

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

- ☐ REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- ☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
- For the fiscal year ended June 30, 2009
- OR
- ☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- ☐ SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
- Date of event requiring this shell company report
- For the transition period from to

Commission file number: 001 - 31545

HARMONY GOLD MINING COMPANY LIMITED

(Exact name of registrant as specified in its charter)

REPUBLIC OF SOUTH AFRICA
(Jurisdiction of incorporation or organization)

RANDFONTEIN OFFICE PARK, CNR WARD AVENUE AND MAIN REEF ROAD,
RANDFONTEIN, SOUTH AFRICA, 1760
(Address of principal executive offices)

Khanya Maluleke, Company Secretary
tel: +27 11 411 2019, khanya.maluleke@harmony.co.za, fax: +27 11 411 2070,
Randfontein Office Park, CNR Ward Avenue and Main Reef Road, Randfontein, South Africa, 1760
(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Ordinary shares, with nominal value Rand 50 cents per share*
(Title of Class)

American Depositary Shares (as evidenced by American Depositary Receipts),
each representing one ordinary share
(Title of Class)

Securities registered or to be registered pursuant to Section 12(g) of the Act:

Ordinary shares, with nominal value Rand 50 cents per share*
(Title of Class)

American Depositary Shares (as evidenced by American Depositary Receipts),
each representing one ordinary share
(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: None

The number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the last full fiscal year covered by this Annual Report was:

425,986,836 ordinary shares, with nominal value of Rand 50 cents per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

YES ☒ NO ☐

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to

Section 13 or 15(d) of the Securities Exchange Act of 1934.

YES ☐ NO ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days:

YES ☒ NO ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of “accelerated filer and large accelerated filer” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP ☐ International Financial Reporting Standards as issued by the International Accounting Standards Board ☒ Other ☐

If “Other” has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow:

Item 17 ☐ Item 18 ☒

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

YES ☐ NO ☒

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.

YES ☒ NO ☐

* Not for trading, but only in connection with the registration of American Depositary Shares, pursuant to the requirements of the Securities and Exchange Commission.

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USE OF TERMS AND CONVENTIONS IN THIS ANNUAL REPORT

Harmony Gold Mining Company Limited is a corporation organized under the laws of the Republic of South Africa. As used in this Annual Report on Form 20-F, or this annual report, unless the context otherwise requires, the term “**Harmony**” refers to Harmony Gold Mining Company Limited; the term “**South Africa**” refers to the Republic of South Africa; the terms “**we**”, “**us**” and “**our**” refer to Harmony and, as applicable, its direct and indirect subsidiaries as a “**Group**”.

In this annual report, references to “**R**”, “**Rand**” and “**c**”, “cents” are to the South African Rand, the lawful currency of South Africa, “**A\$**” refers to Australian dollars, “**K**” or “**Kina**” refers to Papua New Guinean Kina and references to “**\$**”, “**U.S.\$**” and “**U.S. dollars**” are to United States dollars.

This annual report contains information concerning our gold reserves. While this annual report has been prepared in accordance with the regulations contained in Securities and Exchange Commission Guide 7, it is based on assumptions which may prove to be incorrect. See *Item 3. “Key Information — Risk Factors — Harmony’s gold reserve figures are estimated based on a number of assumptions, including assumptions as to mining and recovery factors, future cash costs or production and the price of gold and may yield less gold under actual production conditions than currently estimated.”*

This annual report contains descriptions of gold mining and the gold mining industry, including descriptions of geological formations and mining processes. We have explained some of these terms in the Glossary of Mining Terms included at the end of this annual report. This glossary may assist you in understanding these terms.

PRESENTATION OF FINANCIAL INFORMATION

We are a South African company and the majority of our operations are located in our home country. Accordingly, our books of account are maintained in South African Rand and our annual and interim financial statements are prepared in accordance with International Financial Reporting Standards (“**IFRS**”) as issued by the International Accounting Standards Board (“**IASB**”). Prior to fiscal year ended June 30, 2008, our annual financial statements (translated into U.S. dollars) were prepared and filed with the U.S. Securities and Exchange Commission (“**SEC**”) in accordance with generally accepted accounting principles in the United States (“**U.S. GAAP**”). On December 21, 2007, the SEC adopted rules allowing foreign private issuers that file Annual Reports on Form 20-F to file financial statements with the SEC in accordance with IFRS as issued by the IASB without reconciliation to U.S. GAAP. As per these rules, we include in this annual report our consolidated financial statements prepared in accordance with IFRS as issued by the IASB, translated into U.S. dollars. All financial information, except as otherwise noted, are stated in accordance with IFRS as issued by the IASB.

