definitive Bonds in registered form only in an Authorised

Denomination. Bonds in definitive form will be issued only upon exchange of interests in the Global Bond in the limited circumstances described in the Global Bond.

1.2 Title

Title to the Bonds will pass by transfer and registration (as described in Conditions 5 and 4, respectively). The Issuer, the Trustee, the Registrar and any Paying, Transfer, Calculation and Conversion Agents will (except as otherwise required by law) deem and treat the registered holder of the Bond as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof or that of the related certificate as appropriate or anything written on it or on the certificate representing it (other than a duly executed transfer thereof) for all purposes.

1.3 Status

The Bonds constitute direct, unconditional and unsubordinated obligations of the Issuer secured to the extent and in the manner described in Condition 2.1 and shall at all times rank *pari passu* and rateably without any preference among themselves and save as secured, shall at all times rank at least *pari passu* with its other unsecured and unsubordinated obligations, save for such exceptions as may be provided by applicable legislation and by provisions of law that are mandatory and of general application.

## 2. SECURITY, COVENANTS AND ESCROW

2.1 Security

The Issuer's obligations under the Bonds and the Trust Deed are secured (now and in the future) in favour of the Trustee for the benefit of itself and the Bondholders (subject as provided in these Conditions and the Transaction Documents) as follows:

- 2.1.1 a first priority charge granted by the Issuer over shares in respect of the Issuer's shareholding in LCMG Limited;
- 2.1.2 a first priority charge granted by LCMG Limited in respect of LCMG Limited's shareholding in Less Common Metals Limited;
- 2.1.3 a first priority cession and pledge agreement granted by the Issuer in respect of the Issuer's shareholding in Rare Earth Extraction Co. Limited;
- 2.1.4 a first priority cession and pledge agreement granted by the Issuer in respect of the Issuer's shareholding in Great Western GQD Rare Earth Materials Proprietary Limited;
- 2.1.5 a first priority pledge granted by the Issuer in respect of the Issuer's shareholding in Great Western Technologies Inc.; and
- 2.1.6 a first priority security interest over all the shares in any Subsidiary of the Issuer incorporated after the Closing Date for the purpose of purchasing or otherwise acquiring and selling intermediate products sourced directly or indirectly from the Steenkampskraal Property between members of the Group and to third parties together with such supporting documentation as the Trustee may reasonably require in order to perfect and create such security interest; and

2.1.7 such other security interests as the Issuer may, in its sole discretion, elect to grant over the share capital in any of its Subsidiaries (other than a Ringfenced SPV) together with such supporting documentation as the Trustee may reasonably require in order to perfect and create such security interest.

The property which is from time to time the subject of the security described in this Condition 2.1 is referred to herein as the “Secured Property”.

## 2.2 Other Covenants

So long as any of the Bonds remain Outstanding, save with the prior written consent of the Trustee (acting reasonably) or as approved by any Extraordinary Resolution (as defined in the Trust Deed) of the Bondholders or as provided in Condition 2.4 or otherwise as expressly permitted in any of the Transaction Documents:

2.2.1 Except as permitted under paragraph (c) below:

- (a) The Issuer will not (and the Issuer shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets.
- (b) The Issuer will not (and the Issuer shall ensure that no other member of the Group will):
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to, or re-acquired by, the Issuer or any other member of the Group;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset (“Quasi-Security”).

- (c) Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, which is:
  - (i) a Permitted Security; or
  - (ii) a Permitted Transaction.

2.2.2 Except as permitted under paragraph (b) below:

- (a) The Issuer will not (and the Issuer shall ensure that no member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.

- (b) Paragraph 2.2.2(a) above does not apply to any sale, lease, transfer or other disposal which is:
  - (i) a Permitted Disposal; or
  - (ii) a Permitted Transaction.

2.2.3 Except as permitted under paragraph (b) below:

- (a) The Issuer will not (and the Issuer shall ensure that no member of the Group will) be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) a Permitted Loan; or
  - (ii) a Permitted Transaction.

2.2.4 Except as permitted under paragraph (b) below:

- (a) The Issuer will not (and the Issuer shall ensure that no member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Paragraph (a) does not apply to a guarantee which is:
  - (i) a Permitted Guarantee; or
  - (ii) a Permitted Transaction.

2.2.5 Except as permitted under paragraph (b) below:

- (a) The Issuer will not (and the Issuer shall ensure that no member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to Financial Indebtedness which is:
  - (i) Permitted Financial Indebtedness; or
  - (ii) a Permitted Transaction.

2.2.6 Save as permitted in the Transaction Documents, the Issuer will not permit (and the Issuer shall ensure that no member of the Group will permit) any of the Transaction Documents to be amended, terminated, postponed or discharged, or consent to any variation of, or exercise of any powers of consent or waiver pursuant to any of the Transaction Documents, or permit any party to any of the Transaction Documents or any other person whose obligations form part of the security to be released from such obligations; and

2.2.7 The Issuer will not, for a period of three years commencing on the date of issue of the Bonds, declare, make or pay any Dividend, charge, fee or other distribution (or interest on any unpaid Dividend, fee or distribution) (whether in cash or kind) on or in respect of its share capital (or any class thereof).

2.2.8 The Issuer shall by 5.00pm in Toronto, Canada on 31 May 2012 have either:

- (a) prepared and filed a NI 43-101 Mining Report on [www.sedar.com](http://www.sedar.com) in compliance with NI 43-101; or
- (b) filed a statement on [www.sedar.com](http://www.sedar.com) regarding the status of any draft NI 43-101 Mining Report, whereupon the provisions of Condition 7.2.11 shall apply.

2.3 Escrow

2.3.1

- (a) The Issuer will open an interest bearing account with Wilmington Trust (London) Limited (the "Escrow Agent") designated as an escrow account (the "Escrow Account").
- (b) The Issuer will withhold (or agree to be withheld and paid by ISM) the proceeds of the Bond issuance (in cleared funds and net of all costs, commissions and expenses in accordance with the Transaction Documents) and have such sum (or procure that such sum is) immediately deposited in the Escrow Account. The sum of US\$ 10,800,000 (the "Interest Coupon Amount") shall be retained within the Escrow Account to make the Bond interest payments set out in paragraph 2.3.1(c)(ii) below.
- (c) The Escrow Agent shall (subject to the terms of the Escrow Agreement) instruct the Account Holder to release amounts from the Escrow Account and make the relevant payments as follows:
  - (i) Upon receipt of the Escrow Amount into the Escrow Account, payment of US\$ 10,000,000 shall be promptly transferred by the Account Holder to the Issuer.
  - (ii) The Issuer shall deliver notice (such notice to include a calculation from Deutsche Bank AG, London Branch (as calculation agent under the Agency agreement) of the interest payment due to Bondholders) to the Escrow Agent not less than 3 Business Days prior to each of the first three consecutive Interest Payment Dates following the Closing Date specifying the aggregate amount of interest due to be paid to the Bondholders on such Interest Payment Date. The Escrow Agent shall instruct the Account Holder to transfer such sum in US dollars to the Principal Paying Agent's account for value on the relevant Interest Payment Date.
  - (iii) Upon receipt by the Escrow Agent of the Mining Report Letter (on or prior to the Long Stop Date) the Escrow Agent shall promptly direct the Account Holder to transfer (after retaining the Interest Coupon Amount, less any sums paid out of the Escrow Account pursuant to paragraph 2.3.1(c) (ii)) all sums standing to the credit of the Escrow Account (including all accrued interest thereon when paid) to the Issuer's account.
  - (iv) If the Mining Report Letter has not been received by the Escrow Agent on or before the Long Stop Date, the

Escrow Agent shall promptly notify the Trustee. If following such notice to the Trustee:

- (1) the Trustee (upon receipt of notice from the Principal Paying, Transfer, Calculation and Conversion Agent in accordance with Condition 8.8) notifies the Escrow Agent that the Milestone Redemption Threshold has been achieved, the Escrow Agent shall promptly direct the Account Holder to transfer all sums standing to the credit of the Escrow Account (including all accrued interest thereon when paid) to the Principal Paying Agent's account for disbursement to the Bondholders; or
- (2) the Trustee (upon receipt of notice from the Principal Paying, Transfer, Calculation and Conversion Agent in accordance with Condition 8.8) notifies the Escrow Agent on or before the date falling 14 days after the Long Stop Date that the Milestone Redemption Threshold has not been achieved, the Escrow Agent shall promptly direct the Account Holder to transfer (after retaining the Interest Coupon Amount less any sums paid out of the Escrow Account pursuant to paragraph 2.3.1(c) (ii)) all sums standing to the credit of the Escrow Account (including all accrued interest thereon when paid) to the Issuer's account.

(v) Upon receipt by the Escrow Agent of notice by the Trustee that an Event of Default has occurred and is continuing and the Bonds have become due and payable, the Escrow Agent shall, notwithstanding the other conditions in this paragraph 2.3.1, promptly direct the Account Holder to transfer all sums standing to the credit of the Escrow Account (including all accrued interest thereon when paid) at such time and to such account as the Trustee shall notify to the Escrow Agent.

(vi) Subject to the terms of the previous conditions of this paragraph 2.3.1, the Escrow Agent shall, upon notice from the Issuer confirming that all interest payments have been made to the Bondholders pursuant to paragraph 2.3.1(c)(ii) above, promptly direct the Account Holder to transfer all sums (if any) standing to the credit of the Escrow Account (including all accrued interest thereon when paid) to the Issuer.

## 2.4 Permitted Ringfenced Companies

2.4.1 The Issuer may at any time establish one or more special purpose companies, partnerships or incorporated joint ventures or similar entities in any jurisdiction, in each case with limited liability, for the purpose of carrying on business or owning assets in the upstream or downstream rare

earth oxides industry (each such company and each of its Subsidiaries, a “Ringfenced SPV”);

2.4.2 Each cash or cash equivalent investment by the Issuer in any Ringfenced SPV, whether by share subscription, loan, other investment or otherwise shall be funded:

- (a) by way of a new equity raising by the Issuer and invested by the Issuer directly or indirectly in the Ringfenced SPV; and/or
- (b) using the proceeds of the Bond issuance or any other cash or cash equivalents available to the Issuer provided that no more than an aggregate amount of US\$3,000,000 used for this purpose may be outstanding at any time.

2.4.3 The Ringfenced SPV may incur Financial Indebtedness and grant Security on an unrestricted basis provided that the Issuer shall procure that all Financial Indebtedness incurred by each Ringfenced SPV is incurred without recourse to the Issuer or any other member of the Group (other than any other Ringfenced SPV), save that the shareholder(s) of each Ringfenced SPV may grant Security over the share capital of such Ringfenced SPV in connection with such Financial Indebtedness.

### 3. DEFINITIONS

In these Conditions, unless otherwise provided:

“**Account Holder**” has the meaning given to that term in the Escrow Agreement.

“**Accounting Principles**” means IFRS.

“**Additional Common Shares**” has the meaning provided in Condition 7.3.

“**business day**” means a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets are open for business in Toronto, Canada and London, England.

“**Bondholder**” and “**holder**” means any person in whose name a Bond is registered in the register of Bondholders.

“**Bond Security**” means the security created over the Secured Property, from time to time, referred to in Condition 2.1.

a “**Change of Control**” shall occur if an offer is made to all (or as nearly as may be practicable all) Shareholders, other than the offeror(s) and/or any associate (as defined in section 988(1) of the Companies Act) of the offeror(s), to acquire all or a majority of the issued Common Share capital of the Issuer or if any person proposes a scheme of arrangement or analogous proceeding with regard to such acquisition and (such offer or scheme of arrangement or analogous proceeding having become or been declared unconditional in all respects or having become effective) 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(s) and/or any associate (as defined in section 988(1) of the Companies Act) of the offeror(s), or an event occurs which has a like or similar effect.

“**Change of Control Notice**” has the meaning provided in Condition 7.12.

“**Change of Control Period**” means the period commencing on the occurrence of a Change of Control and ending 60 calendar days following the Change of Control or, if later, 60 calendar days following the date on which a Change of Control Notice is given to Bondholders as required by Condition 7.12 and/or a Relevant Event Notice, as required by Condition 8.9, is given.

“**Change of Control Put Date**” has the meaning provided in Condition 8.6.

“**Change of Control Put Exercise Notice**” has the meaning provided in Condition 8.6.

“**Closing Date**” means 5 April 2012 or such other time or date for Closing as may be agreed by the Issuer and the Arrangers.

“**Common Shares**” means the common shares in the capital of the Issuer.

“**Companies Act**” means the Companies Act 2006 of the United Kingdom.

“**Conversion Date**” has the meaning provided in Condition 7.7.

“**Conversion Notice**” has the meaning provided in Condition 7.7.

“**Conversion Period**” has the meaning provided in Condition 7.1.

“**Conversion Price**” has the meaning provided in Condition 7.1.

“**Conversion Right**” has the meaning provided in Condition 7.1.

“**Current Market Price**” means, in respect of a Common Share at a particular date, the arithmetic average of the daily Volume Weighted Average Price of a Common Share on each of the ten consecutive dealing days ending on the dealing day immediately preceding such date; provided that if at any time during the said ten-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 Common Shares to be issued do not rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Common 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 Common Share as at the first date on which the Common Shares are traded ex the relevant Dividend or other entitlement on the Relevant Stock Exchange (in any such case, determined on a gross basis and disregarding any withholding or deduction required to be made on account of tax and disregarding any associated tax credit); or
- (b) if the Common Shares to be issued do rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the

Common 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 such similar amount (in any such case, determined on a gross basis and disregarding any withholding or deduction required to be made on account of tax and disregarding any associated tax credit),

and provided further that if on each of the said ten 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 Common Shares to be issued 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 Common Share as at the first date on which the Common Shares are traded ex-the relevant Dividend or other entitlement on the Relevant Stock Exchange (in any such case, determined on a gross basis and disregarding any withholding or deduction required to be made on account of tax and disregarding any associated tax credit),

and provided further that, if the Volume Weighted Average Price of a Common Share is not available on one or more of the said ten 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 ten-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 in good faith by an Independent Financial Adviser.

**“dealing day”** means a day on which the Relevant Stock Exchange or relevant market is open for business and on which Common 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”** means, if for whatever reason (other than for a period of no more than 2 days during which application is made to another Relevant Stock Exchange), the Common Shares are not admitted to trading on a Relevant Stock Exchange.

**“De-listing Event Period”** means the period commencing on the occurrence of the De-listing Event and ending 60 calendar days following the De-listing Event or, if later, 60 calendar days following the date on which a Relevant Event Notice, as required by Condition 8.9, is given.

**“De-listing Event Put Date”** has the meaning provided in Condition 8.7.

**“De-listing Event Put Exercise Notice”** has the meaning provided in Condition 8.7.

**“Dividend”** means any dividend or distribution to Shareholders (including a Spin-Off) whether of cash, assets or other property, and however described and whether payable out of share premium account, profits, retained earnings or any other capital or revenue reserve or account, and including a distribution or payment to holders upon or in connection with a reduction of capital (and for these purposes a distribution of assets

includes without limitation an issue of Common Shares or other Securities credited as fully or partly paid up by way of capitalisation of profits or reserves), provided that:

- (a) where:
  - (i) 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 Common Shares or other property or assets, or where a capitalisation of profits or reserves is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the payment of cash, then the Dividend in question shall be treated as a cash Dividend of an amount equal to the greater of (i) the Fair Market Value of such cash amount and (ii) the Current Market Price of such Common Shares as at the first date on which the Common Shares are traded ex- the relevant Dividend on the Relevant Stock Exchange or, as the case may be, the record date or other due date for establishment of entitlement in respect of the relevant capitalisation or, as the case may be, the Fair Market Value of such other property or assets as at the date of first public announcement of such Dividend or capitalisation or, in any such case, if later, the date on which the number of Common Shares (or amount of such other property or assets, as the case may be) which may be issued or delivered is determined; or
  - (ii) there shall be any issue of Common 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 Dividend in question shall be treated as a cash Dividend of an amount equal to the Current Market Price of such Common Shares as at the first date on which the Common Shares are traded ex- the relevant Dividend on the Relevant Stock Exchange or, as the case may be, the record date or other due date for establishment of entitlement in respect of the relevant capitalisation or, in any such case, if later, the date on which the number of Common Shares to be issued and delivered is determined;
- (b) any issue of Common Shares falling within Condition 7.2.2 below 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 member of the Group shall not constitute a Dividend unless, in the case of a purchase or redemption or buy back of Common Shares by or on behalf of the Issuer or any member of the Group, the weighted average price per Common Share (before expenses) on any one day (a “Specified Share Day”) in respect of such purchases or redemptions or buy backs (translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such day) exceeds by more than 5 per cent. the average of the closing prices of the Common 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 Common 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 of whether or not a price per Common Share, a minimum price per Common Share or a price range or 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 Common Shares purchased, redeemed or bought back by the Issuer or, as the case may be, any member of the Group (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 Common Shares determined as aforesaid and (ii) the number of Common Shares so purchased, redeemed or bought back;

(d) if the Issuer or any member of the Group shall purchase, redeem or buy back any receipts or certificates representing Common 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 in good faith by an Independent Financial Adviser.

