

Dated 28 August 2015

NORTH RIVER RESOURCES PLC
as Company

LOAN NOTE INSTRUMENT
Constituting up to an initial \$4,000,000
10% Unsecured Convertible Loan Notes 2018

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THIS LOAN NOTE INSTRUMENT is made on 28 August 2015

PARTIES

- (1) **NORTH RIVER RESOURCES PLC** (No. 5875528) incorporated and registered in England and Wales whose registered office is at One America Square, Crosswall, London EC3N 2SG (the "Company")

WHEREAS

The Company, by resolution of the Directors passed on 10 August 2015, has resolved to create up to an initial \$4,000,000 in nominal amount of 10% unsecured convertible loan notes 2018, plus further notes in respect of unpaid interest in accordance with the Conditions, and has determined to constitute such Notes (as subsequently defined) in the manner set out in this Instrument.

OPERATIVE PROVISIONS

IT IS AGREED as follows:

1 DEFINITIONS

1.1 Definitions

In this Instrument and the Schedules to it, the following expressions shall, where the context permits, have the following meanings:

"Act" means the Companies Act 2006.

"Articles" means the articles of association of the Company from time to time.

"Auditors" means the auditors from time to time of the Company or, if they are unable or unwilling to carry out any action requested of them under this instrument, such other firm of chartered accountants of international standing as may be nominated by the Company.

"Business Day" means any day which is not a Saturday, a Sunday or a bank or public holiday in England on which banks are open for normal business in London.

"Certificate" means a certificate for Notes issued in accordance with Clause 9 (*Certificates*) and substantially in the form set out in Part A of Schedule 1 to this Instrument, together with the Conditions annexed thereto.

"Change of Control" means acquiring control through the acquisition of a controlling interest in the Company (for these purposes, "control" has the meaning given to that term in section 1124 of the Corporation Tax Act 2010) by any person or by persons acting in concert (as defined in the Code).

"Code" means the City Code on Takeovers and Mergers.

"Conditions" means the conditions set out in Schedule 2 (*The Conditions*) and endorsed on the Certificate.

"Condition Precedent" has the meaning given to it in the Subscription Agreement.

"Conversion" means the conversion of the Notes into Ordinary Shares in accordance with Clause 5 (*Conversion*) and Condition 3.

"Conversion Date" means:

- (a) in the case of a Change of Control, immediately on a Change of Control taking place; and
- (b) otherwise, within 10 Business Days of service of a Conversion Notice.

"**Conversion Notice**" means a notice in the form set out in Part B of Schedule 1 Part A,

"**Conversion Price**" means the lower of: (i) Offer Price converted into \$ applying the FT Exchange Rate and (ii) \$0.0046413 per Share.

"**Conversion Shares**" means any Ordinary Shares arising from conversion of Notes pursuant to the terms of this Instrument.

"**Directors**" means the board of directors of the Company or the Subsidiary (and any of them as the context may require).

"**Event of Default**" has the meaning given in Clause 7 of this Instrument.

"**FT Exchange Rate**" means the exchange rate from sterling to US dollars quoted in the Financial Times on the Business Day immediately prior to the date on which the Company announces the Placing and Open Offer.

"**Greenstone**" has the meaning given in the definition of "Subscription Agreement".

"**Incentive Schemes**" means any incentive share option scheme or schemes in favour of employees of the Company adopted from time to time in accordance with the Investment Agreement.

"**Interest Payment Date**" means 31 March, 30 June, 30 September and 31 December in each year.

"**Licence**" means any of the mining exploration licences relating to the Project.

"**Majority Resolution**" has the meaning given to it in Schedule 3 (*Noteholder Meeting*) of the Instrument.

"**Maturity Date**" means the date on which all amounts owing by the Company hereunder have been satisfied through the issue of Conversion Shares or repayment or redemption.

"**Mining Licence**" means the mining licence relating to the Project for which application was made in April 2014.

"**Net Proceeds**" means the net proceeds of the Placing and Open Offer and the issue of the Notes after payment of all associated costs and expenses.

"**Noteholders**" means the persons for the time being entered in the Register as the holder of the Notes.

"**Notes**" means the 10% unsecured convertible loan notes 2018 of the Company constituted by this Instrument or the amount of them for the time being outstanding and fully paid up or a specific portion of them or the principal monies represented by them as the case may require.

"**Offer Price**" means the price at which Ordinary Shares are placed with new shareholders or are offered for subscription to the Company's shareholders in the Placing and Open Offer (respectively).

"**Ordinary Shares**" means the ordinary shares of £0.002 each in the capital of the Company having the rights set out in the Articles.

"**Placing and Open Offer**" has the meaning given to it in the Subscription Agreement.

"**Project**" means the Company's lead-zinc project in Namibia known as the Namib Project.

"**Recruitment Process**" means the recruitment by the Company of a new Chief Financial Officer, a General Manager of Mining for the Project and a Project Controller for the Project.

"**Register**" means the register of Noteholders maintained by or on behalf of the Company in accordance with the provisions of this Instrument.