In this annual report, we also present “total cash costs” and “total cash costs per ounce”, which have been determined using industry standards promulgated by the Gold Institute and are non-GAAP measures. The Gold Institute was a non-profit international industry association of miners, refiners, bullion suppliers and manufacturers of gold products that ceased operation in 2002, which developed a uniform format for reporting production costs on a per ounce basis. The Gold Institute has now been incorporated into the National Mining Association. The guidance was first adopted in 1996 and subsequently revised in November 1999. An investor should not consider these items in isolation or as alternatives to production costs, cost of sales or any other measure of financial performance presented in accordance with IFRS as issued by the IASB. While the Gold Institute has provided definitions for the calculation of total cash costs, the calculation of total cash costs and total cash costs per ounce may vary significantly among gold mining companies and, by themselves, do not necessarily provide a basis for comparison with other gold mining companies. For further information, See *Item 5. “Operating and Financial Review and Prospects — Costs — Reconciliation of Non-GAAP Measures”*.

We have included the U.S. dollar equivalent amounts of certain information and transactions in Rand, Kina and A\$. Unless otherwise stated, we have translated (i) balance sheet items at the noon buying rate of the Federal Reserve Bank of New York on the last business day of the period (R7.72 per U.S.\$1.00 as at June 30, 2009 and R7.80 per U.S.\$1.00 as at June 30, 2008), (ii) acquisitions, disposals and specific items included within equity at the rate prevailing at the date the transaction was entered into and (iii) income statement items at the average rate for the year (R9.00 per U.S.\$1.00 for fiscal 2009, R7.26 per U.S.\$1.00 for fiscal 2008 and R7.20 per U.S.\$1.00 for fiscal 2007). Capital expenditures for fiscal 2010 have been translated at the rates used for balance sheet items. By including these U.S. dollar equivalents in this annual report, we are not representing that the Rand, Kina and A\$ amounts actually represent the U.S. dollar amounts, as the case may be, or that these amounts could be converted at the rates indicated.

FORWARD-LOOKING STATEMENTS

This annual report contains forward-looking statements within the meaning of the United States Private Securities Litigation Reform Act of 1995 with respect to our financial condition, results of operations, business strategies, operating efficiencies, competitive positions, growth opportunities for existing services, plans and objectives of management, markets for stock and other matters. In particular, among other statements, certain statements in *Item 4. “Information on the Company,” Item 5. “Operating and Financial Review and Prospects”* and *Item 11. “Quantitative and Qualitative Disclosures About Market Risk”* are forward-looking in nature. Statements in this annual report that are not historical facts are “forward-looking statements” for the purpose of the safe harbor provided by Section 21E of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), and Section 27A of the Securities Act of 1933, as amended.

These forward-looking statements, including, among others, those relating to our future business prospects, revenues and income, wherever they may occur in this annual report and the exhibits to this annual report, are necessarily estimates reflecting the best judgment of our senior management and involve a number of risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. As a consequence, these forward-looking statements should be considered in light of various important factors, including those set forth in this annual report. Important factors that could cause actual results to differ materially from estimates or projections contained in the forward-looking statements include, without limitation:

- overall economic and business conditions in South Africa and elsewhere;
- the ability to achieve anticipated efficiencies and other cost savings in connection with past and future acquisitions;
- fluctuations in the market price of gold;
- the occurrence of hazards associated with underground and surface gold mining;
- the occurrence of labor disruptions;
- availability, terms and deployment of capital;
- changes in government regulation, particularly mining rights and environmental regulation;
- fluctuations in exchange rates;
- currency devaluations/appreciations and other macroeconomic monetary policies; and
- socio-economic instability in South Africa and other countries in which we operate.

We undertake no obligation to update publicly or release any revisions to these forward-looking statements to reflect events or circumstances after the date of this annual report or to reflect the occurrence of unanticipated events.

PART I

Item 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISORS

Not applicable.

Item 2. OFFER STATISTICS AND EXPECTED TIMETABLE

Not applicable.