**“Early Redemption Amount”** means the outstanding principal amount of the relevant Bonds together with applicable accrued and unpaid interest in accordance with the relevant provision of Condition 8.

**“Escrow Account”** has the meaning given to that term in the Escrow Agreement.

**“Escrow Amount”** has the meaning given to that term in the Escrow Agreement.

**“Escrow Agreement”** means the agreement made between, inter alias, the Escrow Agent, the Trustee and the Issuer setting out the terms upon with the Escrow Account will be operated.

**“Escrow Parties”** means the Escrow Agent and the Account Holder.

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

**“Fair Market Value”** means, with respect to any property on any date, the fair market value of that property as determined in good faith by an Independent Financial Adviser provided that (i) the Fair Market Value of a cash Dividend shall be the amount of such cash Dividend; (ii) the Fair Market Value of any other cash amount shall be the amount of such cash; (iii) where Securities, Spin-Off Securities, options, warrants or other rights are publicly traded in a market of adequate liquidity (as determined in good faith by an Independent Financial Adviser), the Fair Market Value (a) of such Securities or Spin-Off Securities shall equal the arithmetic mean of the daily Volume Weighted Average Prices of such Securities or Spin-Off Securities and (b) of such options, warrants or other rights shall equal the arithmetic mean of the daily closing prices of such options, warrants or other rights, in the case of both (a) and (b) during the period of ten dealing days on the relevant market commencing on such date (or, if later,

the first such dealing day such Securities, Spin-Off Securities, options, warrants or other rights are publicly traded) or such shorter period as such Securities, Spin-Off Securities, options, warrants or other rights are publicly traded; (iv) where Securities, Spin-Off Securities, options, warrants or other rights are not publicly traded (as aforesaid), the Fair Market Value of such Securities, Spin-Off Securities, options, warrants or other rights shall be determined in good faith 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 Common Share, the dividend yield of a Common Share, the volatility of such market price, prevailing interest rates and the terms of such Securities, Spin-Off Securities, options, warrants or other rights, including as to the expiry date and exercise price (if any) thereof. Such amounts shall, in the case of (i) above, be translated into the Relevant Currency (if declared or paid or payable in a currency other than the Relevant Currency) at the rate of exchange used to determine the amount payable to Shareholders who were paid or are to be paid or are entitled to be paid the cash Dividend in the Relevant Currency; and in any other case, shall be translated into the Relevant Currency (if expressed in a currency other than the Relevant Currency) at the Prevailing Rate on that date. In addition, in the case of (i) and (ii) above, the Fair Market Value shall be determined 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.

“Final Maturity Date” means 6 April 2017.

“Financial Indebtedness” means any indebtedness for or in respect of (without double counting):

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any amount raised by acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds (other than performance bonds issued in the ordinary course of business), notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of finance leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);
- (f) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition;
- (g) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the issuer) before the Final Maturity Date or are otherwise classified as borrowings under the Accounting Principles;
- (h) any amount of any liability under an advance or deferred purchase agreement if one of the primary reasons behind entering into the agreement is to raise

finance or to finance the acquisition or construction of the asset or service in question;

- (i) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) classified as borrowings under the Accounting Principles and having the commercial effect of a borrowing; and
- (j) (without double counting) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (i) above,

**“Fixed Exchange Rate”** has the meaning provided in Condition 7.1.

**“Further Bonds”** means any further Bonds issued pursuant to Condition 19 and consolidated and forming a single series with the then outstanding Bonds.

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

**“Independent Financial Adviser”** means an independent financial institution of international repute appointed by the Issuer at its own expense and approved in writing by the Trustee (such approval not to be unreasonably withheld or delayed), 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 prefunded and/or secured to its satisfaction against the costs, fees and expenses of such adviser appointed by the Trustee following notification to the Issuer.

**“Interest Payment Date”** has the meaning provided in Condition 6.1.

**“Interest Period”** has the meaning provided in Condition 6.1.

**“ISM”** means ISM Capital LLP of 17 Old Court Place, London, United Kingdom, W8 4PL.

**“London Stock Exchange”** means the London Stock Exchange plc.

**“Long Stop Date”** means 28 September, 2012 being the last date upon which the Issuer shall have submitted the Mining Report Letter to the Escrow Agent.

**“Margin Ratchet”** means the Conversion Price adjustment mechanism set out in paragraph 7.2.11.

**“Milestone Failure Event Put Exercise Notice”** has the meaning provided in Condition 8.8.

**“Milestone Redemption Threshold”** has the meaning provided in Condition 8.8.

**“Mining Report Letter”** means the letter from a qualified person (as defined in NI 43-101) substantially in the form set out in schedule 1 to the Escrow Agreement stating that at least 20,000 metric tonnes of total REOs are contained in the sum of the Measured, Indicated and Inferred resource categories (as defined in NI 43-101 using the one percent cutoff grade case with no other mining, processing or economic

constraints applied including, but not limited to, mining dilution and recovery) are present at the Steenkampskraal Property.

“NI 43-101” means National Instrument 43-101 Standards of Disclosure for Mineral Projects within Canada.

“NI 43-101 Mining Report” means the technical report prepared (or attributed) by a qualified person (as such term is defined in NI 43-101) substantially in the form prescribed by the NI 43-101 with respect to the Steenkampskraal Property and certified in accordance therewith.

“Obligor” means the Issuer and any member of the Group whose shares or stock is the subject matter of the Bond Security.

“Optional Redemption Date” has the meaning provided in Condition 8.2.

“Optional Redemption Notice” has the meaning provided in Condition 8.2.

“Outstanding” has the meaning given to it in the Trust Deed.

“Permitted Disposal” means any sale, lease, licence, transfer or other disposal which is on arm's length terms:

- (a) of trading stock or cash or cash equivalents made by any member of the Group in the ordinary course of business of the disposing entity;
- (b) of any asset by a member of the Group (the “Disposing Company”) to another member of the Group (the “Acquiring Company”), but if:
  - (i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor; and
  - (ii) the Disposing Company had given Security over the asset, the Acquiring Company must give equivalent Security over that asset;
- (c) of assets (other than shares, businesses, real property or intellectual property rights) in exchange for other assets comparable or superior as to type, value and quality;
- (d) of obsolete or redundant vehicles, plant and equipment for cash;
- (e) arising as a result of any Permitted Security;
- (f) of assets (other than shares) held by members of the Group (other than the Obligors) for cash; or
- (g) arising in connection with any Permitted Transaction or made by a Ringfenced SPV.

“Permitted Financial Indebtedness” means Financial Indebtedness:

- (a) arising under a Permitted Loan or Permitted Transaction;

- (b) (excluding that referred to in paragraph (a) and (c) of this definition) not exceeding US\$3,000,000 in aggregate outstanding at any time; or
- (c) incurred such that after giving effect on a pro forma basis to such Financial Indebtedness, the total Financial Indebtedness of the Group (other than that of the Ringfenced SPVs) does not, in aggregate, exceed three times the 12-month EBITDA (excluding the 12-month EBITDA attributable to the Ringfenced SPVs), provided that such 12-month EBITDA exceeds US\$25,000,000.

For the purpose of paragraph (c) above:

**“12 Month EBITDA”** means the aggregate EBITDA for the two latest Fiscal Periods.

**“Depreciation and Amortisation”** means the depreciation and amortisation of fixed assets and intangibles of the Issuer and its Subsidiaries as shown in the latest available consolidated financial statements of the Issuer prepared in accordance with IFRS.

**“EBITDA”** means the Net Income (Loss) for any period, as adjusted by adding back, to the extent deducted in calculating Net Income (Loss), without duplication, for such period:

- (i) Interest Expense;
- (ii) Income Tax Expense;
- (iii) Depreciation and Amortisation;
- (iv) Less any non-cash items increasing (decreasing) Net Income (Loss) for that period EBITDA; and
- (v) attributable to discontinued operations or businesses disposed of will be excluded.

**“Fiscal Period”** means each of the six month periods ending on 31 March and 30 September each year.

**“Income Tax Expense”** means in respect of any period the expenses of the Issuer and its Subsidiaries in respect of income taxes as shown in the profit and loss account of the Issuer for such period prepared in accordance with IFRS.

**“IFRS”** means the International Financial Reporting Standards as adopted by the European Union.

**“Interest Expense”** means, in relation to any period, the total of the following as calculated in accordance with the financial statements of the Issuer for such period prepared in accordance with IFRS:

- (i) cash and non-cash interest expense (net of interest income) for the relevant period (excluding any amortisation of debt issuance costs),

including, without limitation (whether or not interest expense in accordance with IFRS):

- (a) amortisation of debt discount;
- (b) the net costs associated with hedging agreements (including amortisation of fees and discounts);
- (c) the interest portion of any deferred payment obligations;
- (d) all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing;
- (e) accrued interest; and
- (f) interest due and payable under any guarantee, indemnity or equivalent arrangement;

(ii) the interest component of any capital lease obligation accrued during the relevant period; and

(iii) all capitalised interest of the Issuer and its Subsidiaries in each case determined in accordance with IFRS.

**"Net Income (Loss)"** means in respect of any period the net income (loss) of the Issuer for such period as shown in the then most recent consolidated profit and loss account of the Issuer prepared in accordance with IFRS adjusted, to the extent included in calculating such net income (loss) by excluding, without duplication:

- (a) gains or losses, net of taxes (less all fees and expenses relating thereto), in respect of dispositions of assets other than in the ordinary course of business;
- (b) any net foreign exchange gain or loss;
- (c) any gain or loss on net monetary position;
- (d) any share of the profit or loss of any associated company, associated undertaking or unconsolidated joint venture;
- (e) the cumulative effect of changes in accounting principles; and
- (f) any extraordinary or exceptional items (net of taxes) including, without limitation, any loss or gain on impairment of fixed assets charged to profit and loss account.

**"Permitted Guarantee"** means:

- (a) the endorsement of negotiable instruments in the ordinary course of business;

- (b) any performance or similar bond guaranteeing performance by a member of the Group under any contract or arrangement entered into in the ordinary course of business;
- (c) any indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is an acquisition or Permitted Disposal which indemnity is in a customary form and subject to customary limitations; or
- (d) any guarantee or indemnity arising under the Transaction Documents or any Permitted Transaction or given by a Ringfenced SPV.

**“Permitted Loan”** means:

- (a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;
- (b) a loan made by an Obligor to another Obligor or made by a member of the Group which is not an Obligor to another member of the Group which is not an Obligor;
- (c) intercompany loans existing as at the date hereof; and
- (d) each Financial Indebtedness made available to a Ringfenced SPV (subject to paragraph 2.4).

**“Permitted Security”** means:

- (a) the Bond Security;
- (b) any lien arising by operation of law in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
- (c) any Security or Quasi-Security (as defined in paragraph 2.2.1) granted in respect of a Permitted Transaction;
- (d) any rent deposit deed granted in respect of leasehold property in England and Wales;
- (e) Security granted in favour of Canadian Western Bank prior to the Closing Date in respect of credit card facilities granted to the Issuer, in an amount not to exceed C\$250,000.

**“Permitted Transaction”** means:

- (a) transactions (other than (i) any acquisition or disposal of companies or businesses (other than of Ringfenced SPVs) and (ii) the granting or creation of Security, making of loans or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of business on arm's length terms; and

(b) the acquisition or disposal of any Ringfenced SPV and any transaction conducted by a Ringfenced SPV, including (without limitation) the incurrence of Financial Indebtedness and the creation of Security as contemplated in paragraph 2.4.

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

“Presentation Date” means a day which:

- (a) is or falls after the relevant due date for payment, but, if the due date for payment is not or was not a business day in London, is or falls after the next following such business day; and
- (b) is a business day in the place of a specified office of the Paying, Transfer, Calculation and Conversion Agent at which the relevant Bond is presented for payment.

“Prevailing Rate” means, in respect of any currencies on any day, the spot rate of exchange between the relevant currencies prevailing as at or about 12 noon (London time) on that date as appearing on or derived from the Relevant Page or, if such a rate cannot be determined at such time, the rate prevailing as at or about 12 noon (London time) on the immediately preceding day on which such rate can be so determined, or if such rate cannot be so determined by reference to the Relevant Page, the rate determined in such other manner as an Independent Financial Adviser shall prescribe.

“Professional Securities Market” means the Professional Securities Market of the London Stock Exchange.

“Rare Earth Separation Facility” means the rare earth separation facility to be located near the Steenkampskraal Property site.

“Record Date” means, in respect of a payment, the business day in the clearing systems for the Bonds before the due date for the relevant payment.

“Reference Date” means, in relation to a Retroactive Adjustment, the date as of which the relevant Retroactive Adjustment takes effect or, in any such case, if that is not a dealing day, the next following dealing day.

“Register” has the meaning provided in Condition 4.

“Relevant Currency” means Canadian dollars or, if at the relevant time or for the purposes of the relevant calculation or determination, the TSX Venture Exchange is not the Relevant Stock Exchange, the currency in which the Common Shares are quoted or dealt in on the Relevant Stock Exchange at such time.

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

- (a) the date on which payment in respect of it first becomes due; and

(b) if the full amount payable has not been received by the Principal Paying, Transfer, Calculation and Conversion Agent or the Trustee on or prior to such due date, the date on which, the full amount having been so received, notice to that effect shall have been given to the Bondholders.

**“Relevant Event”** means a Change of Control, a De-Listing Event and/or the failure to deliver the Mining Report Letter to the Escrow Agent on or before the Long Stop Date, as applicable.

**“Relevant Event Notice”** has the meaning provided in Condition 8.9.

**“Relevant Indebtedness”** means any indebtedness for borrowed money which is in the form of or represented by any bonds, notes, loan stock or other securities which are intended by the Issuer to be, or are with the consent of the Issuer, quoted or listed on or dealt in or traded on any recognised stock exchange or other centrally organised or regulated securities market.

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

**“Relevant Period”** means the Change of Control Period, the De-listing Event Period and/or the period of 14 days commencing on the Long Stop Date, as applicable.

**“Relevant Put Date”** means the Change of Control Put Date, the De-listing Event Put Date and/or the Milestone Failure Event Put Date, as applicable

**“Relevant Stock Exchange”** means the TSX Venture Exchange or if at the relevant time the Common Shares are not at that time listed and admitted to trading on the TSX Venture Exchange, the principal stock exchange or securities market on which the Common Shares are then listed, admitted to trading or quoted or accepted for dealing.

**“REO”** means rare earth oxides and more specifically includes the following rare earth elements: Lanthanum (La), Cerium (Ce), Praseodymium (Pr), Neodymium (Nd), Samarium (Sm), Europium (Eu), Gadolinium (Gd), Terbium (Tb), Dysprosium (Dy), Holmium (Ho), Erbium (Er), Thulium (Tm), Ytterbium (Yb), Lutetium (Lu), Yttrium (Y), expressed as their oxide equivalents La<sub>2</sub>O<sub>3</sub>, CeO<sub>2</sub>, Pr<sub>6</sub>O<sub>11</sub>, Nd<sub>2</sub>O<sub>3</sub>, Sm<sub>2</sub>O<sub>3</sub>, Eu<sub>2</sub>O<sub>3</sub>, Gd<sub>2</sub>O<sub>3</sub>, Tb<sub>4</sub>O<sub>7</sub>, Dy<sub>2</sub>O<sub>3</sub>, Ho<sub>2</sub>O<sub>3</sub>, Er<sub>2</sub>O<sub>3</sub>, Tm<sub>2</sub>O<sub>3</sub>, Yb<sub>2</sub>O<sub>3</sub>, Lu<sub>2</sub>O<sub>3</sub>, Y<sub>2</sub>O<sub>3</sub>.