"**Registrar**" means the secretary of the Company for the time being or such other person or persons as are appointed by the Company from time to time to maintain the Register.

"**Repayment Date**" means the third anniversary of the date of issue of the Tranche One Notes (or, if such date is not a Business Day, the last Business Day prior to that date).

"**Shares**" means shares in the capital of the Company.

"**Special Resolution**" has the meaning given to it in Schedule 3 (*Noteholder Meeting*) of the Instrument.

"**Subscription Agreement**" means the subscription agreement entered into between the Company and Greenstone Resources L.P ("**Greenstone**") on 10 August 2015 relating to the investment by Greenstone of up to an initial \$4,000,000 in the Company.

"**Tranche One Notes**" means \$1,200,000 nominal of Notes to be issued to Greenstone pursuant to the terms of the Subscription Agreement.

"**Voting Rights**" means all rights and powers (including, without limitation, voting rights) attaching to the Ordinary Shares in which the Noteholder is interested.

"**Work Programme**" means the Company's short term work programme and budget attached as Appendix 1 to the Subscription Agreement.

"**\$**" shall mean US Dollars, the lawful currency of the United States of America.

1.2 Determination by Auditors

Wherever in this Instrument reference is made to a determination to be made or certificate to be provided by the Auditors, the following provisions shall apply:

- (a) the Auditors shall make their determination or provide their certificate at the expense of the Company;
- (b) the Auditors shall be deemed to act as experts and not as arbitrators;
- (c) the determination or certificate of the Auditors shall be final and binding on all concerned (save in respect of obvious error); and
- (d) the Auditors shall be given by the Company all such information and other assistance as the Auditors may reasonably require.

1.3 Records

Any register, index, minute book or book of account required to be kept by this Instrument shall be kept, and inspection thereof shall be allowed and copies shall be supplied, in such form and manner and subject to such precautions as would from time to time be permissible or required if it were a register, index, minute book or book of account required to be kept by the Act, and references to such records in this Instrument shall be construed accordingly.

"subsidiary" and "subsidiary undertaking" have the respective meanings set out in sections 1159 and 1162 of the Act.

1.4 Interpretation

Words denoting the singular number only shall include the plural number also and vice versa. Words denoting the masculine gender only shall include the feminine and neutral genders. Words denoting persons shall include corporations.

1.5 References to Statutes

References in this Instrument to any statute or statutory provision are (unless expressly stated to the contrary) to that statute or statutory provision as from time to time amended, extended or re-enacted.

1.6 Reference to Clauses etc

References to any Clause, Condition or Schedule are to the relevant Clause of, Conditions set out in, or Schedules to this Instrument and the Certificate, and references to any paragraph are to the relevant paragraph of the Schedules in which they appear.

1.7 Writing

Reference to writing includes any method of reproducing words on paper. For the avoidance of doubt, a reference to writing does not include e-mail.

1.8 "This Instrument" refers to the provisions of this Instrument and the Schedules (as from time to time modified under the provisions of this Instrument) and any deed expressed to be supplemental hereto.

1.9 Schedules form part of Instrument

The Schedules to this Instrument form part of this Instrument and shall be interpreted and construed as though they were set out in this Instrument, and any reference to this Instrument shall include the Schedules.

1.10 Contrary intention

Clauses 1.1 (*Definitions*) to 1.10 (*Contrary intention*) apply unless the context requires otherwise.

1.11 Headings

Headings to Clauses, Conditions and Schedules are for convenience only and do not affect the interpretation of this Instrument.

2 THE NOTES

The initial principal amount of the Notes is limited to \$4,000,000. Further Notes may be issued in respect of interest, in accordance with the Conditions. Subject to this Instrument,

the Notes shall rank *pari passu* equally and rateably without discrimination or preference between them and as unsecured obligations of the Company.

3 TERMS OF ISSUE

3.1 Denominations

The Notes shall be issued, pursuant to the terms of the Subscription Agreement, in denominations and integral multiples of \$1.00 in nominal amount (or such other multiples as the Company shall permit) and shall be held subject to and with the benefit of the Conditions together with the provisions of other Schedules annexed thereto, and such Conditions, provisions and all the obligations and covenants contained in them on the parts of the Company and the Noteholders respectively shall be binding on the Company and the Noteholders and all persons claiming through them respectively and shall take effect in the same manner as if such Conditions and provisions were set out in this Instrument.

3.2 No Listing

No application shall be made to any recognised investment exchange (whether in the United Kingdom or elsewhere) for permission to deal in or for any listing or other quotation of the Notes, and the Notes shall not be offered to the public for subscription or purchase, provided always that, if the Notes are not fully converted pursuant to clause 2.3 of the Subscription Agreement by 30 October 2015, the Noteholders shall, at the request and cost of the Company, cooperate with the Company to achieve a listing of the Notes on the Channel Islands Stock Exchange.

4 INTEREST

Until the Notes are converted or redeemed or repaid in accordance with the provisions of this Instrument, interest shall accrue and be paid on the principal amount of the Notes which are outstanding at the rate and in the manner set out in the Conditions.