Item 3. KEY INFORMATION

SELECTED FINANCIAL DATA

The selected consolidated financial data below should be read in conjunction with, and are qualified in their entirety by reference to, our consolidated financial statements and the notes thereto and with Item 5. “Operating and Financial Review and Prospects”, both included elsewhere in this annual report. Historical results are not necessarily indicative of results to be expected for any future period.

SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA

We are a South African company and the majority of our operations are located in our home country. Accordingly, our books of account are maintained in South African Rand and our annual and interim financial statements are prepared in accordance with IFRS as issued by the IASB. Prior to fiscal year ended June 30, 2008, our annual financial statements (translated into U.S. dollars) were prepared and filed with the SEC in accordance with U.S. GAAP. On December 21, 2007, the SEC adopted rules allowing foreign private issuers that file Annual Reports on Form 20-F to file financial statements with the SEC in accordance with IFRS as issued by the IASB without reconciliation to U.S. GAAP. As per these new rules, we include in this annual report our consolidated financial statements prepared in accordance with IFRS as issued by the IASB, translated into U.S. dollars.

The selected historical consolidated financial data for the last five fiscal years are, unless otherwise noted, stated in accordance with IFRS as issued by the IASB, and has been extracted from the more detailed information and financial statements prepared in accordance with IFRS as issued by the IASB, including our audited consolidated financial statements as of June 30, 2009 and 2008 and for each of the years in the three years ended June 30, 2009 and the related notes, which appear elsewhere in this annual report. The historical consolidated financial data at June 30, 2007, 2006 and 2005, and for each of the years in the two years ended June 30, 2006, has been extracted from our audited consolidated financial statements not included in this annual report as adjusted for discontinued operations and the accounting changes described below.

During fiscal 2008, we early adopted IAS 23 (Revised) — Borrowing Costs. In accordance with the Revised Standard’s transitional provisions, we designated July 1, 2000 (the earliest commencement date of current qualifying projects) as the effective date and applied the requirements of the Revised Standard to all qualifying projects for which the commencement date of capitalization was on or after that date.

During fiscal 2008, we classified the assets and liabilities of the Cooke operation as held-for-sale and also classified the results of this operation as discontinued operations for all periods presented below in the selected historical financial data. Discontinued operations also include the results of the Orkney and Australia’s South Kalgoorlie operations that were classified as held-for-sale and discontinued operations during fiscal 2007. These reclassifications were done in terms of IFRS 5 — Non-Current Assets held for sale and Discontinued Operations. In 2007, Australia’s Mount Magnet operations were first classified as held-for-sale and discontinued operations when Harmony signed a letter of intent for the sale of its Mount Magnet operations with Monarch Gold Mining Company (“**Monarch**”). However, in July 2008, Harmony was advised that Monarch had placed itself in voluntary administration, and in August 2008, the Administrator indicated that Monarch would not proceed with the purchase and consequently the purchase agreement was terminated. Harmony resumed management of the operation and recommenced the sale process early in fiscal 2009. However, during the fourth quarter of 2009, it was decided that further drilling at the Mount Magnet operation would enhance the selling potential of the operation and, as a result, the operation no longer met the requirements to be classified as held-for-sale in terms of IFRS 5. The comparative periods presented for the income statement in this annual report have been re-presented for this change. See note 15 of the consolidated financial statements and *Item 4. “Information of the Company — Business — International*

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Operations”, “Information of the Company — Business — Orkney Operations,” Item 4. “Information of the Company — Business — Cooke Operations”.