**“Retroactive Adjustment”** has the meaning provided in Condition 7.3.

**“Ringfenced SPV”** has the meaning given to it in Condition 2.4.

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

**“Security”** means a mortgage, charge, pledge, lien, guarantee or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**“Separation Plant”** means the rare earth separation plant to be constructed, commissioned and operated at a location proximate to the Steenkampskraal Property.

“Shareholders” means the holders of Common Shares.

“Specified Date” has the meaning provided in Condition 7.2.7 and 7.2.8.

“Spin-Off” means:

- (a) 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 pursuant in each case to any arrangements with the Issuer or any member of the Group involving a transfer of assets to such entity or other person.

“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.

“Steenkampskraal Property” means the 474 hectare Steenkampskraal mine site located in the Western Cape Province of the Republic of South Africa, 70 kilometers north of the town of Vanrhynsdorp, and 350 kilometers north and west of Cape Town.

“Subsidiary” means:

- (a) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50% of the voting capital or similar right of ownership (and “control” for this purpose means the power to direct the management and policies of the entity whether through the ownership of voting capital, by contract or otherwise); or
- (b) an entity treated as a subsidiary in the financial statements of any person pursuant to the Accounting Principles.

“Transaction Documents” means the Trust Deed, the Agency Agreement, the Escrow Agreement and the Bond Security.

“TSX Venture Exchange” means the TSX Venture Exchange Inc.

“UKLA” means the Financial Services Authority in its capacity as competent authority for the purposes of the Financial Services and Markets Act 2000.

“Volume Weighted Average Price” means, in respect of a Common Share, Security or, as the case may be, a Spin-Off Security on any dealing day, the order book volume-weighted average price of a Common Share, Security or, as the case may be, a Spin-Off Security published by or derived (in the case of a Common Share) from Bloomberg page VAP or (in the case of a Security (other than Common Shares) or Spin-Off Security) from the principal 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 in good faith to be appropriate by an Independent Financial Adviser on such dealing day, provided that if on any such dealing day such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of a Common 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, or as an Independent Financial Adviser might otherwise determine in good faith to be appropriate.

“**US\$**” and “**US dollars**” means the lawful currency for the time being of the United States of America.

“**CA\$**” and “**Canadian dollars**” means the lawful currency for the time being of Canada.

References to “**equity share capital**” has the meaning provided in section 548 of the Companies Act.

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

References to any issue or offer or grant to Shareholders or Existing Shareholders “as a class” or “by way of rights” shall be taken to be references to an issue or offer or grant to all or substantially all Shareholders or Existing Shareholders, as the case may be, other than Shareholders or Existing Shareholders, as the case may be, to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such issue or offer or grant.

In making any calculation or determination of Current Market Price or Volume Weighted Average Price, such adjustments (if any) shall be made as an Independent Financial Adviser determines in good faith appropriate to reflect any consolidation or sub-division of the Common Shares or any issue of Common Shares by way of capitalisation of profits or reserves, or any like or similar event.

For the purposes of Condition 7.2 and Condition 12 only, (a) references to the “**issue**” of Common Shares or Common Shares being “**issued**” shall include the transfer and/or delivery of Common Shares, whether newly issued and allotted or previously existing or held by or on behalf of the Issuer or any member of the Group, and (b) Common Shares held by or on behalf of the Issuer or any member of the Group (and which, in the case of Conditions 7.2.4 and 7.2.6, do not rank for the relevant right or other entitlement) shall not be considered as or treated as “**in issue**” or “**issued**” or entitled to receive any Dividend, right or other entitlement.

#### 4. **REGISTRATION**

The Issuer will cause a register (the “**Register**”) to be kept at the specified office of the Registrar in Luxembourg (or such other office as agreed to between the Issuer and the Registrar) on which will be entered the names and addresses of the Bondholders and the particulars of the Bonds held by them and of all transfers, redemptions and conversions of Bonds. Bondholders will be entitled to receive only one Bond in respect of their respective holdings.

## 5. TRANSFER OF BONDS

### 5.1 Transfer

Bonds may, subject to the terms of the Agency Agreement and to Conditions 5.2 and 5.3, be transferred in whole or in part in an Authorised Denomination by lodging the certificate issued in respect of the relevant Bond (with the form of transfer in respect thereof (substantially in the form of Schedule 5 to the Trust Deed) duly executed and duly stamped where applicable) at the specified office of the Registrar or any Paying, Transfer, Calculation and Conversion Agent.

Transfers of interests in Bonds evidenced by the Global Bond will be effected in accordance with the rules of the relevant clearing system and the detailed regulations concerning transfer and registration of the Bonds scheduled to the Agency Agreement.

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

The Paying, Transfer, Calculation and Conversion Agent will, within seven Business Days (as defined below) of any duly made application for the transfer of a Bond, deliver a new Bond to the transferee (and, in the case of a transfer of part only of a Bond, deliver a Bond for the un-transferred balance to the transferor), at the specified office of the Paying, Transfer, Calculation and Conversion Agent, or (at the risk and, if mailed at the request of the transferee or, as the case may be, the transferor otherwise than by ordinary uninsured mail, at the expense of the transferee or, as the case may be, the transferor) mail the Bond by ordinary uninsured mail to such address as the transferee or, as the case may be, the transferor may request.

### 5.2 Formalities Free of Charge

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

### 5.3 Closed Periods

Neither the Issuer nor the Registrar will be required to register the transfer of any Bond (or part thereof) (i) during the period of 15 calendar days immediately prior to the Final Maturity Date or any earlier date fixed for redemption of the Bonds pursuant to Condition 8.2 or 8.3, (ii) in respect of which a Conversion Notice (as defined in Condition 7.7) has been delivered in accordance with Condition 7.7, (iii) in respect of which a holder has exercised its right to require the Issuer to redeem pursuant to Condition 8.6, 8.7 or 8.8 or (iv) during the period of 15 calendar days ending on (and including) any Record Date in respect of any payment of interest on the Bonds.

### 5.4 Business Day

In this Condition 5, “Business Day” means a day (other than a Saturday or Sunday) on which commercial banks are open for business in the place of the specified office of the Registrar.

## 6. INTEREST

### 6.1 Interest Rate

The Bonds bear interest from (and including) the Closing Date at the rate of 8 per cent. per annum calculated by reference to the principal amount thereof and payable semi-annually in arrear in equal instalments on 5 April and 5 October in each year (each an “**Interest Payment Date**”), commencing with the Interest Payment Date falling on 5 October 2012.

Where interest is required to be calculated for any period which is not an Interest Period it shall be calculated on the basis of a 360 day year consisting of 12 months of 30 days each and, in the case of an incomplete month, the number of days elapsed on the basis of a month of 30 days.

“**Interest Period**” means the period beginning on (and including) the Closing Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date.

### 6.2 Accrual of Interest

Each Bond will cease to bear interest (i) where the Conversion Right shall have been exercised by a Bondholder, from the Interest Payment Date immediately preceding the relevant Conversion Date or, if none, the Closing Date (subject in any such case as provided in Condition 7.9) or (ii) where such Bond is redeemed or repaid pursuant to Condition 8 or Condition 11, from the due date for redemption or repayment thereof unless, upon due presentation thereof, payment of the principal in respect of the Bond is improperly withheld or refused, in which event interest will continue to accrue at the rate specified in Condition 6.1 (both before and after judgment) until whichever is the earlier of (a) the day on which all sums due in respect of such Bond up to that day are received by or on behalf of the relevant holder, and (b) the day seven days after the Trustee or the Principal Paying, Transfer, Calculation and Conversion Agent has notified Bondholders of receipt of all sums due in respect of all the Bonds up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant holders under these Conditions).

## 7. CONVERSION OF BONDS

### 7.1 Conversion Right

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

The number of Common Shares to be issued on exercise of a Conversion Right shall be determined by dividing the principal amount of the Bonds (converted into Canadian dollars at the fixed rate of C\$1.00 = US\$1.0072 (the “**Fixed Exchange Rate**”), to be converted by the Conversion Price in effect on the relevant Conversion Date. No fractional shares shall be issued and any conversion shall be rounded down as appropriate.

The initial conversion price is C\$0.66 per Common Share (the “**Conversion Price**”). The Conversion Price is subject to adjustment in the circumstances described in Condition 7.2 and Condition 7.13.

A Bondholder may exercise the Conversion Right in respect of an Authorised Denomination by delivering such Bond, together with a Conversion Notice to the specified office of any Paying, Transfer, Calculation and Conversion Agent in accordance with Condition 7.7 and making any payment required to be made as provided in Condition 7.7, whereupon the Issuer shall procure the delivery to or as directed by the relevant Bondholder of Common Shares credited as paid-up in full as provided in this Condition 7.

Subject to, and as provided in these Conditions, the Conversion Right in respect of a Bond may be exercised, at the option of the holder thereof, at any time (subject to any applicable fiscal or other laws or regulations and as hereinafter provided) after the later of (i) the date falling four months and one day after the date of issue of the Bonds and (ii) the date upon which the Escrow Funds are released pursuant to paragraph 2.3.1(c)(iii) or 2.3.1(c)(iv)(2), to the close of business (at the place where the relevant Bond is delivered for conversion) on the date falling 7 calendar days prior to the Final Maturity Date (both days inclusive) or, if such Bond is to be redeemed pursuant to Condition 8.2 or 8.3 prior to the Final Maturity Date, then up to (and including) the close of business (at the place aforesaid) on the 7th calendar day before the date fixed for redemption thereof pursuant to Condition 8.2 or 8.3, 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 (and including) the close of business (at the place aforesaid) on the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given in accordance with Condition 18 or, if earlier, the Final Maturity Date or, if the Final Maturity Date is not a London business day, the immediately preceding London business day; provided that, in each case, if such final date for the exercise of Conversion Rights is not a business day at the place aforesaid, then the period for exercise of Conversion Rights by Bondholders shall end on the immediately preceding business day at the place aforesaid.

Conversion Rights may not be exercised (i) following the giving of notice by the Trustee pursuant to Condition 11 or (ii) in respect of a Bond in respect of which the relevant Bondholder has exercised its right to require the Issuer to redeem that Bond pursuant to Condition 8.6, 8.7 or 8.8 (provided that the Conversion Rights in respect of 8.8 may be exercised if the Milestone Redemption Threshold is not achieved as set out in Condition 8.8(b)).

A Conversion Right may not be exercised by a Bondholder in circumstances where the relevant Conversion Date would fall during the period commencing on the Record Date in respect of any payment of interest on the Bonds and ending on the relevant Interest Payment Date (both days inclusive).

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

Conversion Rights may only be exercised in respect of the whole of the principal amount of a Bond.

## 7.2 Adjustment of Conversion Price

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

7.2.1 If and whenever there shall be a consolidation, reclassification or subdivision in relation to the Common 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 Common Shares in issue immediately before such consolidation, reclassification or subdivision, as the case may be; and
- B is the aggregate number of Common 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.

7.2.2 If and whenever the Issuer shall issue any Common 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 Common 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, (2) where the Shareholders may elect to receive a Dividend in cash in lieu of such Common Shares, or (3) where any such Common 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 Common Shares in issue immediately before such issue; and
- B is the aggregate number of Common Shares in issue immediately after such issue.

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

7.2.3 If and whenever the Issuer shall pay or make any Dividend to 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 Common Share on the Effective Date; and

B is the portion of the Fair Market Value of the aggregate Dividend attributable to one Common Share, with such portion being determined by dividing the Fair Market Value of the aggregate Dividend by the number of Common Shares entitled to receive the relevant Dividend (or, in the case of a purchase, redemption or buy back of Common Shares or any depositary or other receipts or certificates representing Common Shares by or on behalf of the Issuer or any Subsidiary of the Issuer, by the number of Common Shares in issue immediately following such purchase, redemption or buy back, and treating as not being in issue any Common Shares, or any Common Shares represented by depositary or other receipts or certificates, purchased, redeemed or bought 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.

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.

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

7.2.4 If and whenever the Issuer shall issue Common Shares to Shareholders as a class by way of rights, or shall issue or grant to Shareholders as a class by way of rights, any options, warrants or other rights to subscribe for or purchase Common Shares, or any Securities which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, any Common Shares (or shall grant any such rights in respect of existing Securities so issued), in each case at a price per Common Share which is less than 95 per cent. of the Current Market Price per Common Share on the Effective Date, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

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

where:

A is the number of Common Shares in issue on the Effective Date;  
B is the number of Common Shares which the aggregate consideration (if any) receivable for the Common Shares issued by way of rights, or for the Securities 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 Common Shares deliverable on the

exercise thereof, would purchase at such Current Market Price per Common Share; and

C is the number of Common Shares to be issued or, as the case may be, the maximum number of Common 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 or upon conversion or exchange or exercise of rights of subscription or purchase in respect thereof at the initial conversion, exchange, subscription or purchase price or rate.

Such adjustment shall become effective on the Effective Date.

“Effective Date” means, in respect of this paragraph 7.2.4, the first date on which the Common Shares are traded ex-rights, ex-options or ex-warrants on the Relevant Stock Exchange.

7.2.5 If and whenever the Issuer shall issue any Securities (other than Common Shares or options, warrants or other rights to subscribe for or purchase any Common 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 rights to subscribe for or purchase any Securities (other than Common Shares or options, warrants or other rights to subscribe for or purchase Common 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 Common Share on the Effective Date; and

B is the Fair Market Value on the Effective Date of the portion of the rights attributable to one Common Share. Such adjustment shall become effective on the Effective Date.

“Effective Date” means, in respect of this paragraph 7.2.5, the first date on which the Common Shares are traded ex- the relevant Securities or ex-rights, ex-option or ex-warrants on the Relevant Stock Exchange.

7.2.6 If and whenever the Issuer shall issue (otherwise than as mentioned in paragraph 7.2.4 above) wholly for cash or for no consideration any Common Shares (other than Common 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, Common Shares) or issue or grant (otherwise than as mentioned in sub-paragraph 7.2.4 above) wholly for cash or for no consideration any options, warrants or other rights to subscribe for or purchase any Common Shares (other than the Bonds, which term shall for this purpose include any Further Bonds), in each case at a price per Common Share which is less than 95 per cent. of the Current Market Price per Common Share on 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 the Effective Date by the following fraction:

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

where:

- A is the number of Common Shares in issue immediately before the issue of such Common Shares or the grant of such options, warrants or rights;
- B is the number of Common Shares which the aggregate consideration (if any) receivable for the issue of such Common Shares or, as the case may be, for the issue or grant of such options, warrants or rights and for the Common 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 Common Share; and
- C is the number of Common Shares to be issued pursuant to such issue of such Common Shares or, as the case may be, the maximum number of Common 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 Effective Date.

**“Effective Date”** means, in respect of this paragraph 7.2.6, the date of issue of such Common Shares or, as the case may be, the grant of such options, warrants or rights.

7.2.7 If and whenever the Issuer or any member of the Group or (at the direction or request of or pursuant to any arrangements with the Issuer or any member of the Group) any other company, person or entity (otherwise than as mentioned in paragraphs 7.2.4, 7.2.5, or 7.2.6 above) shall issue wholly for cash or for no consideration any Securities (other than the Bonds, which term for this purpose shall exclude any Further Bonds) which by their terms of issue carry (directly or indirectly) rights of conversion into, or exchange or subscription for, Common Shares (or shall grant any such rights in respect of existing Securities so issued) or Securities which by their terms might be redesignated as Common Shares, and the consideration per Common Share receivable upon conversion, exchange, subscription or redesignation is less than 95 per cent. of the Current Market Price per Common Share on the date of the first public announcement of the terms of issue of such Securities (or the terms of such grant), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

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

where:

- A is the number of Common 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

Common Shares which have been issued, purchased or acquired by the Issuer or any member of the Group (or at the direction or request or pursuant to any arrangements with the Issuer or any member of the Group) for the purposes of or in connection with such issue, less the number of such Common Shares so issued, purchased or acquired);

- B is the number of Common Shares which the aggregate consideration (if any) receivable for the issue of such Securities (or, as the case may be, the grant of any such rights) and for the Common Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription attached to such Securities or, as the case may be, for the Common Shares to be issued or to arise from any such redesignation would purchase at such Current Market Price per Common Share; and
- C is the maximum number of Common 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 Common Shares which may be issued or arise from any such redesignation,

provided that if at the time of issue of the relevant Securities or date of grant of such rights (as used in this paragraph 7.2.7, the “Specified Date”) such number of Common Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription are exercised or, as the case may be, such Securities are redesignated or at such other time as may be provided), then for the purposes of this paragraph 7.2.7, “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, subscription, purchase or acquisition or, as the case may be, redesignation had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

“Effective Date” means, in respect of this paragraph 7.2.7, the date of issue of such Securities or, as the case may be, the grant of such rights.