5 CONVERSION

The Notes shall become convertible in accordance with Condition 3.

6 REDEMPTION

6.1 When the Notes become payable in accordance with the provisions of this instrument, the Company shall pay to the Noteholders the full principal amount of the Notes to be repaid (less any amounts converted, repaid or redeemed) together with any accrued interest on such Notes (less any tax which the Company is required by law to deduct or withhold from such payment but subject to any grossing up required pursuant to the Conditions) up to and including the date of payment.

6.2 All payments under this instrument, whether of principal, interest or otherwise, shall be made by the Company to the Noteholders entitled to such payments as provided in *paragraph 13* of Schedule 2.

6.3 Where any payment to a Noteholder, whether of principal, interest or otherwise, is due in accordance with the terms of this instrument on a day which is not a Business Day, payment shall take place on the next succeeding Business Day. If that next succeeding Business Day is in the month following the month in which payment would otherwise be made, payment shall take place on the immediately preceding Business Day.

6.4 The Company may, with the prior written consent of the Noteholders acting by Majority Resolution, repay any amounts outstanding of the Notes (together with all accrued but unpaid interest thereon) prior to the Maturity Date.

7 DEFAULT

7.1 Each of the following is an Event of Default:

- (a) **Non-payment:** The Company fails to pay any principal or interest on any of the Notes on within 10 Business Days after the due date for payment thereof and such failure continues for 10 Business Days after written notice has been given by Noteholders acting by Majority Resolution to the Company and to each other Noteholder specifying the sum due to that Noteholder and requiring payment and such sum, if (and only if) in respect of interest, is not satisfied by the issue of further Notes pursuant to paragraph 2(g) of the Conditions;
- (b) **Breach of undertaking:** The Company fails duly to perform or comply with any obligation (other than an obligation to pay principal or interest in respect of the Notes) expressed to be assumed by it in this instrument and such failure continues for 15 Business Days after written notice has been given by Noteholders acting by Majority Resolution to the Company and to each other Noteholder requiring remedy thereof;
- (c) **Cross-default:** Any indebtedness of the Company or any member of the Group to any third party not being a Noteholder is not paid when due or is declared to be or otherwise becomes due and payable prior to its specified maturity or any creditor of the Company or any member of the Group becomes entitled to declare any such indebtedness due and payable prior to its specified maturity and the same is not remedied within 10 Business Days after its occurrence and such failure continues for 10 Business Days after written notice has been given by Noteholders acting by Majority Resolution to the Company and to each other Noteholder specifying the sum due to that Noteholder and requiring payment;
- (d) **Insolvency:** The Company or any member of the Group is (or is, or could be, deemed by law or a court to be) insolvent or unable to pay its debts (as defined in section 123 of the Insolvency Act 1986), stops, suspends payment of all or any material part of its indebtedness or commences negotiations with any one or more of its creditors with a view to the general readjustment or re-scheduling of all or any material part of its indebtedness or makes a general assignment for the benefit of, or composition with, its creditors (or any class of its creditors) or a moratorium is agreed or declared in respect of, or affecting, all or a material part of its indebtedness;
- (e) **Enforcement proceedings:** A distress, attachment, execution or other legal process is levied, enforced or sued out on or against all or any part of the assets of the Company or any member of the Group and is not discharged or stayed within 15 Business Days;
- (f) **Winding-up:** The Company or any member of the Group takes legal or other proceedings for its winding-up, dissolution or re-organisation (other than for the purposes of a bona fide, solvent scheme of reconstruction or amalgamation previously approved by Special Resolution) leading to the appointment of a receiver, administrator, administrative receiver, liquidator, trustee or similar officer of it or of any or all of its assets;
- (g) **Analogous proceedings:** Anything analogous to or having a substantially similar effect to any of the events specified in Clause (d) to Clause (f) inclusive shall occur under the laws of any applicable jurisdiction;
- (h) **Encumbrance enforceable:** Any encumbrance on or over the assets of the Company or any member of the Group (other than liens arising in the ordinary course of business) becomes enforceable and any step (including the taking of possession or the appointment of a receiver, manager or similar person) is taken to enforce that encumbrance;
- (i) **Cessation of business:** The Company or any material member of the Group ceases to carry on the business it carries on at the date of this instrument or a substantial part thereof;