	Fiscal year ended June 30,				
	2009	2008	2007	2006	2005
	(\$ in millions, except per share amounts)				
Income Statement Data					
Revenue	1,277	1,325	1,202	1,017	1,030
Operating profit/(loss)	214	103	82	(98)	(409)
Profit/(loss) from associates	1	(11)	(3)	(17)	—
Profit/(loss) from continuing operations before taxation	216	(10)	83	(85)	(607)
Taxation	(23)	(68)	(50)	(22)	94
Profit/(loss) from continuing operations	193	(78)	33	(107)	(513)
Profit from discontinued operations	118	48	18	16	13
Net profit/(loss)	311	(30)	51	(91)	(500)
Basic earnings/(loss) per share from continuing operations (\$)	0.47	(0.20)	0.08	(0.27)	(1.42)
Diluted earnings/(loss) per share from continuing operations (\$)	0.46	(0.20)	0.08	(0.27)	(1.42)
Basic earnings/(loss) per share (\$)	0.75	(0.08)	0.12	(0.23)	(1.38)
Diluted earnings/(loss) per share (\$)	0.74	(0.08)	0.12	(0.23)	(1.38)
Weighted average number of shares used in the computation of basic earnings/(loss) per share	414,120,732	400,750,167	397,910,797	393,727,012	361,816,512
Weighted average number of shares used in the computation of diluted earnings/(loss) per share	415,962,899	402,894,248	402,382,011	393,727,012	361,817,512
Dividends per share	—	—	—	—	0.05
Other Financial Data					
Cash cost per ounce of gold from continuing operations (\$/oz) ⁽¹⁾	583	598	487	444	378
Total cash cost per ounce of gold (\$/oz) ⁽¹⁾	586	602	577	443	380
Balance Sheet Data					
<i>Assets</i>					
Property, plant and equipment	3,614	3,531	3,484	3,263	3,385
Assets of disposal groups classified as held-for-sale	—	197	182	—	—
Other assets	1,311	982	1,494	1,432	1,433
Total assets	4,925	4,710	5,160	4,695	4,818
<i>Equity and liabilities</i>					
Total equity	3,824	3,172	3,366	3,249	3,489
Borrowings (current and non-current)	47	525	653	500	563
Other liabilities	1,054	1,013	1,141	946	766
Total equity and liabilities	4,925	4,710	5,160	4,695	4,818

⁽¹⁾ Total cash costs and total cash costs per ounce are non-GAAP measures. Previously, we calculated cash costs per ounce by dividing total cash costs, as determined using the guidance provided by the Gold Institute, by gold ounces sold. During fiscal 2009, we changed the calculation, using gold produced as the denominator and therefore excluded the effect of the movement in the gold inventory from the cash cost amount. We believe that this change provides a better indication of the cash generating capabilities of our operations and also allows for a better comparison with other companies. The cash costs and cash cost per ounce have been re-presented for all periods presented. The Gold Institute was a non-profit industry association comprised of leading gold producers, refiners, bullion suppliers and manufacturers. This institute has now been incorporated into the National Mining Association. The guidance was first issued in 1996 and was revised in November 1999. Total cash costs, as defined in the guidance provided by the Gold Institute, include mine production costs, transport and refinery costs, applicable general and administrative costs, ongoing environmental rehabilitation costs as well as transfers to and from deferred stripping and costs associated with royalties. Ongoing employee termination costs are included, however, employee termination costs associated with major restructuring and shaft closures are excluded. Total cash costs have been calculated on a consistent basis for all periods presented. Changes in cash costs per ounce are affected by operational

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performance, as well as changes in the currency exchange rate between the Rand and the U.S. dollar. Because total cash costs and total cash costs per ounce are non-GAAP measures, they should therefore not be considered by investors in isolation or as an alternative to production costs, cost of sales, or any other measure of financial performance calculated in accordance with IFRS as issued by the IASB. While the Gold Institute has provided a definition for the calculation of total cash costs and total cash costs per ounce, the calculation of cash costs per ounce may vary from company to company and may not be comparable to other similarly titled measures of other companies. However, we believe that cash costs per ounce is a useful indicator to investors and management of a mining company's performance as it provides (1) an indication of the cash generating capacities of the mining operations, (2) the trends in cash costs as the company's operations mature, (3) a measure of a company's performance, by comparison of cash costs per ounce to the spot price of gold and (4) an internal benchmark of performance to allow for comparison against other companies. For further information, See *Item 5. "Operating and Financial Review and Prospects — Costs — Reconciliation of non-GAAP measures"*.

EXCHANGE RATES

Unless otherwise stated, balance sheet item amounts are translated from Rand to U.S. dollars at the exchange rate prevailing on the last business day of the period (R7.72 per U.S.\$1.00 as at June 30, 2009), except for acquisitions, disposals and specific items included within equity that are converted at the exchange rate prevailing on the date the transaction was entered into, and income statement item amounts that are translated from Rand to U.S. dollars at the average exchange rate for the period (R9.00 per U.S.\$1.00 for fiscal 2009).

As of October 19, 2009, the noon buying rate of the Federal Reserve Bank of New York per U.S.\$1.00 was R7.33.

The following table sets forth, for the past five fiscal years, the average and period end noon buying rates in New York City for cable transfers in Rand and, for the past six months, the high and low noon buying rates in New York City for cable transfers in Rand, in each case, as certified for customs purposes by the Federal Reserve Bank of New York for Rand expressed in Rand per U.S.\$1.00.