7.2.8 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, which term shall for this purpose include any Further Bonds) as are mentioned in sub-paragraph 7.2.7 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 Common Share receivable has been reduced and is less than 95 per cent. of the Current Market Price per Common Share on the date of the first public announcement of the proposals for such modification, the

Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

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

where:

- A is the number of Common Shares in issue immediately before such modification (but where the relevant Securities carry rights of conversion into or rights of exchange or subscription for, or purchase or acquisition of, Common Shares which have been issued, purchased or acquired by the Issuer or any member of the Group (or at the direction or request or pursuant to any arrangements with the Issuer or any member of the Group) for the purposes of or in connection with such Securities, less the number of such Common Shares so issued, purchased or acquired);
- B is the number of Common Shares which the aggregate consideration (if any) receivable for the issue of such Securities (or, as the case may be, the grant of any such rights) and for the Common Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription, purchase or acquisition attached to the Securities so modified would purchase at such Current Market Price per Common Share or, if lower, the existing conversion, exchange, subscription, purchase or acquisition price or rate of such Securities; and
- C is the maximum number of Common Shares which may be issued or otherwise made available upon conversion or exchange of such Securities, as so modified, or upon the exercise of such rights of subscription, purchase or acquisition attached thereto at the modified conversion, exchange, subscription, purchase or acquisition price or rate but giving credit in such manner as an Independent Financial Adviser shall consider appropriate for any previous adjustment under this paragraph 7.2.8 or paragraph 7.2.7 above;

provided that if at the time of such modification (as used in this paragraph 7.2.8, the “Specified Date”) such number of Common 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, purchase or acquisition are exercised or at such other time as may be provided), then for the purposes of this paragraph 7.2.8, “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, subscription, purchase or acquisition had taken place on the Specified Date.

Such adjustment shall become effective on the Effective Date.

“Effective Date” means the date of modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to such Securities.

7.2.9 If and whenever the Issuer or any member of the Group or (at the direction or request of or pursuant to any arrangements with the Issuer or any member of the Group) any other company, person or entity shall offer any Securities in connection with which Shareholders as a class are entitled to participate in arrangements whereby such Securities may be acquired by them (except where the Conversion Price falls to be adjusted under paragraphs 7.2.2, 7.2.3, 7.2.4, 7.2.6 or 7.2.7 above or 7.2.10 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 Common Share on the relevant dealing day) or under paragraph 7.2.5 above), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the Effective Date by the following fraction:

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

where:

A is the Current Market Price of one Common Share on the Effective Date; and

B is the Fair Market Value on the Effective Date of the portion of the relevant offer attributable to one Common Share.

Such adjustment shall become effective on the Effective Date.

“Effective Date” means, in respect of this paragraph 7.2.9, the first date on which the Common Shares are traded ex-rights on the Relevant Stock Exchange.

7.2.10 If a Change of Control shall occur, then upon any exercise of Conversion Rights where the Conversion Date falls during the Change of Control Period, the Conversion Price (the “**Change of Control Conversion Price**”) shall be determined as set out below, but in each case adjusted, if appropriate, under the foregoing provisions of this Condition 7.2:

$$COCCP = \frac{OEP}{1 + \left( EP \text{ multiplied by } \frac{c}{t} \right)}$$

where:

COCCP = means the Change of Control Conversion Price

OEP = means the Conversion Price in effect immediately prior to Change of Control

EP = means 20 per cent. (expressed as a fraction)

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

t = means the number of days from and including the Closing Date to but excluding the Final Maturity Date

7.2.11 If a NI 43-101 Mining Report has not been filed by the Issuer by 5.00pm in Toronto, Canada on 31 May 2012, then for each day thereafter until the earlier of the date on which the Issuer files a NI 43-101 Mining Report and the Long Stop Date, then upon any exercise of Conversion Rights on or after 1 June 2012, the Conversion Price shall be determined as set out below, adjusted, if appropriate, under the foregoing provisions of this Condition 7.2:

$$RCP = \frac{OEP}{1 + (EP \text{ multiplied by } \frac{c}{t})}$$

where:

RCP	=	means the Report Delivery Event Conversion Price
OEP	=	means the Conversion Price in effect immediately prior to Report Delivery Event
EP	=	means 5 per cent. (expressed as a fraction)
c	=	means the number of days from 1 June 2012 to including the earlier of the date on which the NI 43-101 Mining Report is filed on <a href="http://www.sedar.com">www.sedar.com</a> and the Long Stop Date
t	=	120

7.2.12 If the Issuer (after consultation with the Trustee) determines in its absolute discretion 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 7.2 (even if the relevant circumstance is specifically excluded from the operation of paragraphs 7.2.1 to 7.2.10 above), the Issuer may, 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 paragraph 7.2.11 if such Independent Financial Adviser is so requested to make such a determination not more than 21 days after the date on which the relevant circumstance arises and if the adjustment would result in a reduction to the Conversion Price.

Notwithstanding the foregoing provisions, where the events or circumstances giving rise to any adjustment pursuant to this Condition 7.2 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.

For the purpose of any calculation of the consideration receivable or price pursuant to paragraphs 7.2.4, 7.2.6, 7.2.7 and 7.2.8, the following provisions shall apply:

- (a) the aggregate consideration receivable or price for Common Shares issued for cash shall be the amount of such cash;
- (b) (x) the aggregate consideration receivable or price for Common 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 Common 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 relevant date of first public announcement as referred to in paragraphs 7.2.4, 7.2.7 or 7.2.8, as the case may be, 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 Common 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);
- (c) if the consideration or price determined pursuant to (a) or (b) above (or any component thereof) shall be expressed in a currency other than the Relevant Currency, it shall be converted into the Relevant Currency at the Prevailing Rate on the relevant Effective Date (in the case of (a) above) or the relevant date of first public announcement (in the case of (b) above);
- (d) in determining the consideration or price pursuant to the above, no deduction shall be made for any commissions or fees (howsoever described) or any expenses paid or incurred for any underwriting, placing or management of the issue of the relevant Common Shares or Securities or options, warrants or rights, or otherwise in connection therewith; and
- (e) the consideration or price shall be determined as provided above on the basis of the consideration or price received, receivable, paid or payable regardless of whether all or part thereof is received, receivable, paid or payable by or to the Issuer or another entity.

### 7.3 Retroactive Adjustments

If the Conversion Date in relation to the conversion of any Bond shall be after the record date in respect of any reclassification or sub-division as is mentioned in paragraph 7.2.1 above, 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 paragraph 7.2.2, 7.2.3, 7.2.4, 7.2.5 or 7.2.9 above, or after the date of the first public announcement of the terms of any such issue or grant as is mentioned in paragraph 7.2.6 and 7.2.7 above or of the terms of any such modification as is mentioned in paragraph 7.2.8 above, but before the relevant adjustment to the Conversion Price becomes effective under Condition 7.2 above (each such adjustment, a "Retroactive Adjustment") in circumstances where such Bond is to be converted into Common Shares, then the Issuer shall (conditional upon the relevant adjustment becoming effective) procure that there shall be issued to the converting Bondholder, in accordance with the instructions contained in the relevant Conversion Notice, such additional number of Common Shares (if any) (the "Additional Common Shares") as, together with the Common Shares issued on conversion of the relevant Bonds (together with any fraction of a Common Share not so issued), is equal to the number of Common Shares which would have been required to be issued on such conversion if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date.

### 7.4 Decision of an Independent Financial Adviser

If any doubt shall arise as to whether an adjustment falls to be made to the Conversion Price or as to the appropriate adjustment to the Conversion Price, and following consultation between the Issuer and an Independent Financial Adviser, a written determination of such Independent Financial Adviser in respect thereof shall be conclusive and binding on all parties, save in the case of manifest error.

### 7.5 Share or Option Schemes, Dividend Reinvestment Plans

No adjustment will be made to the Conversion Price where Common Shares or other Securities (including rights, warrants and options) are issued, offered, exercised, allotted, purchased, appropriated, modified or granted to, or for the benefit of, employees or former employees (including directors holding or formerly holding executive or non-executive office or the personal service company of any such person) or their spouses or relatives, in each case, of the Issuer or any member of the Group 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 or pursuant to any dividend reinvestment plan or similar plan or scheme.

### 7.6 Rounding Down and Notice of Adjustment to the Conversion Price

On any adjustment, the resultant Conversion Price, if not an integral multiple of C\$0.01, shall be rounded down to the nearest whole multiple of C\$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.

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.

The Conversion Price shall not in any event be reduced to below the nominal value of the Common Shares. 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 such nominal value or any minimum level permitted by applicable laws or regulations.

#### 7.7 Procedure for exercise of Conversion Rights

Conversion Rights may be exercised by a Bondholder during the Conversion Period by delivering the relevant Bond to the specified office of any Paying, Transfer, Calculation and Conversion Agent, at its own expense, 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 Registrar or any Paying, Transfer, Calculation and Conversion Agent. Conversion Rights shall be exercised subject in each case to any applicable fiscal or other laws or regulations applicable in the jurisdiction in which the specified office of the Registrar or the Paying, Transfer, Calculation and Conversion Agent to whom the relevant Conversion Notice is delivered is located.

A Conversion Right may only be exercised in respect of an Authorised Denomination.

A Conversion Notice, once delivered, shall be irrevocable.

If the delivery of the relevant Bond and Conversion Notice as described in the foregoing paragraph 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 Registrar or relevant Paying, Transfer, Calculation and Conversion Agent, such delivery shall be deemed for all purposes of these Conditions to have been made on the next following such business day.

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

The conversion date in respect of a Bond (the "Conversion Date") shall be the business day in London immediately following the date of the delivery of the relevant Bond and the Conversion Notice as provided in this Condition 7.7 and payment of any other amount payable by the relevant Bondholder pursuant to the third paragraph of this Condition 7.7.

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

Bondholder in respect of any payment thereof and any penalties payable in respect thereof.

Such Bondholder must also pay all, if any, taxes imposed on it and arising by reference to any disposal or deemed disposal of a Bond or any interest therein in connection with the exercise of Conversion Rights by it.

The Common Shares to be issued on exercise of Conversion Rights (including any Additional Common Shares) will not be available for issue (i) to, or to a nominee for, Euroclear Bank S.A./N.V. or Clearstream Banking, *société anonyme* or any other person providing a clearance service within the meaning of section 96 of the Finance Act 1986 of the United Kingdom or (ii) to a person, or nominee or agent for a person, whose business is or includes issuing depositary receipts within the meaning of section 93 of the Finance Act 1986 of the United Kingdom, in each case at any time prior to the “abolition day” as defined in section 111(1) of the Finance Act 1990 of the United Kingdom.

Common Shares to be issued on exercise of Conversion Rights (including any Additional Common Shares) will be issued in uncertificated form. Where Common Shares are to be issued in certificated form, a certificate in respect thereof will be dispatched by mail free of charge (but uninsured and at the risk of the recipient) to the relevant Bondholder or as it may direct in the relevant Conversion Notice within 28 days following the relevant Conversion Date or, as the case may be, the Reference Date.

#### 7.8 Common Shares

7.8.1 Common Shares (including any Additional Common Shares) issued upon exercise of Conversion Rights will be fully paid and will in all respects rank pari passu with the fully paid Common Shares in issue on the relevant Conversion Date or, in the case of Additional Common Shares, on the relevant Reference Date, except in any such case for any right excluded by mandatory provisions of applicable law and except that such Common Shares or, as the case may be, Additional Common Shares will not rank for (or, as the case may be, the relevant holder shall not be entitled to receive) any rights, distributions or payments the record date or other due date for the establishment of entitlement for which falls prior to the relevant Conversion Date or, as the case may be, the relevant Reference Date.

7.8.2 Save as provided in Condition 7.9, no payment or adjustment shall be made on exercise of Conversion Rights for any interest which otherwise would have accrued on the relevant Bonds since the last Interest Payment Date preceding the Conversion Date relating to such Bonds (or, if such Conversion Date falls before the first Interest Payment Date, since the Closing Date).

#### 7.9 Interest on Conversion

If any notice requiring the redemption of the Bonds is given pursuant to Condition 8.2 on or after the fifteenth London business day prior to a record date which has occurred since the last Interest Payment Date (or in the case of the first Interest Period, since the Closing Date) in respect of any Dividend or distribution payable in respect of the Common 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 at the rate provided in Condition 6.1 on Bonds in respect of which

Conversion Rights shall have been exercised and in respect of which the Conversion Date falls after such record date and on or prior to the Interest Payment Date next following such record date in respect of such Dividend or distribution, in each case from and including the preceding Interest Payment Date (or, if such Conversion Date falls before the first Interest Payment Date, from the Closing Date) to but excluding such Conversion Date. The Issuer shall pay any such interest by not later than 14 days after the relevant Conversion Date by transfer to a sterling account with a bank in London in accordance with instructions given by the relevant Bondholder in the relevant Conversion Notice.

7.10 Purchase or Redemption of Common Shares

The Issuer or any member of the Group 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 Common Shares) or any receipts or certificates representing the same without the consent of the Trustee or the Bondholders.

7.11 No Duty to Monitor

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

7.12 Change of Control

Within 7 calendar days following the occurrence 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**”). The Change of Control Notice shall contain a statement informing Bondholders of their entitlement to exercise their Conversion Rights as provided in these Conditions and their entitlement to exercise their rights to require redemption of their Bonds pursuant to Condition 8.6. The Change of Control Notice shall also specify:

- 7.12.1 all information in the possession of the Issuer and reasonably obtainable by the Issuer and material to Bondholders concerning the Change of Control;
- 7.12.2 the Conversion Price immediately prior to the occurrence of the Change of Control and the Conversion Price applicable pursuant to Condition 7.10 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;
- 7.12.3 the closing price of the Common Shares as derived from the Relevant Stock Exchange as at the latest practicable date prior to the publication of the Change of Control Notice;
- 7.12.4 the last day of the Change of Control Period;
- 7.12.5 the Change of Control Put Date; and
- 7.12.6 such other information relating to the Change of Control as the Trustee may reasonably require.

None of the Trustee, Paying, Transfer, Calculation and Conversion Agent or the Registrar shall be required to take any steps to monitor or 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.

#### 7.13 Conversion Price Reset

The Issuer shall by 11:00 am London time on the date falling 30 months after the Closing Date (the "Reset Date") provide a written certification (in form reasonably acceptable to the Trustee) stating that either:

- (i) the Separation Plant is operational, has been commissioned and, over any 90 day period expiring prior to the Reset Date, has produced not less than 500 metric tonnes of REOs; or
- (ii) the Separation Plant has not satisfied the requirements set out in paragraph (i) above ("Non Compliant"),

such certification from the Issuer being the "Operational Certificate".

If the Operational Certificate provides that the Separation Plant is Non Compliant, then the Conversion Price in force immediately prior to such Operational Certificate being delivered to the Trustee shall be adjusted to the higher of:

- (i) the 20 day Volume Weighted Average Price of a Common Share preceding the Reset Date; and
- (ii) 83.34 per cent. of the Conversion Price on the Closing Date,

such adjusted Conversion Price shall never be greater than the Conversion Price in force immediately prior to such Operational Certificate being delivered to the Trustee.

The Reset Conversion Price shall be the Conversion Price with effect from the Reset Date.

Any such adjustments shall become effective as of the Reset Date and shall be notified to the Bondholders in accordance with Condition 18 (with a copy to the Trustee) as soon as practicable thereafter. Neither the Trustee, the Paying, Transfer, Calculation and Conversion Agents nor the Registrar shall be responsible for monitoring whether any adjustment of the Conversion Price may be applied in accordance with this Condition 7.13, and shall not be liable for (i) any failure to so monitor, or (ii) any adjustment or non-adjustment of the Conversion Price. The Trustee shall not be responsible for investigating the contents or accuracy of the certificate to be delivered by the Issuer pursuant to this Condition 7.13 and shall incur no liability to the Bondholders or any other person for any errors or omissions in such certificate which shall be the sole responsibility of the Issuer.