- (j) **Termination of Licence:** The Licence is terminated for whatever reason or any act or event occurs which in the reasonable opinion of the Noteholders, acting by Majority Resolution, may entitle the Government of Namibia to terminate the Licence, in each case other than as a result of the grant of the Mining Licence;
- (k) **Declaration or payment of dividends:** The Company declares or pays any dividends or return of capital in respect of its issued share capital or any part thereof;
- (l) **Illegality:** It is or becomes or will become unlawful for the Company to perform or comply with any of its material obligations under this instrument, or any such obligation is not or ceases to be legal, valid and binding and, if capable of remedy, such unlawfulness continues for 10 Business Days after written notice has been given by Noteholders acting by Majority Resolution to the Company requiring such remedy;
- (m) **Delay in Recruitment Process:** the Recruitment Process has not concluded to the reasonable satisfaction of the Noteholders, acting by Majority Resolution, by 30 October 2015;
- (n) **Misapplication of Net Proceeds:** the Net Proceeds being applied to any material extent without the prior written consent of the Noteholders, acting by Majority Resolution, for purposes other than those set out in the Work Programme;
- (o) **Failure to further the Work Programme:** the Company (without the prior written consent of the Noteholders, acting by Majority Resolution,) failing to use the Net Proceeds to further the Work Programme substantially in accordance with the timescales contained therein and such failure continues after written notice has been given by Noteholders acting by Majority Resolution to the Company requiring the Company to remedy such failure; and
- (p) **Issues with the Mining Licence:** the application for the Mining Licence made in April 2014 is rejected or the Mining Licence is issued subject to conditions which in the reasonable opinion of the Noteholders, acting by Majority Resolution, are unacceptable or, the Mining Licence having been issued, the Mining Licence is terminated for whatever reason or any act or event occurs which in the reasonable opinion of the Noteholders, acting by Majority Resolution, may entitle the Government of Namibia to terminate the Mining Licence.

7.2 At any time after an Event of Default has occurred, the Noteholders, acting by Majority Resolution, may, by notice to the Company, declare that all outstanding Notes, accrued interest and all other amounts accrued or outstanding under this Instrument be immediately due and payable, whereupon they shall become immediately due and payable.

7.3 The Company shall immediately inform the Noteholders in writing of the occurrence of an Event of Default or of an event or omission which with the passage of time would or might constitute an Event of Default.

8 REGISTER

8.1 Location and contents

An accurate Register will be kept by the Registrar at the Company's registered office (or at such other place within the United Kingdom as the Company may from time to time have appointed for that purpose and have notified to the Noteholders). The Register shall record:

- (a) the names and addresses of the Noteholders;
- (b) the amount of the Notes held by each Noteholder and the principal monies paid up or credited as paid up thereon;

- (c) the date on which the name of each Noteholder is entered in respect of the Notes standing in his name; and
- (d) the serial number and date of issue of each Note.

8.2 Notifications required

Any change of name or address on the part of any Noteholder which is notified to the Company at the above address shall be entered in the Register.

8.3 Inspection

Any Noteholder may inspect the Register at all reasonable times during office hours.

8.4 Registered holder the absolute owner

Any person shall be entitled to treat the registered holder of any Notes as the absolute owner thereof for all purposes notwithstanding any notice of ownership or writing thereon or notice of previous loss or theft or of trust or other interest therein (except as ordered by a court of competent jurisdiction or as required by law), and the Company shall not (except as aforesaid) be bound to recognise any equitable or other claim to or interest in such Notes.

8.5 No set off

Every Noteholder will be recognised by the Company as entitled to their Notes free from any equity, set off or cross claim on the part of the Company against the original or any intermediate holder of the Notes.

9 CERTIFICATES

9.1 Certificates

Upon subscription of the Notes (or any part thereof), the Company shall issue to the Noteholder a Certificate in respect of the Notes issued on receipt by the Company of payment for such Notes. Joint holders of Notes will be entitled to only one Certificate (provided that the Company shall not be bound to register more than four persons as the joint holders of any Notes) and such Certificate will be sent to that one of the joint holders who is first named in the Register and this shall be sufficient delivery to all joint holders of the Notes in respect of which such Certificate has been delivered.

9.2 Form

The Certificates for the Notes shall refer to this Instrument and shall be substantially in the form set out in Part A of Schedule 1 and shall have attached to them the Conditions.

10 MEETINGS

Meetings of Noteholders shall be convened and held in accordance with Schedule 3 (*Noteholder Meeting*) of this Instrument.

11 MODIFICATIONS

11.1 Amendment

The Company may (by deed expressed to be supplemental to this Instrument) from time to time amend this Instrument on terms previously sanctioned by a Special Resolution as further set out in the Conditions.

11.2 Memorandum

A memorandum of every such supplemental deed shall be endorsed on this Instrument.

12 GOVERNING LAW AND JURISDICTION

12.1 Law

This Instrument and the Notes including non-contractual obligations or claims shall be governed by and construed in accordance with English law.

12.2 Exclusive English Jurisdiction

The Courts of England shall have exclusive jurisdiction to settle any disputes in connection with this Instrument (including any disputes concerning any non-contractual obligation arising out of or in connection with it).

12.3 Third Party Rights

This Instrument is enforceable under the Contracts (Rights of Third Parties) Act 1999 by the Company, any Noteholder and, once incorporated, the Subsidiary, but not by any other person.

IN WITNESS of which this Instrument has been duly executed and delivered as a deed poll on behalf of the Company the day and year first above written.

SCHEDULE 1

PART A

FORM OF LOAN NOTE CERTIFICATE

NORTH RIVER RESOURCES PLC

("Company") (registered number 5875528)

£ 10% Unsecured Convertible Notes 2018

Certificate No Registration Date

Principal Amount \$

Issued pursuant to the Memorandum and Articles of Association of the Company and created by a resolution of the Board of Directors of the Company passed on [●] August 2015.