Fiscal Year Ended June 30,	Average ⁽¹⁾	Period End
2005	6.18	6.67
2006	6.36	7.17
2007	7.20	7.04
2008	7.26	7.80
2009	9.00	7.72

Month of	High	Low
May 2009	8.71	7.93
June 2009	8.21	7.72
July 2009	8.26	7.65
August 2009	8.15	7.72
September 2009	7.87	7.32
October 2009 (through October 19, 2009)	7.70	7.26

⁽¹⁾ The average of the noon buying rates provided by the Federal Reserve Bank of New York on the last day of each full month during the relevant period

Fluctuations in the exchange rate between Rand and the U.S. dollar will affect the dollar equivalent of the price of ordinary shares on the Johannesburg Stock Exchange, which may affect the market price of the American Depositary Shares ("ADSS") on the New York Stock Exchange. These fluctuations will also affect the dollar amounts received by owners of ADSs on the conversion of any dividends on ordinary shares paid in Rand.

CAPITALIZATION AND INDEBTEDNESS

Not applicable.

REASONS FOR THE OFFER AND USE OF PROCEEDS

Not applicable.

RISK FACTORS

In addition to the other information included in this annual report and the exhibits, you should also carefully consider the following factors related to our ordinary shares and ADSs. There may be additional risks that we do not currently know of or that we currently deem immaterial based on information currently available to us. Although Harmony has a formal risk policy framework in place, the maintenance and development of which is undertaken on an ongoing basis so as to help management address systematic categories of risk associated with its business operations, any of these risks could have a material adverse effect on our business, financial condition or results of operations, leading to a decline in the trading price of our ordinary shares or our ADSs. The risks described below may, in retrospect, turn out to be incomplete and therefore may not be the only risks to which we are exposed. Additional risks and uncertainties not presently known to us or that we now believe are immaterial (and have therefore not been included), could also adversely affect our businesses, results of operations or financial condition. The order of presentation of the risk factors below does not indicate the likelihood of their occurrence or the magnitude or the significance of the individual risks. The risks described below could occur individually or cumulatively and intensify in case of a cumulative occurrence.

Risks Relating to Our Business and the Gold Mining Industry

The profitability of our operations, and the cash flows generated by those operations, are affected by changes in the Rand price of gold, such that a fall in the price of gold below our cash cost of production for any sustained period may lead us to experience losses and to curtail or suspend certain operations.

Substantially all of our revenues come from the sale of gold. Historically, the market price for gold has fluctuated widely and has been affected by numerous factors over which we have no control, including:

- the demand for gold for industrial uses and for use in jewelry;
- international or regional political and economic trends;
- the strength or weakness of the U.S. dollar (the currency in which gold prices generally are quoted) and of other currencies;
- financial market expectations regarding the rate of inflation;
- interest rates;
- speculative activities;
- actual or expected purchases and sales of gold bullion held by central banks or other large gold bullion holders or dealers;
- forward sales by other gold producers; and
- the production and cost levels for gold in major gold-producing nations, such as South Africa, China, the United States and Australia.

In addition, the current demand for and supply of gold affects the price of gold, but not necessarily in the same manner as current demand and supply affect the prices of other commodities. Historically, gold has retained its value in relative terms against basic goods in times of inflation and monetary crisis. As a result, central banks, financial institutions and individuals hold large amounts of gold as a store of value and production in any given year constitutes a very small portion of the total potential supply of gold. Since the potential supply of gold is large relative to mine production in any given year, normal variations in current production will not necessarily have a significant effect on the supply of gold or its price.

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The volatility of gold prices is illustrated in the following table, which shows the annual high, low and average of the afternoon London Bullion Market fixing price of gold in U.S. dollars for the past ten calendar years:

Calendar Year	Price per ounce		
	High (\$)	Low (\$)	Average (\$)
1999	326	253	279
2000	313	264	282
2001	293	256	271
2002	332	278	309
2003	412	322	361
2004	427	343	389
2005	476	411	434
2006	725	525	604
2007	841	608	695
2008	1,011	713	872
2009 (through October 19, 2009)	1,059	810	938

On October 19, 2009, the afternoon fixing price of gold on the London Bullion Market was U.S.\$1,050.50 per ounce.