### 8. REDEMPTION AND PURCHASE

#### 8.1 Final Redemption

Unless previously purchased and cancelled, redeemed or converted as herein provided, the Bonds will be redeemed at their principal amount on the Final Maturity Date. The Bonds may only be redeemed at the option of the Issuer prior to the Final Maturity Date in accordance with Condition 8.2.

#### 8.2 Redemption at the Option of the Issuer

On giving not less than 45 nor more than 60 days' 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 on the date (the "Optional

**Redemption Date")** specified in the Optional Redemption Notice at their principal amount, together with accrued and unpaid interest up to (but excluding) such date if:

- 8.2.1 at any time after 5 April 2015, the Volume Weighted Average Price of a Common Share on each of at least 20 dealing days in any period of 30 consecutive dealing days ending not earlier than 14 dealing days prior to the giving of the relevant Optional Redemption Notice, shall have been at least 130 per cent. of the Conversion Price in effect on each such dealing day; or
- 8.2.2 at any time prior to the date the Optional Redemption Notice is given, Conversion Rights shall have been exercised and/or purchases (and corresponding cancellations) and/or redemptions effected in respect of 90 per cent. or more in principal amount of the Bonds originally issued.

For the purposes of:

- (a) Condition 8.2.1, if on any dealing day in such 30 dealing day period the Volume Weighted Average Price of a Common Share on such dealing day shall have been quoted cum-Dividend (or cum-any other entitlement), the Volume Weighted Average Price of a Common Share on such dealing day shall be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such Dividend or entitlement per Common Share as at the date (or, if that is not a dealing day, the immediately preceding dealing day) of first public announcement of such Dividend (or entitlement); or
- (b) Condition 8.2.2, the principal amount of the Bonds originally issued shall be the aggregate of the principal amount of the Bonds, including any Bonds issued pursuant to the over-allotment option and any further bonds issued pursuant to Condition 19 and consolidated and forming a single series with the Bonds.

### 8.3 Redemption for Taxation Reasons

The Bonds may be redeemed (subject to the provisions of Condition 8.4 at the option of the Issuer in whole, but not in part, at any time, on giving not less than 30 nor more than 60 days' notice (a "**Tax Redemption Notice**") to the Bondholders in accordance with Condition 18 on the date specified in the Tax Redemption Notice (the "**Tax Redemption Date**") at its principal amount together with accrued and unpaid interest up to (but excluding) the Tax Redemption Date, if (i) the Issuer satisfies the Trustee immediately prior to the giving of such Tax Redemption Notice that it has or will become obliged to pay additional amounts in respect of any payments of interest in respect of the Bonds as provided or referred to in Condition 10 as a result of any change in, or amendment to, the laws or regulations of Canada or the United Kingdom or any political subdivision or any authority thereof or therein 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 Closing Date, and (ii) such obligation cannot be avoided by the Issuer taking reasonable measures available to it, provided that no such Tax Redemption Notice shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Bonds then due. Prior to the publication of any Tax Redemption Notice pursuant to this Condition 8.3, the Issuer shall deliver to

the Trustee (a) a certificate signed by two directors of the Issuer stating that the obligation referred to in (1) above cannot be avoided by the Issuer taking reasonable measures available to it and (b) an opinion of independent legal or tax advisers of recognised international standing to the effect that such change or amendment has occurred and that the Issuer has or will be obliged to pay such additional amounts as a result thereof (irrespective of whether such amendment or change is then effective) and the Trustee shall accept (without liability for so doing) such certificate and opinion as sufficient evidence of the satisfaction of the condition precedent set out in (i) and (ii) above, in which event it shall be conclusive and binding on the Bondholders

#### 8.4 Bondholders' Tax Option

If the Issuer gives a Tax Redemption Notice as provided in Condition 8.3, each Bondholder will have the right to elect that his Bond(s) shall not be redeemed pursuant to such Tax Redemption Notice and that the provisions of Condition 10 shall not apply in respect of any payment of interest to be made in respect of such Bond(s) which falls due after the relevant Tax Redemption Date, whereupon no additional amounts as provided or referred to in Condition 10 shall be payable in respect thereof pursuant to Condition 10, and all payments of interest to be made in respect of the Bonds shall be made subject to the deduction or withholding of Canadian or United Kingdom (as the case may be) taxation required to be withheld or deducted. To exercise a right pursuant to this Condition 8.4, the relevant Bondholder must deliver such Bond(s) (if applicable) together with a duly completed and signed notice of election in the form (for the time being current) obtainable from the specified office of any Paying, Transfer, Calculation and Conversion Agent (a "Bondholder's Tax Exercise Notice") on or before the date falling 15 days prior to the Tax Redemption Date at the specified office of any Paying, Transfer, Calculation and Conversion Agent.

#### 8.5 Redemption Notices

Any Optional Redemption Notice or Tax Redemption Notice shall (subject in the case of Condition 8.3) be irrevocable. Any such notice shall specify (i) the Optional Redemption Date or, as the case may be, the Tax Redemption Date, and the applicable Early Redemption Amount, which shall be a London business day, (ii) the Conversion Price, (iii) the aggregate principal amount of the Bonds Outstanding and the closing price of the Common Shares as derived from the Relevant Stock Exchange, in each case as at the latest practicable date prior to the publication of the Optional Redemption Notice or Tax Redemption Notice, and (iv) the last day on which Conversion Rights may be exercised by Bondholders and (v) the amount of accrued interest payable in respect of each Bond on the Optional Redemption Date or Tax Redemption Date as applicable.

#### 8.6 Redemption at the Option of Bondholders upon a Change of Control

Following the occurrence of a Change of Control, the holder of each Bond will have the right to require the Issuer to redeem that Bond on the Change of Control Put Date at its principal amount together with accrued and unpaid interest up to (but excluding) such date. To exercise such right, the holder of the relevant Bond must deliver such Bond(s) (if applicable) to the specified office of the Registrar or any Paying, Transfer, Calculation and Conversion Agent, together with a duly completed and signed notice of exercise in the form (for the time being current) obtainable from the specified

office of any Paying, Transfer, Calculation and Conversion 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 calendar day after the expiry of the Change of Control Period.

Payment in respect of any such Bond shall be made by transfer to a US dollar account with a bank in Toronto or London as specified by the relevant Bondholder in the relevant Change of Control Put Exercise Notice.

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

#### 8.7 Redemption at the Option of Bondholders upon a De-listing Event

Following the occurrence and during the continuance of a De-listing Event, the holder of each Bond will have the right to require the Issuer to redeem that Bond on the De-listing Event Put Date at its principal amount together with accrued and unpaid interest up to (but excluding) such date. To exercise such right, the holder of the relevant Bond must deliver such Bond (if applicable), to the specified office of any Paying, Transfer, Calculation and Conversion Agent together with a duly completed and signed notice of exercise in the form (for the time being current) obtainable from the specified office of any Paying, Transfer, Calculation and Conversion 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 calendar day after the expiry of the De-listing Event Period.

Payment in respect of any such Bond shall be made by transfer to a U.S. dollar account with a bank in Toronto or London as specified by the relevant Bondholder in the relevant De-listing Event Put Exercise Notice.

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

#### 8.8 Redemption at the Option of Bondholders upon Failure to deliver Mining Report Letter

If the Escrow Agent notifies the Trustee that it has not received a Mining Report Letter on or before the Long Stop Date (whereupon the Trustee shall notify the Bondholders of such lack of receipt), the holder of each Bond (other than the Issuer or any member of the Group), the Bonds held by such holders being “Eligible Bonds”, will have the right to require the Issuer to redeem that Eligible Bond on the Milestone Failure Event Put Date, which shall be the fourteenth calendar day after the Long Stop Date, at its principal amount together with accrued and unpaid interest up to (but excluding) such date. To exercise such right, the holder of the relevant Eligible Bond must deliver to the specified office of any Paying, Transfer and, Conversion Agent a duly completed and signed notice of exercise in the form (for the time being current) obtainable from the specified office of any Paying, Transfer, Calculation and Conversion Agent (a “Milestone Failure Event Put Exercise Notice”), at any time prior to the Milestone Failure Event Put Date.

If:

- (a) the aggregate principal amount of Eligible Bonds submitted for redemption pursuant to the Milestone Failure Event Put Exercise

Notices equals or exceeds 50.1 per cent. of the aggregate principal amount of all Outstanding Eligible Bonds (the “**Milestone Redemption Threshold**”) then the relevant Paying, Transfer, Calculation and Conversion Agent shall, in accordance with Condition 18, within seven calendar days thereof, give notice to the Issuer, the Trustee and all Bondholders that all Bonds are to be redeemed at their principal amount, together with accrued and unpaid interest up to (but excluding) the Milestone Failure Event Put Date.

Payment in respect of all Bonds shall be made by transfer to a U.S. dollar account with a bank in Toronto or London as specified by the relevant Bondholder in the relevant Milestone Failure Event Put Exercise Notice or (for Bondholders who did not submit any such notice) as otherwise notified by the relevant Bondholder; or

- (b) the aggregate principal amount of Eligible Bonds submitted for redemption pursuant to the Milestone Failure Event Put Exercise Notices is less than the Milestone Redemption Threshold, then the relevant Paying, Transfer, Calculation and Conversion Agent shall, in accordance with Condition 18, within seven calendar days thereof, give notice to all Bondholders that the Milestone Redemption Threshold has not been achieved and accordingly no Bonds shall be redeemed under this Condition 8.8 and all Milestone Failure Event Put Exercise Notices submitted shall be deemed to be revoked by the relevant Bondholder.

A Milestone Failure Event Put Exercise Notice, once delivered, shall be irrevocable (except as provided in paragraph 8.8 (b)) and the Issuer shall (in the case of paragraph 8.8 (a)) redeem all Bonds on the Milestone Failure Event Put Date.

#### 8.9 Relevant Event Notice by Issuer

The Issuer shall give notice or procure that notice is given to the Trustee and the Bondholders in accordance with Condition 18 (a “**Relevant Event Notice**”) within seven calendar days of the first day on which it becomes aware of the occurrence of a Relevant Event. The Relevant Event Notice shall contain a statement informing Bondholders of their entitlement to exercise their rights to require redemption of their Bonds pursuant to Condition 8.6, 8.7 or 8.8 as applicable.

The Relevant Event Notice shall also specify:

- (a) the last day of the Relevant Period;
- (b) the Relevant Put Date;
- (c) the applicable Early Redemption Amount; and
- (d) such other information relating to the Relevant Event as the Trustee may require.

None of the Trustee, Paying, Transfer, Calculation and Conversion Agent or the Registrar shall be required to take any steps to monitor or ascertain whether a Relevant Event or any event which could lead to a Relevant Event has occurred or may occur and none of the Trustee, Paying, Transfer, Calculation and Conversion

Agent or the Registrar will be responsible or liable to Bondholders or any other person for any loss arising from any failure by it to do so.

8.10 Purchase

Subject to the requirements (if any) of any stock exchange on which the Bonds may be admitted to listing and trading at the relevant time and subject to compliance with applicable laws and regulations, the Issuer or any member of the Group may at any time purchase any Bonds in the open market or otherwise at any price. Such Bonds may be held, re-sold or reissued or, at the option of the relevant purchaser, surrendered to any Paying, Transfer, Calculation and Conversion Agent for cancellation.

8.11 Cancellation

All Bonds which are redeemed or in respect of which Conversion Rights are exercised will be cancelled and may not be reissued or resold. Bonds purchased by the Issuer or any member of the Group may be surrendered to any Paying, Transfer, Calculation and Conversion Agent for cancellation and, if so surrendered, shall be cancelled.

8.12 Multiple Notices

If more than one notice of redemption is given pursuant to this Condition 8, the first of such notices to be given shall prevail.

**9. PAYMENTS**

9.1 Principal

Payment of principal in respect of the Bonds and payment of accrued interest payable on redemption of the Bonds (other than on an Interest Payment Date) will be made to the persons shown in the Register at the close of business on the day prior to the Record Date and subject to the surrender of the certificate issued in respect of the relevant Bond at the specified office of any Paying, Transfer, Calculation and Conversion Agent by transfer to a US\$ account maintained by the payee with a bank in Toronto or London.

Payment of all other amounts will be made as provided in these Conditions.

9.2 Payments subject to fiscal laws

All payments in respect of the Bonds are subject in all cases to any applicable fiscal or other laws and regulations, but without prejudice to Condition 10.

9.3 Presentation Date

A holder shall be entitled to present a Bond for payment only on a Presentation Date and shall not be entitled to any further interest or other payment if the due date for payment is not a Presentation Date or if the relevant Bond is presented for payment after the due date.

9.4 Paying, Transfer, Calculation and Conversion Agents, etc.

The initial Paying, Transfer, Calculation and Conversion Agents and their initial specified offices are listed in the Trust Deed. The Issuer reserves the right under the Agency Agreement at any time, with the prior written approval of the Trustee, to vary or terminate the appointment of any Paying, Transfer, Calculation and Conversion Agent and appoint additional or other Paying, Transfer, Calculation and Conversion Agents, provided that it will (i) maintain a Principal Paying, Transfer, Calculation and Conversion Agent, (ii) maintain a Paying, Transfer, Calculation and Conversion Agent

(which may be the Principal Paying, Transfer, Calculation and Conversion Agent) with a specified office in a European Union member state that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive (to the extent that at least one member state does not require a Paying, Transfer, Calculation and Conversion Agent with an office in that member state to so withhold or deduct amounts for or on account of tax, whether pursuant to European Council Directive 2003/48/EC, under the laws of that member state or otherwise) and (iii) maintain a Paying, Transfer, Calculation and Conversion Agent with a specified office in at least two major European cities approved by the Trustee (which may, for the avoidance of doubt, be the same Paying, Transfer, Calculation and Conversion Agent maintained for the purposes of sub-paragraph (ii)). Notice of any change in the Paying, Transfer, Calculation and Conversion Agents or their specified offices will promptly be given by the Issuer to the Bondholders in accordance with Condition 18.

#### 9.5 No charges

None of the Paying, Transfer, Calculation and Conversion Agents shall make or impose on a Bondholder any charge or commission in relation to any payment in respect of the Bonds or any conversion of the Bonds.

#### 9.6 Fractions

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

### 10. TAXATION

All payments of principal and interest by or on behalf of the Issuer in respect of the Bonds shall be made free and clear of, and 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 or within Canada or the United Kingdom or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law.

In the event that any such withholding or deduction is required to be made, the Issuer will pay such additional amounts as will result in the receipt by the Bondholders of the amounts which would otherwise have been receivable had no such withholding or deduction been required.