Dated August 2015

THIS IS TO CERTIFY THAT

of

is the registered holder(s) of \$..... in principal amount of 10% Unsecured Convertible Notes 2018 (the "Notes") constituted by an Instrument entered into by the Company on [●] August 2015 (the "Instrument") and convertible at the Conversion Price. The Notes are issued subject to, and with the benefit of, the provisions contained in the Instrument and the conditions and other provisions endorsed on this certificate and/or attached to it (the "Conditions").

Notes

- 1 No transfer of any part of the Notes represented by this certificate can be registered without production of this certificate, except in accordance with Condition 13 (*Replacement Certificates*).
- 2 Subject to the Conditions, the Notes are transferable in integral multiples of \$1.00.
- 3 The Notes including any non-contractual obligations or claims are governed by, and to be construed in accordance with, English law.
- 4 A copy of the Instrument constituting the Notes is available for inspection at the Company's registered office which is currently located at One America Square, Crosswall, London EC3N 2SG.

This Certificate has been executed as a Deed.

EXECUTED as a **DEED** by)
NORTH RIVER RESOURCES PLC)
acting by a director)
in the presence of)

.....
Director
Name of Director:

.....
Witness

Witness name:

Witness address:

.....

PART B
CONVERSION NOTICE

To: **NORTH RIVER RESOURCES PLC ("Company")**

One America Square, Crosswall, London EC3N 2SG

I/We hereby request that the Company convert \$[●] of the 10% Unsecured Convertible Notes 2018 registered in our name into Conversion Shares pursuant to the terms and conditions set out in the Conditions.

We hereby request that our Conversion Shares be delivered in certificates/uncertificated form* as set out below.

CERTIFICATES

Name of Noteholder(s)

Acting by:

Signature of Noteholder(s):

Address of Noteholder(s):

.....

UNCERTIFICATED FORM**

CREST DETAILS

Participant ID:	Member a/c ID:

* Please delete as appropriate.

** Please insert as appropriate

Notes

- 1 In the case of joint holders, all joint holders must sign. A corporation must execute the notice either under its common seal in accordance with relevant laws or by the signatures of duly authorised officers who must state their capacities.
- 2 This Certificate together with the above form duly completed and signed must be received by the Company Secretary at the Company's registered office from time to time.
- 3 A fresh Certificate for the balance of the principal amount and any accrued rights to interest on that balance will be issued to the Noteholder following conversion.

SCHEDULE 2

THE CONDITIONS

1 Repayment

- (a) On the Repayment Date, the Company shall redeem the principal amount of Notes issued on the date of this instrument. Any redemption of the Notes under this Condition 1 shall be made pro rata to the holdings of all Noteholders, together with accrued and unpaid interest accrued on the relevant Notes (less any tax which the Company is required by law to deduct or withhold from such payment but subject to any grossing up required pursuant to the Conditions) up to (and including) the date of such repayment by the Company.
- (b) The Company shall have no right to repay the Notes prior to the Repayment Date, save with the prior written consent of the Noteholders acting by Majority Resolution.

2 Interest

- (a) Until the Notes are repaid in accordance with these Conditions, interest on the principal amount of the Notes outstanding from time to time shall accrue at the rate of 10% per annum.
- (b) The Company shall pay accrued interest in cash, quarterly in arrears on 31 March, 30 June, 30 September and 31 December in each year to the persons who were registered as Noteholders at the close of business on the relevant Interest Payment Date.
- (c) Interest shall be calculated on the basis of the actual number of days elapsed in the relevant period and a 365 day year.
- (d) If the Company fails to pay any amount of interest or principal on any Note when such amount is due then, unless and save to the extent any amount of interest is satisfied by the issue of further Notes pursuant to paragraph 2(g) below, interest at the rate applicable under these Conditions plus 2% per annum shall accrue on the unpaid amount from the due date until the date of payment.
- (e) Interest on any Notes repaid, redeemed or converted by the Company in accordance with these Conditions shall cease to accrue as from the date of such repayment, redemption or conversion or as provided in paragraph 2(g) below.
- (f) The Company shall make all payments under this instrument without withholding or deduction of, or in respect of, any taxation unless required by law. If any such withholding or deduction is required, the Company shall, when making the payment to which the withholding or deduction relates, pay to the relevant Noteholder such additional amount as will ensure that such Noteholder receives the same total amount that it would have received if no such withholding or deduction had been required, provided always that the additional amount so payable to any transferee of the Notes shall not exceed the amount that would have been payable to Greenstone as original holder of Notes.
- (g) In the event that the Company fails to pay any amount of interest when due, each Noteholder may call for the Company to issue to it further Notes at par in satisfaction of such liability in whole or in part by notice in writing to the Company within 40 Business Days after the relevant interest payment date. For the purposes of calculation of interest on such Notes, they shall be deemed to have been issued on the Interest Payment Date on which the original interest fell due.