### 11. EVENTS OF DEFAULT

The Trustee at its discretion may, and if so requested by holders of not less than 25 per cent. in principal amount of the Bonds then Outstanding or if so directed by an Extraordinary Resolution of the Bondholders shall (subject in each case to it being indemnified and/or prefunded and/or secured to its satisfaction), give notice in writing to the Issuer that the Bonds are, and they shall immediately become, due and payable at their principal amount together with accrued and unpaid interest, if any of the following events (each an "Event of Default") shall have occurred and is continuing:

#### 11.1 Non-Payment: (i) the Issuer fails to pay all or any part of the principal of any of the Bonds when the same shall become due and payable, whether at maturity, upon redemption or otherwise and such failure continues for a period of seven calendar

days; or (ii) the Issuer fails to pay any interest in respect of any of the Bonds as and when the same shall become due and payable, and such failure continues for a period of fourteen calendar days;

11.2 **Conversion Rights:** the Issuer fails to deliver or procure the delivery of the Common Shares when the same shall become deliverable upon the conversion of any Bonds and in either case such failure continues for a period of 10 calendar days;

11.3 **Breach of Other Obligations:** the Issuer defaults in the performance or observance of or compliance with any of its other obligations set out in the Bonds or the Transaction Documents which default, in each case, continues for more than 30 calendar days after the date on which written notice specifying such failure shall have been given to the Issuer by the Trustee (except where the Trustee shall have certified to the Issuer that it considers such default to be incapable of remedy, where no such notice or continuation shall be required);

11.4 **Cross-Acceleration:** (i) any Financial Indebtedness of the Issuer or any Subsidiary (other than Financial Indebtedness owed by one member of the Group to another member of the Group) becomes due and payable prior to its stated maturity (otherwise than at the option of the Issuer or such Subsidiary, as the case may be) by reason of any event of default (howsoever described); (ii) any such Financial Indebtedness representing principal (and premium or other amounts, if any) payable on the scheduled maturity date of, or on any other date for the redemption or repayment of such Financial Indebtedness (which, for the avoidance of doubt shall not include any payments of interest scheduled to be paid prior to such date of maturity, redemption or repayment), is not paid when due on its scheduled date for redemption or repayment or, as the case may be, within any applicable grace period originally provided for or, if such applicable grace period is extended, the grace period as extended; or (iii) the Issuer or any Subsidiary fails to pay when due any Financial Indebtedness (or within any applicable grace period originally provided for or, if such applicable grace period is extended, the grace period as extended) under any present or future guarantee for, or indemnity in respect of, any Financial Indebtedness of a type referred to in sub-paragraph (ii) above, provided that the aggregate amount of the relevant Financial Indebtedness in respect of which any one or more of the events mentioned above in this Condition 11.4 has or have occurred equals or exceeds US\$1,000,000.00 or its equivalent in other currencies and provided further that no account shall be taken of amounts where the Issuer or, as the case may be, the other relevant Subsidiary is contesting in good faith that such amounts are due and payable;

11.5 **Enforcement Proceedings:** a distress, attachment or execution (other than distraint or attachment imposed by any government, authority or agent prior to enforcement foreclosure) is levied against, or an encumbrancer takes possession of all or a substantial part of the property or assets of the Issuer or all or a substantial part of the property or assets of any Subsidiary and is not (i) discharged or stayed within 60 calendar days in the case of the Issuer and 90 calendar days in the case of a Subsidiary; or (ii) being contested in good faith on the basis of legal advice provided by reputable independent counsel in the relevant jurisdiction or jurisdictions and by appropriate proceedings;

11.6 **Security Enforced:** a receiver, administrative receiver, administrator, manager or other similar officer is appointed over the whole or a substantial part of the undertaking, property or assets of the Issuer or any Subsidiary and in any such case such possession or appointment is not stayed or terminated or the debt on account of

which such possession was taken or appointment made is not discharged or satisfied within 60 calendar days in the case of the Issuer and 90 calendar days in the case of a Subsidiary of such appointment or the issue of such order;

- 11.7 **Insolvency:** the Issuer or any Subsidiary (i) is unable or admits inability to pay its debts as they fall due or stops, suspends or threatens to stop or suspend payment of all or a substantial part of its debts as they mature; or (ii) applies for or consents to the appointment of an administrator, administrative receiver, liquidator, manager or receiver or other similar officer in respect of the Issuer or any Subsidiary or over the whole or substantially all of the undertaking, property, assets or revenues of the Issuer or any Subsidiary; or (iii) proposes or makes or enters into a general assignment or an arrangement or composition with or for the benefit of its creditors in respect of any of such debts or a moratorium is agreed or declared or comes into effect in respect of or affecting all or substantially all the debts of the Issuer or any Subsidiary, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation (i) on terms approved by the Trustee (such approval not to be unreasonably withheld or delayed having regard to, and taking into account, the interests of Bondholders only) or by an Extraordinary Resolution of the Bondholders or (ii) in the case of a Subsidiary, not arising out of the insolvency of such Subsidiary and under which all or substantially all of its assets are transferred to another member or members of the Group or to a transferee or transferees which immediately upon such transfer become(s) a Subsidiary;
- 11.8 **Winding-up, Disposals:** (a) an administrator is duly appointed, an order is made by a competent court or an effective resolution passed for the winding-up or dissolution or administration of the Issuer or any Subsidiary (and where possible is not discharged within 15 days), or the Issuer or any Subsidiary ceases or threatens to cease to carry on all or substantially all of its business or operations, or (b) the Issuer or any Subsidiary sells or disposes of all or substantially all of its assets or business whether as a single transaction or a number of transactions, related or not, other than a disposal of assets or business on arm's length terms of, the Issuer or such Subsidiary as the case may be;
- 11.9 **Expropriation:** any governmental authority or agency condemns, seizes, compulsorily purchases or expropriates (excluding any distress or attachment prior to enforcement or foreclosure) all or substantially all of the assets or shares of the Issuer or any Subsidiary other than for fair market value and on terms previously approved by the Trustee (such approval not to be unreasonably withheld or delayed and having regard to, and taking into account, the interests of Bondholders);
- 11.10 **Security:** the Bond Security is not in full force and effect; or
- 11.11 **Analogous Events:** any event occurs which under the laws of Canada or, in the case of any Subsidiary, the laws of the relevant Subsidiary's place of incorporation or principal place of business has an analogous effect to any of the events referred to in paragraphs 11.5 to 11.8 above.

For the purposes of paragraph 11.4 above, any indebtedness which is in a currency other than U.S. dollars shall be translated into U.S. dollars at the middle spot rate for the sale of U.S. dollars against the purchase of the relevant currency quoted by any leading bank selected by the Trustee on any day when the Trustee requests a quotation for such purposes.

## 12. **UNDERTAKINGS**

### 12.1 **Undertakings of the Issuer**

Whilst any Conversion Right remains exercisable, the Issuer will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in its opinion, it is not materially prejudicial to the interests of the Bondholders to give such approval unless otherwise required by applicable laws and regulations:

12.1.1 issue, allot and deliver Common Shares on exercise of Conversion Rights and at all times keep available for issue free from pre-emptive or other similar rights such number of Common Shares as would enable the Conversion Rights and all other rights of subscription and exchange for and conversion into Common Shares to be satisfied in full;

12.1.2 not issue or pay up any Securities, in either case by way of capitalisation of profits or reserves, other than:

(a) by the issue of fully paid Common Shares or other Securities to the Shareholders and other holders of shares in the capital of the Issuer which by their terms entitle the holders thereof to receive Common Shares or other Securities on a capitalisation of profits or reserves; or

(b) by the issue of Common Shares paid up in full out of profits or reserves (in accordance with applicable law) and issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a cash dividend; or

(c) by the issue of fully paid equity share capital (other than Common 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 Common Shares); or

(d) by the issue of Common Shares or any equity share capital to, or for the benefit of, any employee or former employee, director or executive holding or formerly holding executive office of the Issuer or any of its Subsidiaries or any associated company or to trustees or nominees to be held for the benefit of any such person, in any such case pursuant to an employee, director or executive share or option scheme whether for all employees, directors, or executives or any one or more of them,

unless, in any such case, the same constitutes a Dividend or otherwise gives (or, in the case of an issue or payment up of Securities in connection with a Change of Control, will give) rise (or would, but for the provisions of Condition 7.6 relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price or is (or, in the case of any issue or payment up of Securities in connection with a Change of Control, will be) otherwise taken into account for the purposes of determining whether such an adjustment should be made;

12.1.3 not in any way modify the rights attaching to the Common 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 such rights attaching to the Common Shares but so that nothing in this Condition 12.1.3 shall prevent:

- (a) the issue of any equity share capital to employees (including officers and directors holding or formerly holding executive or non-executive office or the personal service company of any such person) whether of the Issuer or any of the Issuer's Subsidiaries or associated companies by virtue of their office or employment 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
- (b) any consolidation, reclassification or subdivision of the Common Shares or the conversion of any Common Shares into stock or vice versa; or
- (c) any modification of such rights which is not, in the determination in good faith of an Independent Financial Adviser, materially prejudicial to the interests of the holders of the Bonds; or
- (d) any alteration to the articles or by-laws of the Issuer made in connection with the matters described in this Condition 12 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 Common Shares, dealt with under such procedures); or
- (e) any issue of equity share capital where the issue of such equity share capital results or would, but for the provisions of Condition 7.6 relating to roundings or the carry forward of adjustments or, where comprising Common Shares, the fact that the consideration per Common Share receivable therefor is at least 95 per cent. of the Current Market Price per Common Share on the relevant date, otherwise result, in an adjustment to the Conversion Price; or
- (f) any issue of equity share capital or modification of rights attaching to the Common Shares where prior thereto the Issuer shall have instructed an Independent Financial Adviser to determine in good faith what (if any) adjustments should be made to the Conversion Price as being fair and reasonable to take account thereof and such Independent Financial Adviser shall have determined in good faith either that no adjustment is required or that an adjustment to 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); or
- (g) without prejudice to Condition 7.2.10 and Condition 8.6, the amendment of the articles or by-laws of the Issuer following a Change of Control to ensure that any Bondholder exercising its Conversion Right after the occurrence of a Change of Control will

receive the same consideration for the Common Shares arising on conversion as it would have received had it exercised its Conversion Right at the time of the occurrence of the Change of Control; or

(h) without prejudice to any rule of law or legislation (including applicable regulations made under *Canada Business Corporations Act* or any other provision of that or any other legislation), the conversion of Common Shares into, or the issue of any Common Shares in, uncertificated form (or the conversion of Common Shares in uncertificated form to certificated form) or the amendment of the articles or by-laws of the Issuer to enable title to securities in the Issuer (including Common Shares) to be evidenced and transferred without a written instrument or any other alteration to the articles or by-laws of the Issuer made in connection with the matters described in this Condition 12.1.3 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 Common Shares, dealt with under such procedures);

12.1.4 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 member of the Group or procured by the Issuer or any member of the Group to be issued) issued without rights to convert into, or exchange or subscribe for, Common Shares shall subsequently be granted such rights exercisable at a consideration per Common Share which is less than 95 per cent. of the Current Market Price per Common 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 7.6 relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price;

12.1.5 not make any issue, grant or distribution or take or omit to take any other action if the effect thereof would be that, on conversion of the Bonds, Common Shares could not, under any applicable law then in effect, be legally issued as fully paid;

12.1.6 not reduce its issued share capital, share premium account or capital redemption reserve or any uncalled liability in respect thereof except (1) pursuant to the terms of issue of the relevant share capital or (2) by means of a purchase or redemption of share capital of the Issuer or (3) as permitted by the *Canada Business Corporations Act*, as applicable, or (4) where the reduction does not involve any distribution of assets to Shareholders or (5) solely in relation to a change in the currency in which the nominal value of the Common Shares is expressed or (6) a reduction of its share premium account to facilitate the writing off of goodwill arising on consolidation which requires the confirmation of the High Court and which does not involve the return to Shareholders, either directly or indirectly, of an amount standing to the credit of the share premium account of the Issuer

in respect of which the Issuer shall have tendered to the High Court such undertaking as it may require prohibiting, so long as any of the Bonds remains Outstanding, the distribution (except by way of capitalisation issue) of any reserve which may arise in the books of the Issuer as a result of such reduction or (7) to create distributable reserves (to which, in respect of any such creation of distributable reserves by the Issuer, the Trustee will be deemed to have irrevocably given its consent (without any liability for so doing) prior to such creation of distributable reserves occurring and, to the extent that express consent is required, the Bondholders authorise and direct the Trustee to give its consent (without any liability for so doing) to such creation of distributable reserves) or (8) by way of transfer to reserves as permitted under applicable law or (9) 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 (10) where the reduction is permitted by applicable law and results (or, in the case of a reduction in connection with a Change of Control, will result) in (or would, but for the provisions of Condition 7.6) relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is (or, in the case of a reduction in connection with a Change of Control, will be) otherwise taken into account for the purposes of determining whether such an adjustment should be made, provided that, without prejudice to the other provisions of these Conditions, the Issuer may exercise such rights as it may from time to time be entitled pursuant to applicable law to purchase, redeem or buy back its Common Shares and any depositary or other receipts or certificates representing Common Shares without the consent of Bondholders;

12.1.7 if any offer is made to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all) such Shareholders other than the offeror and/or any associates (as defined in section 988(1) of the Companies Act or any modification or re-enactment thereof) of the offeror) to acquire all or a majority of the issued Common Share capital of the Issuer, or if a scheme is proposed with regard to such acquisition, give notice of such offer or scheme to the Trustee and the Bondholders at the same time as any notice thereof is sent to its Shareholders (or as soon as reasonably practicable thereafter) that details concerning such offer or scheme may be obtained from the specified offices of the Paying, Transfer, Calculation and Conversion Agents and, where such an offer or scheme has been recommended by the Board of Directors of the Issuer, or where such an offer has become or been declared unconditional in all respects or such scheme has become effective, use its reasonable endeavours to procure that a like offer or scheme is extended to the holders of any Common 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 (which like offer or scheme in respect of such Bondholders shall entitle any such Bondholders to receive the same type and amount of consideration it would have received had it held the number of Common Shares to which such Bondholder would be entitled assuming he were to exercise his Conversion Rights in the relevant Change of Control Period);

12.1.8 use its reasonable endeavours to ensure that the Common Shares issued upon conversion of the Bonds will as soon as practicable be admitted to trading by the TSX Venture Exchange in accordance with their respective rules and will be listed, quoted or accepted for dealing as soon as practicable on any other stock exchange or securities market on which the Common Shares may then be listed or quoted or dealt in; and

12.1.9 Whilst any Bond remains Outstanding, the Issuer will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in the Trustee's opinion, it is not materially prejudicial to the interests of the Bondholders to give such approval:

- (a) comply with the obligations assumed by it under the articles or by-laws of the Issuer and not make any amendment to the articles or by-laws of the Issuer which would vary, abrogate or modify the rights appertaining to the Common Shares;
- (b) not issue any other share capital with rights which are more favourable than the rights attaching to the Common Shares in respect of dividends or payment or on a return of capital or otherwise.

For so long as any Bond remains Outstanding, use reasonable endeavours to maintain the listing of the Bonds on the Professional Securities Market, provided that if at any time the Issuer determines that it is unable to list or can no longer reasonably comply with the requirements for listing the Bonds on the Professional Securities Market, or if maintenance of such listing becomes unduly onerous, it will not be required to maintain a listing of the Bonds on the Professional Securities Market and will use reasonable endeavours to obtain and maintain a listing of such Bonds on another recognised stock exchange (as defined in section 1005 of the Income Tax Act 2007).

12.2 **Compliance Certificates**

The Issuer has undertaken in the Trust Deed to deliver to the Trustee at least annually a certificate signed by two of its directors or authorized officers, as to there not having occurred an Event of Default or Potential Event of Default since the date of the last such certificate which is continuing or if such event has occurred and is continuing 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 with the undertakings set forth in this Condition 12, nor be liable to any person for relying on such certificates.

13. **PRESCRIPTION**

Claims in respect of principal and interest will become void unless presentation for payment is made as required by Condition 9 within a period of 6 years in the case of principal and five years in the case of interest from the appropriate Relevant Date, subject as otherwise provided in Conditions 7.7.

Claims in respect of any other amounts payable in respect of the Bonds shall be prescribed and become void unless made within 6 years following the due date for payment thereof.

**14. REPLACEMENT OF BONDS**

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

**15. MEETINGS OF BONDHOLDERS, MODIFICATION AND WAIVER, SUBSTITUTION**

**15.1 Meetings of Bondholders**

The Trust Deed contains provisions for convening meetings of Bondholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions or any provisions of the Trust Deed. Such a meeting may be convened by the Issuer or the Trustee and shall be convened by the Issuer if requested in writing by Bondholders holding not less than 10 per cent. in principal amount of the Bonds for the time being Outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution will be two or more persons holding or representing a clear majority in principal amount of the Bonds for the time being Outstanding (or over two thirds in principal amount of the Bonds for the time being Outstanding at any meeting of which includes any of the matters specified in the proviso to paragraph 16 of Schedule 4 to the Trust Deed being (i) changing the maturity date of the Bonds; or (ii) reducing or cancelling the principal amount of, or interest or premium on the Bonds or changing the method of calculation thereof; or (iii) changing the currency of any payment in respect of the Bonds; or (iv) cancelling or modifying the right to convert the Bonds into Common Shares (except in accordance with the Conditions) or cancelling or modifying the De-listing Event, provisions relating to failure to submit the Mining Report Letter by the Long Stop Date or the Change of Control provisions or modifying the circumstances in which the Bonds may be converted at the option of the Issuer or shortening the Conversion Period; or (v) modifying the provisions concerning the quorum required at a meeting of Bondholders or the majority required to pass an Extraordinary Resolution or sign a resolution in writing; or (vi) changing the governing law of the Bonds; or (vii) amending any of the aforementioned provisions), or at any adjourned meeting one or more persons being or representing Bondholders whatever the principal amount of the Bonds so held or represented, unless the business of such meeting includes any of the matters specified in the proviso to paragraph 16 of Schedule 4 to the Trust Deed (as set out above) in which case the necessary quorum will be two or more persons holding or representing not less than one third in principal amount of the Bonds for the time being Outstanding. Any Extraordinary Resolution duly passed shall be binding on all Bondholders (whether or not they were present at the meeting at which such resolution was passed).