3 Conversion

- (a) Any Noteholder shall have the right to serve a Conversion Notice on the Company to convert all or part of the Notes outstanding and held by that Noteholder and on one or more occasions into fully paid Ordinary Shares at the relevant Conversion Price (and, if in part, in denominations and integral multiples of \$1.00).
- (b) A Conversion Notice shall be irrevocable and shall be deemed to constitute an application by the Noteholder for subscription on the terms and conditions of the Articles, for the number of Conversion Shares resulting from the division of:
- (i) the principal amount of the Notes held by the Noteholder (represented by the certificate(s) or any indemnity for lost certificate(s) accompanying the Conversion Notice) which are to be converted under this Condition 3,

by
 - (ii) the relevant Conversion Price,
- and rounding the resulting figure down to the nearest whole number. Upon allotment and issue (credited as fully paid) of the relevant rounded number of Conversion Shares to the Noteholder, the principal amount set out in the Conversion Notice in respect of such Notes registered in the name of the Noteholder shall be deemed to have been repaid in full.
- (c) On the occurrence, or proposed occurrence, of any Change of Control, all outstanding Notes shall convert into fully paid Ordinary Shares at the relevant Conversion Price on the Conversion Date, save in the case of any amalgamation, rearrangement, compromise, reorganisation or reconstruction of the Company on terms approved by a Majority Resolution of the Noteholders, or where such conversion would trigger a requirement for any Noteholder, or persons acting in concert with such Noteholder (as defined in the Code) to make a mandatory offer pursuant to the Code unless approved by a Majority Resolution of the Noteholders.
- (d) If and when a Change of Control is proposed, the Company shall give Noteholders not less than 20 Business Days' prior written notice of the proposed Change of Control, specifying (to the best of its knowledge) the terms and prospective date of the Change of Control. The Noteholders shall be entitled to serve on the Company a Conversion Notice, conditional only on, and effective contemporaneously with, completion of the Change of Control, in respect of the outstanding Notes held by them.
- (e) If the relevant Change of Control does not take place within 60 Business Days after the date of the deemed Conversion Notice, then such conditional Conversion Notice shall automatically lapse, and the Company shall give Noteholders further written notice of any subsequent proposed Change of Control to which the provisions of this Condition 3 shall then apply.
- (f) If the Company has given notice to Noteholders of a proposed Change of Control (as required by Condition 3(e)), and it becomes apparent to the Company that the Change of Control is not after all to take place, the Company shall, as soon as reasonably practicable, give notice to the Noteholders to that effect.
- (g) Following the receipt of a valid Conversion Notice, the Company shall:
- (i) allot and issue to the Noteholder the Conversion Shares credited as fully paid to which the Noteholder is entitled by serving the Conversion Notice;
 - (ii) enter the Noteholders' name in the register of members of the Company as the holder of the Conversion Shares issued to it; and

- (iii) unless the Noteholder indicates that it wishes to hold Conversion Shares (being Ordinary Shares) in uncertificated form, send to the Noteholder share certificate(s) in respect of the Conversion Shares issued to it.
- (h) In accordance with the Company's Articles of Association, the Directors are authorised to issue Ordinary Shares in uncertificated form. The provisions of Conditions 3(g)(iii) and 3(j) shall not apply in relation to the uncertificated Ordinary Shares. The Company shall procure that instructions are given to the relevant settlement system to credit the appropriate stock account of the Noteholder.
- (i) The Ordinary Shares issued as Conversion Shares shall rank *pari passu* in all respects with the Ordinary Shares of the same class in issue on the relevant Conversion Date save that they shall not rank for any dividend or other entitlement declared on, or any rights announced in respect of such Ordinary Shares in issue prior to the Conversion Date.
- (j) Unless otherwise provided in these Conditions, any certificate for Conversion Shares may be sent by prepaid post to the Noteholder at the address shown in the Register against its respective name and at the sole risk of such Noteholder.
- (k) In the case of joint holders of a Note, certificates for Conversion Shares shall be sent to whichever joint holder is named first in the Register, and certificates sent shall be sufficient to satisfy the entitlements to certificates for Conversion Shares of all such joint holders.
- (l) The obligations of the Company under Condition 3(g) shall be fulfilled no later than 20 Business Days after the date of on which the Company or the Subsidiary (as the case may be) receives a valid Conversion Notice, provided that, where the Conversion Notice is deemed to have been given in anticipation of a Change of Control, the obligations of the Company under Condition 3(g) shall be conditional on, and fulfilled contemporaneously with, completion of the Change of Control.
- (m) The Company shall maintain sufficient authorised but unissued Ordinary Shares and, following any adjustment pursuant to Condition 5, any other class of securities of the Company into which the Notes may be converted as a consequence of such adjustments. The Company shall use its reasonable endeavours to obtain, and at all times maintain, all necessary consents to enable the allotment of Conversion Shares.
- (n) Save as set out in clause 2.3 of the Subscription Agreement, the Company shall not be entitled to require conversion of this Note to any extent.
- (o) For any such time as Ordinary Shares in the Company remain listed on AIM, the Company shall apply to AIM for Ordinary Shares issued as Conversion Shares pursuant to any exercise by any Noteholder of its Conversion Rights to be admitted to trading on AIM and the Company will use its reasonable endeavours to obtain such admission not later than 10 Business Days after the date of issue of such Ordinary Shares.
- (p) If at any time an offer or invitation is made by the Company to all holders of Ordinary Shares for the purchase by the Company of any of its Ordinary Shares;

the Company shall simultaneously give notice thereof to the Noteholders and each such Noteholder shall have the right to exercise its Conversion Rights hereunder at any time whilst such offer or invitation is open for acceptance as if such Noteholder had exercised (subject to any adjustment pursuant to Condition 3(r)) its Conversion Rights immediately prior to the record date of such offer or invitation and any Conversion Shares arising on exercise of this right shall be included in the offer or invitations as if they had been Ordinary Shares in issue on the said record date.

If at any time an offer is made to all holders of Ordinary Shares all such holders other than the offeror and/or any company controlled by the offeror and/or persons acting in concert

with the offeror) to acquire the whole or any part of the issued ordinary share capital of the Company, and the Company becomes aware that as a result of such offer the right to cast a majority of the votes which may ordinarily be cast on a poll at a general meeting of the Company has or will become vested in the offeror and/or such persons or companies as aforesaid, the Company shall give notice to the Noteholders of such vesting within 14 days of its becoming so aware, and each such Noteholder shall be entitled, at any time within the period of 20 days immediately following the date of such notice, to exercise its Conversion Rights hereunder on the terms on which the same could have been exercised if they had been exercisable and had been exercised on the date on which the Company shall become aware as aforesaid (subject to any adjustment pursuant to Condition 3(r)) failing which, if such offer is or becomes unconditional in all respects, all Conversion Rights shall lapse. Publication of a scheme of arrangement under the provisions of the Act (or equivalent legislation applicable to the Subsidiary) providing for the acquisition by any person of the whole or any part of the issued ordinary share capital of the Company shall be deemed to be the making of an offer to all holders of Ordinary Shares for the purposes of this Condition 30 and reference herein to such an offer shall be read and construed accordingly.

- (q) If an order is made or an effective resolution is passed for winding up the Company, (except for the purpose of amalgamation, arrangement, reconstruction or compromise on terms sanctioned by a Majority Resolution), each Noteholder shall (if, in such winding up and on the basis that all Notes then outstanding had been issued and the subscription moneys therefor had been received in full by the Company, there would be a surplus available for distribution amongst the holders of the Ordinary Shares which, on such basis, would exceed in respect of each Ordinary Share a sum equal to the Conversion Price) be treated as if immediately before the date of such order or resolution their Conversion Rights had been exercisable and had been exercised in full, on the terms on which the same could have been exercised immediately before the date of such order or resolution (as the case may be), and shall accordingly be entitled to receive out of the assets available in the liquidation *pari passu* with the holders of the Ordinary Shares such sum as they would have received had they exercised their Conversion Rights in full and become the holder of the Conversion Shares to which they would have become entitled by virtue of such subscription. Subject to the foregoing all Conversion Rights shall lapse on liquidation, winding up or dissolution of the Company.

(r) **Adjustment of Conversion Rights**

- (i) After an allotment of fully paid Ordinary Shares by way of capitalisation of the profits or reserves of the Company to holders of Ordinary Shares on the register of members of the Company on a date (or by reference to a record date) on or before the Maturity Date (other than any allotment pursuant to the exercise of any options granted pursuant to the Incentive Scheme or a capitalisation issue in respect of a cash dividend where the value of the Ordinary Shares issued in lieu of the cash dividend is equal to the amount of the dividend foregone) or upon a sub-division or consolidation of the Ordinary Shares on or before the Maturity Date, the number and/or nominal value of Ordinary Shares to be issued as Conversion Shares on any subsequent exercise of the Conversion Rights will be increased or, as the case may be, reduced in due proportion and the Conversion Price will be adjusted accordingly, with effect from the record date for such capitalisation, sub-division or consolidation. On any such capitalisation, sub-division or consolidation the Auditors shall be requested by the directors to determine the appropriate adjustments and, within 28 days thereafter, notice will be sent to each Noteholder (in the case of joint holders, to the first named only, which shall be sufficient despatch for all) together with a new Certificate or Certificates in respect of any additional Ordinary Shares which that holder is entitled to subscribe in consequence of such adjustments, fractional entitlements being ignored.
- (ii) If, on a date (or by reference to a record date) on or before the Maturity Date, the Company makes an offer or invitation (whether by rights issue or otherwise but not

being an offer by the Company for the purchase of its own shares to which Condition 30 applies or an offer made in connection with the scrip dividend arrangements to the holders of the Ordinary Shares, or any offer or invitation (not being an offer to which Condition 30 applies) is made to such holders otherwise than by the Company, then unless the same offer or invitation is made to the Noteholders as if their Conversion Rights had been exercised on the day immediately preceding the date or, as the case may be, the record date, of such offer or invitation, the Conversion Price shall be adjusted in such manner as the Auditors shall determine to be appropriate so as to maintain the same relative Conversion Rights. Any such adjustment shall become effective as at the date or, as the case may be, the record date for the offer or invitation. The Company shall give notice to the Noteholders within 28 days of any adjustment made pursuant to this Condition 3(r)(ii).