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

#### 15.2 Modification and Waiver

The Trustee may agree, without the consent of the Bondholders to (i) any modification of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bond Security, the Bonds or these 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 an error which, in the opinion of the Trustee, is proven or to comply with mandatory provisions of law, and (ii) any other modification to the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bond Security, the Bonds or these Conditions, (except as mentioned in the Trust Deed), and any waiver or authorisation of any breach or proposed breach, of any of the provisions of the Trust Deed, any trust deed supplemental to the Trust Deed, the Agency Agreement, any agreement supplemental to the Agency Agreement, the Bond Security, the Bonds or these Conditions, which is, in the opinion of the Trustee, not materially prejudicial to the interests of the Bondholders. The Trustee may, without the consent of the Bondholders, determine any Event of Default or a Potential Event of Default (as defined in the Trust Deed) should not be treated as such, provided that in the opinion of the Trustee, the interests of Bondholders will not be materially prejudiced thereby. Any such modification, authorisation, waiver or determination shall be binding on the Bondholders and, if the Trustee so requires, shall be notified to the Bondholders promptly in accordance with Condition 18.

#### 15.3 Substitution

The Trust Deed contains provisions permitting the Trustee to agree, without the consent of the Bondholders, to the substitution of certain other entities in place of the Issuer, or of any previous substituted company, as principal debtor under the Trust Deed and the Bonds, subject to (i) the Bonds continuing to be convertible or exchangeable into Common Shares *mutatis mutandis* as provided in these Conditions, with such amendments as the Trustee shall consider appropriate, (ii) the Trustee being satisfied that the interests of the Bondholders will not be materially prejudiced by the substitution and (iii) certain other conditions set out in the Trust Deed being complied with. In the case of such a substitution the Trustee may agree, without the consent of the Bondholders, to a change of the law governing the Bonds and/or the Trust Deed provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Bondholders.

#### 15.4 Entitlement of the Trustee

Where, in connection with the exercise or performance of any right, power, trust, authority, duty or discretion under or in relation to these Conditions (including, without limitation, in relation to any modification, waiver, authorisation, determination or substitution as referred to above), the Trustee shall have regard to the interests of the Bondholders as a class but shall not have regard to any interests arising from circumstances particular to individual Bondholders (whatever their number) and, in particular but without limitation, shall not have regard to the consequences of any such exercise or performance for individual Bondholders (whatever their number) resulting

from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or any political sub-division thereof and the Trustee shall not be entitled to require, nor shall any Bondholder be entitled to claim from the Issuer, the Trustee or any other person any indemnification or payment in respect of any tax consequences of any such exercise upon individual Bondholders.

## 16. ENFORCEMENT

### 16.1 Enforcement of Security

The security over the Secured Property shall become enforceable upon the occurrence of an Event of Default which is continuing.

If the security over the Secured Property becomes enforceable, the Trustee at its discretion may, and if so requested by holders of not less than 25 per cent. in principal amount of the Bonds then Outstanding or if so directed by an Extraordinary Resolution of the Bondholders shall (subject in each case to it being indemnified and/or prefunded and/or secured to its satisfaction) enforce the security constituted by the Transaction Documents. To do this, it may at its discretion take possession of and/or realise any Secured Property and/or take action against any person liable in respect of any Secured Property and take any other action provided for in, and in all cases subject to, the Transaction Documents, but without any liability as to the consequences of such action and without having regard to the effect of such action on individual Bondholders, and provided that the Trustee shall not be required to take any action that would involve any personal liability or exposure without first being indemnified and/or prefunded and/or secured to its reasonable satisfaction.

Pursuant to the Trust Deed, the Trustee shall apply all moneys received by it under the Transaction Documents in connection with the realisation or enforcement of the Secured Property on trust to apply them as follows:

- (a) first, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Trustee or any receiver in preparing and performing the trusts constituted by and its rights, powers, duties and authorities under the Trust Deed and/or the other Transaction Documents (including holding and enforcing the security constituted by the Trust Deed and including any taxes required to be paid, the costs of realising any Secured Property and the remuneration of the Trustee and any receiver appointed by it);
- (b) secondly, in or towards payment or discharge or satisfaction *pari passu* of all amounts due and obligations to the Bondholders in respect of the Bonds then Outstanding and pursuant to the Trust Deed; and
- (c) thirdly, in payment of any balance to the Issuer.

## 17. 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 to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer without accounting for any profit.

## 18. NOTICES

Notices to Bondholders will be valid if published in a leading English language daily newspaper circulating in the United Kingdom (which is expected to be the *Financial Times*) or, if in the opinion of the Trustee such publication shall not be practicable, in an English language newspaper of general circulation in Europe. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the first date on which publication is made.

If publication as provided above is not practicable, notice will be given in such other manner, and shall be deemed to have been given on such date, as the Trustee may approve.

## 19. FURTHER ISSUES

The Issuer may from time to time without the consent of the Bondholders create and issue further securities, either having the same terms and conditions as the Bonds in all respects (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 securities of any series (including the Bonds) or upon such terms as the Issuer may determine at the time of their issue. References in these Conditions to the Bonds include (unless the context requires otherwise) any other securities issued pursuant to this Condition and forming a single series with the Bonds. Any further securities forming a single series with the outstanding securities of any series (including the Bonds) constituted by the Trust Deed or any deed supplemental to it shall, and any other securities may (with the consent of the Trustee), be constituted by a deed supplemental to the Trust Deed. The Trust Deed contains provisions for convening a single meeting of the Bondholders and the holders of securities of other series where the Trustee so decides.

## 20. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

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

## 21. GOVERNING LAW AND JURISDICTION

### 21.1 Governing Law

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

### 21.2 Jurisdiction

The courts of England have jurisdiction to settle any dispute arising out of or in connection with the Trust Deed or the Bonds (including any dispute relating to the existence, validity or termination of the Trust Deed or the Bonds or any non-contractual obligation arising out of or in connection therewith) (a "Dispute").

The Issuer has in the Trust Deed irrevocably submitted to the jurisdiction of such courts and has waived any objection to proceedings in relation to a Dispute in such

courts whether on the ground of venue or on the ground that the proceedings have been brought in an inconvenient forum.

This submission is made for the benefit of the Trustee and each of the Bondholders and shall not limit the right of any of them to take proceedings in relation to a Dispute in any other court of competent jurisdiction. To the extent allowed by law, the Trustee and the Bondholders may take concurrent proceedings in any number of jurisdictions.

#### 21.3 Agent for Service of Process

The Issuer has irrevocably appointed Watson, Farley & Williams LLP at 15 Appold Street, London EC2A 2HB as its agent in England to receive service of process in any proceedings in England. Nothing herein or in the Trust Deed shall affect the right to serve process in any other manner permitted by law.

SCHEDULE 3  
FORM OF GLOBAL BOND

GREAT WESTERN MINERALS GROUP LTD.

(Incorporated under the laws of Canada)

US\$ 90,000,000 8.00 per cent. Secured Convertible Bonds due 2017

GLOBAL BOND

[THE BONDS EVIDENCED HEREBY (THE "BONDS") OR THE COMMON SHARES OF GREAT WESTERN MINERALS GROUP LTD. (THE "ISSUER") ISSUABLE UPON CONVERSION OF THE BONDS (THE "COMMON 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 40 DAYS AFTER THE LATER OF THE COMMENCEMENT OF THE OFFERING OF THE BONDS AND THE LATEST CLOSING DATE (THE "DISTRIBUTION COMPLIANCE PERIOD"), THE BONDS AND THE COMMON SHARES ISSUABLE UPON CONVERSION OF THE BONDS MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED TO ANY US PERSON OUTSIDE THE UNITED STATES OR ANY PERSON IN THE UNITED STATES. EACH HOLDER AND BENEFICIAL OWNER, BY ITS ACCEPTANCE OF THE BONDS EVIDENCED HEREBY, REPRESENTS THAT IT UNDERSTANDS AND AGREES TO THE FOREGOING AND FOLLOWING RESTRICTIONS. THIS LEGEND WILL NO LONGER BE EFFECTIVE AFTER THE END OF THE DISTRIBUTION COMPLIANCE PERIOD, AFTER WHICH THE BONDS EVIDENCED HEREBY AND THE COMMON SHARES ISSUABLE UPON CONVERSION OF THE BONDS WILL NO LONGER BE SUBJECT TO THE RESTRICTIONS SET FORTH IN THIS LEGEND, PROVIDED THAT AT SUCH TIME AND THEREAFTER THE OFFER OR SALE OF THE BONDS EVIDENCED HEREBY OR THE COMMON SHARES ISSUABLE UPON CONVERSION OF THE BONDS WOULD NOT BE RESTRICTED UNDER ANY APPLICABLE SECURITIES LAWS OF THE UNITED STATES OR OF THE STATES OR TERRITORIES OR JURISDICTIONS OF THE UNITED STATES.]

[THE SECURITIES REPRESENTED HEREBY [FOR COMMON SHARES: AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF] HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR UNDER ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THESE SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE 1933 ACT AND IN COMPLIANCE WITH LOCAL

LAWS AND REGULATIONS, (C) IN COMPLIANCE WITH (I) RULE 144A OF THE 1933 ACT, IF AVAILABLE, TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER", AS DEFINED IN RULE 144A UNDER THE 1933 ACT ("QUALIFIED INSTITUTIONAL BUYER"), THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE OFFER, SALE OR TRANSFER IS BEING MADE IN RELIANCE OF RULE 144A UNDER THE 1933 ACT, OR (II) RULE 144 UNDER THE 1933 ACT, IF AVAILABLE, AND, IN EACH CASE, IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN ANOTHER TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS, AND, IN THE CASE OF (C)(II) AND (D), THE SELLER FURNISHES TO THE COMPANY AN OPINION OF COUNSEL OF RECOGNIZED STANDING IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY TO SUCH EFFECT. DELIVERY OF THIS BOND MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA.]

[UNLESS PERMITTED BY APPLICABLE SECURITIES LEGISLATION IN CANADA, THE HOLDER OF THIS SECURITY MAY NOT TRADE THIS SECURITY IN CANADA BEFORE [INSERT DATE THAT IS FOUR MONTHS PLUS ONE DAY AFTER THE DISTRIBUTION DATE].

ISIN NO. FOR BONDS: [•]

Common Code for Bonds: [•]

The Bonds in respect of which this Global Bond is issued are in registered form and form the series designated as specified in the title of the Issuer.

The Issuer hereby certifies that [•] is, at the date hereof, entered in the Register as the holder of Bonds in the principal amount of US\$ [•] or such other amounts as is reflected in Schedule A to this Global Bond and shown on the Register as being represented by this Global Bond and is duly endorsed (for information purposes only) in the third column of Schedule A to this Global Bond. For value received, the Issuer promises to pay the person who appears at the relevant time on the Register as holder of the Bonds in respect of which this Global Bond is issued such amount or amounts as shall become due in respect of such Bonds and otherwise to comply with the Conditions referred to below.

The Bonds are constituted by a Trust Deed dated [•] 2012 between the Issuer and Wilmington Trust (London) Limited, as trustee (the "Trustee") and are subject to the Trust Deed and the terms and conditions (the "Conditions") set out in Schedule 2 to the Trust Deed and herein, as modified by the provisions of this Global Bond. Terms defined in the Trust Deed have the same meaning when used herein.

The Bonds in respect of which this Global Bond is issued are convertible into common shares of the Issuer subject to and in accordance with the Conditions and the Trust Deed.

Owners of interests in the Bonds in respect of which this Global Bond is issued will be entitled to have title to the Bonds registered in their names and to receive individual definitive Bonds if (i) the Common Depository or any successor to the Common Depository

notifies the Issuer in writing that it is at any time unwilling or unable to continue to act as a Depositary and a successor Depositary is not appointed by the Issuer within 90 days of receipt of such notice by the Issuer, or (ii) either Euroclear or Clearstream (or any other clearing system (an "alternative clearing system") as shall have been designated by the Issuer on behalf of which the Bonds evidenced by this Global Bond may be held) is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so.

In such circumstances, the Issuer will cause sufficient individual definitive Bonds to be executed and delivered to the Registrar for completion, authentication and dispatch to the relevant Bondholders. A person with an interest in the Bonds in respect of which this Global Bond is issued must provide the Registrar with a written order containing instructions and such other information as the Issuer and the Registrar may require to complete, execute and deliver such individual definitive Bonds.

This Global Bond is evidence of entitlement only. Title to the Bonds passes only on due registration in the Register and only the duly registered holder is entitled to payments on Bonds in respect of which this Global Bond is issued.

The Conditions are modified as follows in so far as they apply to the Bonds in respect of which this Global Bond is issued.

### **Meetings**

The registered holder hereof shall be treated as two persons for the purposes of any quorum requirements of a meeting of Bondholders and, at any such meeting, as having one vote in respect of each US\$10,000 in principal amount of Bonds in respect of which this Global Bond is issued. The Trustee may allow to attend and speak (but not to vote) at any meeting of Bondholders any accountholder (or the representative of any such person) of a clearing system entitled to Bonds in respect of which this Global Bond is issued on confirmation of entitlement and proof of his identity.

### **Conversion**

Subject to the requirements of Euroclear and Clearstream (or any alternative clearing system), the Conversion Right attaching to Bonds in respect of which this Global Bond is issued may be exercised by the presentation of one or more Conversion Notices (by facsimile) duly completed by or on behalf of an accountholder in such system with an entitlement to such Bond. Deposit of this Global Bond with the Conversion Agent together with the relevant Conversion Notice shall not be required. The provisions of Condition 7 of the Bonds will otherwise apply. The exercise of the Conversion Right shall be notified by the Conversion Agent to the Registrar and the holder of this Global Bond.

### **Trustee's Powers**

In considering the interests of Bondholders while this Global Bond is registered in the name of a nominee for a clearing system the Trustee may, to the extent it considers it appropriate to do so in the circumstances, (a) have regard to such information as may have been made available to it by or on behalf of the relevant clearing system or its operator as to the identity of its accountholders (either individually or by way of category) with entitlements in respect

of Bonds and (b) consider such interests on the basis that such accountholders were the holders of the Bonds in respect of which this Global Bond is issued.

### **Enforcement**

For the purposes of enforcement of the provisions of the Trust Deed against the Trustee, the persons named in a certificate or definitive Bond (if any) of the holder of the Bonds in respect of which this Global Bond is issued shall be recognised as the beneficiaries of the trusts set out in the Trust Deed to the extent of the principal amount of their interest in the Bonds set out in any certificate or definitive Bond (if any) of the holder as if they were themselves the holders of Bonds in such principal amounts.

For all purposes the Bonds in respect of which this Global Bond is issued, each person who is for the time being shown in the records of Euroclear or of Clearstream as the holder of a particular principal amount of such Bonds (in which regard any certificate or other document issued by Euroclear or Clearstream as to the principal amount of Bonds represented by a Global Bond standing to the account of any person shall be conclusive and binding for all purposes) shall be recognised as the holder of such principal amount of Bonds.

### **Purchase and Cancellation**

Cancellation of any Bond required by the Conditions to be cancelled following its redemption, conversion or purchase by the Issuer will be effected by reduction in the principal amount of the Bonds in the Register.

### **Redemption at Option of the Bondholders**

The Bondholders' options to have the Bonds redeemed early in Condition 8 may be exercised by the holder of this Global Bond giving notice to the Principal Paying Agent of the principal amount of Bonds in respect of which the option is exercised and presenting this Global Bond for endorsement or exercise within the time limits specified in such Conditions.

### **Payments**

Payments of principal and premium (if any) and interest (if any) in respect of Bonds represented by this Global Bond will be made against presentation and, if no further payment falls to be made in respect of the Bonds, surrender of this Global Bond to or to the order of the Principal Paying Agent or such other Paying Agent as shall have been notified to the Bondholders for such purpose. Payments of interest in respect of Bonds shall be endorsed by the Principal Paying Agent in Schedule B to this Global Bond.

### **Transfers**

Transfers of interests in the Bonds with respect to which this Global Bond is issued shall be made in accordance with the Agency Agreement.