- (iii) If on a date (or by reference to a record date) on or before the Maturity Date the Company pays a special dividend following a disposal of all or a substantial proportion of its business or assets, the number and/or nominal value of Ordinary Shares to be issued as Conversion Shares on any subsequent exercise of the Conversion Rights will be adjusted pro rata to the reduction in the net asset value of the Company following the payment of such dividend. On any payment of such dividend the Auditors shall be requested by the directors of the Company to certify the appropriate adjustments and, within 28 days thereafter, notice thereof will be sent to the Noteholders.

4 No Security

The Notes shall be unsecured.

5 No Reissue

Any Notes redeemed or repaid or converted pursuant to these Conditions shall be cancelled immediately and shall not be available for reissue.

6 Adjustment

- (a) The Company shall notify each Noteholder in the event of any variation, abrogation or modification of rights attaching to any class of Shares and/or if any of the events set out in Conditions 3(p) to (r) inclusive is proposed, such notice to include:
 - (i) brief details of the methods of calculation and proposed adjustments which should be made to the relevant Conversion Price; and
 - (ii) a certificate of the Auditors confirming that in their view the proposed adjustment is fair and reasonable.
- (b) Any adjustment to the terms of conversion of the Notes certified by the Auditors as being required to be made pursuant to Condition 6(a) shall be deemed to be incorporated forthwith in the Instrument, the Conditions and each of the Notes then in issue so far as relevant.

7 Registered holder and transmission

- (a) Except as required by law or as ordered by a court of competent jurisdiction, the Company and the Subsidiary will recognise the registered holder of any Notes as the absolute owner of them and neither shall not be bound to take notice or see to the execution of any trust, whether express, implied or constructive, to which any Notes may be subject.
- (b) The receipt of the registered holder for the time being of any Notes (or, in the case of joint registered holders, the receipt of any of them) for any monies payable or Conversion Shares

receivable in respect of the Notes shall be a good discharge to the Company and/or the Subsidiary (as the case may be), notwithstanding any notice the Company and/or the Subsidiary (as the case may be) may have, whether express or otherwise, of the right, title, interest or claim of any other person to or in such Notes or monies. Neither Company nor the Subsidiary shall be bound to enter notice of any trust, whether express, implied or constructive, on the Register in respect of any Notes.

- (c) The executors or administrators of a deceased registered holder of Notes (not being one of several joint registered holders) and, in the case of the death of one or more of several joint registered holders, the survivor or survivors of such joint registered holders shall be the only person or persons recognised by the Company or the Subsidiary (as applicable) as having any title to such Notes.
- (d) Any person becoming entitled to Notes in consequence of the death or bankruptcy of a Noteholder or by operation of law may, upon producing such evidence in respect of which he proposes to act under this Condition or such evidence of his title as the Directors shall think sufficient, be registered himself as the holder of those Notes. The Company or the Subsidiary (as applicable) may in its sole discretion retain any payments on such Notes until the person entitled hereunder to be registered in respect of such Notes has been duly registered or, as the case may be, until registration of such transfer.
- (e) Subject to any other provision herein contained, if the person so becoming entitled shall elect to be registered, they shall deliver or send to the Registrar a notice in writing signed by them stating that they so elect. All the limitations, restrictions and provisions herein contained relating to the right to transfer and the registration of transfers of Notes shall be applicable to any such notice of election as aforesaid as if the death or bankruptcy of the Noteholder had not occurred and the notice of election were a transfer executed by such Noteholder.
- (f) A person becoming entitled to a Note in consequence of the death or bankruptcy of a Noteholder shall be entitled to receive and may give good discharge for any monies payable in respect thereof, but shall not be entitled to receive notices of or to attend or vote at meetings of the Noteholders or, save as aforesaid, to any of the rights or privileges of a Noteholder until they shall have become a Noteholder in respect of the Note.

8 Transfer

- (a) The Notes are transferable in accordance with the Conditions in integral multiples of \$1.00 by instrument in writing in the usual common form (or in such other form as the Directors may approve), and such instrument need not be under seal.
- (b) Any Notes transferred in accordance with this Condition 8 shall be convertible into Ordinary Shares on the terms hereof.
- (c) Each instrument of transfer shall be signed by or on behalf of the transferor but need not be signed by or on behalf of the transferee, and the transferor shall be deemed to remain the owner of the Notes to be transferred until the name of the transferee is entered in the Register in respect of such Notes.
- (d) Each instrument of transfer shall be sent to, or left for registration at, the registered office of the Company for the time being, and shall be accompanied by the Certificates for the Notes to be transferred and any other evidence that the Company may require under Condition 12 (if relevant) or to prove the title of the transferor or its right to transfer the Notes (and, if such instrument is executed by some other person, the authority of that person to do so). All instruments of transfer that are registered may be retained by the Company. The Company may decline to recognise any instrument of transfer unless such instrument is delivered to the Company in accordance with this Condition 8(d).