Transfers of interests in the Bonds with respect to which this Global Bond is issued shall be effected through the records of Euroclear and Clearstream and their respective participants in accordance with the rules and procedures of Euroclear and Clearstream and their respective direct and indirect participants.

## Notices

So long as the Bonds are represented by this Global Bond and this Global Bond is held on behalf of Euroclear or Clearstream or an alternative clearing system, notices required to be given to Bondholders may be given by their being delivered to the relevant clearing system for communication by it to entitled accountholders in substitution for notification, as required by the Conditions.

This Global Bond is governed by and shall be construed in accordance with English law.

IN WITNESS whereof the Issuer has caused this Global Bond to be signed on its behalf.

Dated [Closing Date]

By: \_\_\_\_\_

Name:

Title:

CERTIFIED that the above-named holder is at the date hereof entered in the Register as holder of the above-mentioned principal amount of Bonds.

Deutsche Bank Luxembourg S.A., as Registrar  
(without recourse, warranty or liability)

By: \_\_\_\_\_

Name:

Title:

## SCHEDULE A

### SCHEDULE OF INCREASE OR REDUCTIONS IN PRINCIPAL AMOUNT OF THE BONDS IN RESPECT OF WHICH THIS GLOBAL BOND IS ISSUED

The following increase or reductions in the principal amount of the Bonds in respect of which this Global Bond is issued have been made as a result of (i) exercise of the Conversion Right attaching to Bonds or (ii) redemption of Bonds or (iii) issue of definitive Bonds in respect of the Bonds or (iv) purchase and cancellation of Bonds:

Date of Conversion/ Redemption/ Purchase and cancellation/ issue of definitive Bonds (stating which)	Amount of increase/ decrease in principal amount of Bonds	Principal amount of Bonds following such increase/decrease	Notation made by or on behalf of the Registrar
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## SCHEDULE B

### INTEREST PAYMENTS IN RESPECT OF THIS GLOBAL BOND

The following payments of interest in respect of this Global Bond and the Bonds represented by this Global Bond have been made:

Date made	Amount of interest due and payable	Amount of interest paid	Notation made by or on behalf of the Principal Paying Agent
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**SCHEDULE 4**  
**PROVISIONS FOR MEETINGS OF BONDHOLDERS**

1.

- (a) A holder of a Bond may by an instrument in writing (a "form of proxy") in the form available from the Specified Office of any Agent in English signed by the holder or, in the case of a corporation, executed under its common seal or signed on its behalf by an attorney or a duly authorised officer of the corporation and delivered to any Agent not later than 48 hours before the time fixed for any meeting, appoint any person (a "proxy") to act on his or its behalf in connection with any meeting or proposed meeting of Bondholders.
- (b) A holder of a Bond which is a corporation may by delivering to any Agent not later than 48 hours before the time fixed for any meeting a resolution of its Directors or other governing body in English authorise any person to act as its representative (a "representative") in connection with any meeting or proposed meeting of Bondholders.
- (c) Any proxy appointed pursuant to sub-paragraph 1(a)(i) above or representative appointed pursuant to sub-paragraph (a)(ii) above shall so long as such appointment remains in force be deemed, for all purposes in connection with any meeting or proposed meeting of Bondholders specified in such appointment, to be the holder of the Bonds to which such appointment relates and the holder of the Bond shall be deemed for such purposes not to be the holder.
- (d) "**block voting instruction**" shall mean a document in the English language issued by the Principal Paying Agent and dated, in which:
  - (i) it is certified that Bonds are registered in the books and records maintained by the Registrar in the names of specified registered holders;
  - (ii) it is certified that each holder of such Bonds or a duly authorised agent on his or its behalf has instructed the Principal Paying Agent that the vote(s) attributable to his or its Bonds so deposited or registered should be cast in a particular way in relation to the resolution or resolutions to be put to such meeting or any adjournment thereof and that all such instructions are, during the period of 48 hours prior to the time for which such meeting or adjourned meeting is convened, neither revocable nor subject to amendment but without prejudice to the provisions of paragraph (b)(i) above;
  - (iii) the total number and the identifying numbers of the Bonds so registered are listed, distinguishing with regard to each such resolution between those in respect of which instructions have been given as aforesaid that the votes attributable thereto should be cast in favour of

the resolution and those in respect of which instructions have been so given that the votes attributable thereto should be cast against the resolution; and

- (iv) any person named in such document (hereinafter called a "proxy") is authorised and instructed by the Principal Paying Agent to cast the votes attributable to the Bonds so listed in accordance with the instructions referred to in (ii) and (iii) above as set out in such document.
- (e) Block voting instructions and forms of proxy shall be valid for so long as the relevant Bonds shall be duly registered in the name(s) of the registered holder(s) certified in the block voting instruction or, in the case of a form of proxy, in the name of the appointor but not otherwise and notwithstanding any other provision of this Schedule and during the validity thereof the proxy shall, for all purposes in connection with any meeting of holders of Bonds, be deemed to be the holder of the Bonds of the relevant Series to which such block voting instructions or form of proxy relates.

2. The Issuer or the Trustee may at any time convene a meeting of Bondholders. If it receives a written request by Bondholders holding at least 10 per cent. in principal amount of the Bonds for the time being outstanding and is indemnified, and/or prefunded and/or secured to its satisfaction against all costs and expenses, the Trustee shall convene a meeting of Bondholders. Every meeting shall be held at a time and place approved by the Trustee.
3. At least 21 days' notice (exclusive of the day on which the notice is given and of the day of the meeting) shall be given to the Bondholders. A copy of the notice shall be given by the party convening the meeting to the other parties. The notice shall specify the day, time and place of meeting, be given in the manner provided in the Conditions and shall specify, unless the Trustee otherwise agrees, the nature of the resolutions to be proposed and shall include a statement to the effect that the holders of Bonds may appoint proxies by executing and delivering a form of proxy in English to the Specified Office of an Agent not later than 48 hours before the time fixed for the meeting or, in the case of corporations, may appoint representatives by resolution in English of their Directors or other governing body and by delivering an executed copy of such resolution to the Agent not later than 48 hours before the time fixed for the meeting.
4. A person (who may, but need not, be a Bondholder) nominated in writing by the Trustee may act as chairman of a meeting but if no such nomination is made or if the person nominated is not present within 15 minutes after the time fixed for the meeting the Bondholders present shall choose one of their number to be chairman, failing which the Issuer may appoint a chairman. The chairman of an adjourned meeting need not be the same person as was chairman of the original meeting.
5. At a meeting two or more persons present in person holding Bonds or being proxies or representatives and holding or representing in the aggregate not less than 10 per cent. in principal amount of the Bonds for the time being outstanding shall (except for the purpose of passing an Extraordinary Resolution) form a quorum for the transaction of business and no business (other than the choosing of a chairman) shall

be transacted unless the requisite quorum is present at the commencement of business. The quorum at a meeting for passing an Extraordinary Resolution shall (subject as provided below) be two or more persons present in person holding Bonds or being proxies or representatives and holding or representing in the aggregate over 50 per cent. in principal amount of the Bonds for the time being outstanding provided that the quorum at any meeting the business of which includes any of the matters specified in the proviso to paragraph 16 shall be two or more persons so present holding Bonds or being proxies or representatives and holding or representing in the aggregate over two thirds in principal amount of the Bonds for the time being outstanding.

6. If within 15 minutes from the time fixed for a meeting a quorum is not present the meeting shall, if convened upon the requisition of Bondholders or if the Issuer and the Trustee agree, be dissolved. In any other case it shall stand adjourned to such date, not less than 14 nor more than 42 days later, and to such place as the chairman may decide. At such adjourned meeting two or more persons present in person holding Bonds or being proxies or representatives (whatever the principal amount of the Bonds so held or represented) shall form a quorum and may pass any resolution and decide upon all matters which could properly have been dealt with at the meeting from which the adjournment took place had a quorum been present at such meeting 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 paragraph 16 the quorum shall be two or more persons so present holding Bonds or being proxies or representatives and holding or representing in the aggregate over one-third in principal amount of the Bonds for the time being outstanding. If within 15 minutes from the time fixed for a meeting to be adjourned a quorum is not present then the meeting shall be adjourned.
7. The chairman may with the consent of (and shall if directed by) a meeting adjourn the meeting from time to time and from place to place but no business shall be transacted at an adjourned meeting which might not lawfully have been transacted at the meeting from which the adjournment took place.
8. At least 10 days' notice of any meeting adjourned through want of a quorum shall be given in the same manner as for an original meeting and such notice shall state the quorum required at the adjourned meeting. No notice need, however, otherwise be given of an adjourned meeting.
9. Each question submitted to a meeting shall be decided in the first instance by a show of hands and in case of equality of votes the chairman shall both on a show of hands and on a poll have a casting vote in addition to the vote or votes (if any) which he may have as a Bondholder or as a holder of a voting certificate or as a proxy or representative.
10. Unless a poll is (before or on the declaration of the result of the show of hands) demanded at a meeting by the chairman, the Issuer, the Trustee or by one or more persons holding one or more Bonds or being proxies or representatives and holding or representing in the aggregate not less than 2 per cent. in principal amount of the Bonds for the time being outstanding, a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

11. If a poll is demanded, it shall be taken in such manner and (subject as provided below) either at once or after such an adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded as at the date of the taking of the poll. The demand for a poll shall not prevent the continuation of the meeting for the transaction of any business other than the question on which the poll has been demanded.
12. A poll demanded on the election of a chairman or on any question of adjournment shall be taken at the meeting without adjournment.
13. The Issuer and the Trustee (through their respective representatives) and their respective financial and legal advisers may attend and speak at any meeting of Bondholders. No one else may attend or speak at a meeting of Bondholders unless he is the holder of a Bond or is a proxy or a representative.
14. On a show of hands every holder who is present in person or any person who is present and is a proxy or a representative shall have one vote and on a poll every person who is so present shall have one vote in respect of each US\$10,000 principal amount of Bonds held or in respect of which he is a proxy or a representative. Without prejudice to the obligations of proxies, a person entitled to more than one vote need not use them all or cast them all in the same way.
15. A proxy need not be a Bondholder.
16. A meeting of Bondholders shall, subject to the Conditions, in addition to the powers given above, but without prejudice to any powers conferred on other persons by this Trust Deed, have power exercisable by Extraordinary Resolution:
  - (a) to sanction any proposal by the Issuer for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Bondholders against the Issuer whether or not such rights arise under this Trust Deed;
  - (b) to sanction the exchange or substitution for the Bonds of, or the conversion of the Bonds into, shares, bonds, or other obligations or securities of the Issuer or any other entity;
  - (c) to assent to any modification of this Trust Deed or the Bonds which shall be proposed by the Issuer or the Trustee;
  - (d) to authorise anyone to concur in and do anything necessary to carry out and give effect to an Extraordinary Resolution;
  - (e) to give any authority, direction or sanction required to be given by Extraordinary Resolution;
  - (f) to appoint any persons (whether Bondholders or not) as a committee or committees to represent the interests of the Bondholders and to confer on them any powers or discretions which the Bondholders could themselves exercise by Extraordinary Resolution;

- (g) to approve the substitution of any entity for the Issuer (or any previous substitute) as principal debtor under this Trust Deed;
- (h) to approve a proposed new Trustee and to remove a Trustee; and
- (i) to discharge or exonerate the Trustee from any liability in respect of any act or omission for which it may become responsible under this Trust Deed or the Bonds,

provided that the special quorum provisions contained in the proviso to paragraph 5 and, in the case of an adjourned meeting, in the proviso to paragraph 6 shall apply in relation to any Extraordinary Resolution for the purpose of paragraph 16(ii) or (vii) below or the purpose of making any modification to the provisions contained in this Trust Deed or the Bonds which would have the effect of:

- (i) changing the maturity date of the Bonds; or
- (ii) reducing or cancelling the principal amount of, or interest or premium on the Bonds or changing the method of calculation thereof; or
- (iii) changing the currency of any payment in respect of the Bonds; or
- (iv) cancelling or modifying the right to convert the Bonds into Common Shares (except in accordance with the Conditions) or cancelling or modifying the De-listing Event, Change of Control or Milestone Failure Event provisions or modifying the circumstances in which the Bonds may be converted at the option of the Issuer or shortening the Conversion Period; or
- (v) modifying the provisions contained in this Schedule concerning the quorum required at a meeting of Bondholders or the majority required to pass an Extraordinary Resolution or sign a resolution in writing; or
- (vi) changing the governing law of the Bonds; or
- (vii) amending this proviso.

17. An Extraordinary Resolution passed at a meeting of Bondholders duly convened and held in accordance with this Trust Deed shall be binding on all the Bondholders, whether or not present at the meeting, and each of them shall be bound to give effect to it accordingly. The passing of such a resolution shall be conclusive evidence that the circumstances of such resolution justify the passing of it.
18. The expression "**Extraordinary Resolution**" means a resolution passed at a meeting of Bondholders duly convened and held in accordance with these provisions by a majority consisting of not less than 66 and 2/3 of the votes cast.
19. A resolution in writing signed by or on behalf of the holders of not less than 90 per cent. in principal amount of the Bonds who for the time being are entitled to receive notice of a meeting in accordance with these provisions shall for all purposes be as valid as an Extraordinary Resolution passed at a meeting of Bondholders convened

and held in accordance with these provisions. Such resolution in writing may be in one document or several documents in like form each signed by or on behalf of one or more of the Bondholders.

20. Minutes shall be made of all resolutions and proceedings at every meeting and, if purporting to be signed by the chairman of that meeting or of the next succeeding meeting of Bondholders, shall be conclusive evidence of the matters in them. Until the contrary is proved every meeting for which minutes have been so made and signed shall be deemed to have been duly convened and held and all resolutions passed or proceedings transacted at it to have been duly passed and transacted.
21. Subject to all other provisions contained in this Trust Deed the Trustee may without the consent of the Bondholders prescribe such further regulations regarding the holding of meetings and attendance and voting at them or regarding the making of resolutions in writing as the Trustee may in its sole discretion determine including (without limitation) such regulations and requirements as the Trustee thinks reasonable to satisfy itself that persons who purport to make any requisition in accordance with this Trust Deed are entitled to do so and that those who purport to attend or vote at a meeting or to sign a written resolution are entitled to do so.

**[Remainder of the page intentionally left blank]**

## SCHEDULE 5

### FORM OF TRANSFER

FOR VALUE RECEIVED the undersigned hereby transfers the following principal amounts of Bonds and all rights in respect thereof, to the transferee(s) listed below:

<b>Principal Amount transferred</b>	<b>Name, address and account for payments of transferee</b>
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Date:

Certifying Signature:

Name:

**Bonds:**

- (a) A representative of the Bondholder should state the capacity in which he signs e.g. executor.
- (b) The signature of the transferor shall conform to any list of duly authorised specimen signatures supplied by the registered holder or be certified by a recognised bank, notary public or in such other manner as the Principal Paying Agent or the Registrar may require.
- (c) This form and certificate of transfer should be dated as of the date it is deposited with the relevant Transfer Agent.
- (d) The transferor will be deemed to have represented, acknowledged and agreed that any Bond or beneficial interest therein, or any Shares issued upon exchange of the Bonds may be sold, pledged or otherwise transferred only:
  - (i) in an offshore transaction meeting the requirements of Rule 903 or 904 or Regulation S;
  - (ii) pursuant to an exemption from registration under the Securities Act, if available; or
  - (iii) pursuant to an effective registration statement under the Securities Act,

and in each of cases (ii) and (iii), in accordance with applicable securities laws of the states of the United States.

IN WITNESS whereof this Trust Deed has been executed as a deed on the date stated at the beginning.

Signed as a deed for and on behalf of:

**GREAT WESTERN MINERALS GROUP LTD.**, a company incorporated under the laws of Canada, acting by the undersigned:

Authorised Signatory (signature) .....(Signed).....

Name .....  
.....

Title .....  
.....

Authorised Signatory (signature) .....(Signed).....

Name .....  
.....

Title .....  
.....

**EXECUTED as a DEED**

by .....for and on behalf of

**WILMINGTON TRUST (LONDON) LIMITED** under a power of attorney:

Signature of Attorney .....(Signed).....

Witness' Signature .....(Signed).....

Witness' Name in block capitals .....  
.....

Address of Witness .....  
.....

Occupation of Witness .....  
.....