While the aggregate effect of these factors is impossible for us to predict, if gold prices should fall below our cash cost of production and remain at such levels for any sustained period, we may experience losses and may be forced to curtail or suspend some or all of our operations. In addition, we would also have to assess the economic impact of low gold prices on our ability to recover any losses we may incur during that period and on our ability to maintain adequate reserves. Our cash cost per ounce of gold produced from continuing operations was U.S.\$583 in fiscal 2009, U.S.\$598 in fiscal 2008 and U.S.\$487 in fiscal 2007.

As the majority of our production costs are incurred in Rand and other non-U.S. currencies, and gold is sold in U.S. dollars, our financial condition could be materially harmed by an appreciation in the value of the Rand and other non-U.S. currencies against the U.S. dollar.

Gold is sold throughout the world in U.S. dollars, but most of our operating costs are incurred in Rand and other non-U.S. currencies. As a result, any significant and sustained appreciation of the South African Rand or other non-U.S. currencies against the dollar will serve materially to reduce our revenues and overall net income.

As we currently do not enter into forward sales, commodity, derivatives or hedging arrangements with respect to our future gold production, we are exposed to the impact of any significant decrease in the gold price.

As a general rule, we sell our gold at the prevailing market price. Currently, we generally do not enter into forward sales, commodity, derivative or hedging arrangements to establish a price in advance for the sale of future gold production, although we may do so in the future. As a result, we may realize the benefit of any short-term increase in the gold price, but are not protected against decreases in the gold price, and if the gold price decreases significantly, our revenues may be materially adversely affected.

Estimations of our gold reserves are based on a number of assumptions, including assumptions as to mining and recovery factors, future cash costs of production and the price of gold and may yield less gold under actual production conditions than currently estimated.

The ore reserve estimates contained in this annual report are estimates of the mill delivered quantity and grade of gold in our deposits and stockpiles. They represent the amount of gold which we believe can be mined, processed and sold at prices sufficient to recover our estimated future cash costs of production, remaining investment and anticipated additional capital expenditures. Our ore reserves are estimated based upon a number of assumptions, and are stated in accordance with SEC Industry Guide 7. Our ore reserve estimates are calculated based on estimates of:

- future cash costs (which in some cases are assumed to decrease significantly);
- future gold prices; and
- future currency exchange rates.

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These factors, which are beyond our control, significantly impact these ore reserve estimates. As a result, the reserve estimates contained in this annual report should not be interpreted as assurances of the economic life of our gold and other precious metal deposits or the future profitability of operations.

Since these ore reserves are estimates based on assumptions related to the factors detailed above, should there be changes to these, we may in the future need to revise these estimates. In particular, if our cash operating and production costs increase or do not decrease as assumed (whether in dollar, Rand, or other non-U.S. currencies terms, or in relative terms due to appreciation of the Rand and other non-U.S. currencies against the U.S. dollar) or the gold price decreases, the recovery of a portion of our ore reserves may become uneconomical. This will, in turn, lead us to reduce our estimated reserves.

In order to maintain gold production beyond the expected lives of our existing mines or to increase production materially above projected levels, we will need to access additional reserves through exploration or discovery.

Our operations have limited proven and probable reserves and exploration and discovery is necessary to maintain current gold production levels at these operations. Exploration for gold and other precious metals is speculative in nature, is frequently unsuccessful and involves many risks, including those related to:

- locating orebodies;
- identifying the metallurgical properties of orebodies;
- estimating the economic feasibility of mining orebodies;
- developing appropriate metallurgical processes;
- obtaining necessary governmental permits; and
- constructing mining and processing facilities at any site chosen for mining.

Our exploration efforts might not result in the discovery of mineralization, and any mineralization discovered might not result in an increase in our proven and probable reserves. To access additional reserves, we will need to successfully complete development projects, including extensions to existing mines and, possibly, that of new mines. Development projects would also be necessary to access any new mineralization discovered through our exploration activities around the world. We typically use feasibility studies to determine whether or not to undertake significant development projects. Feasibility studies include estimates of expected or anticipated economic returns, which are based on assumptions about:

- future gold and other metal prices;
- anticipated tonnage, grades and metallurgical characteristics of ore to be mined and processed;
- anticipated recovery rates of gold and other metals from the ore, and
- anticipated total costs of the project, including capital expenditure and cash costs.

Actual cash costs of exploration, production and economic returns may differ significantly from those anticipated by our feasibility studies for new development projects.

It can take a number of years from the initial feasibility study until development is completed and, during that time, the economic feasibility of production may change. In addition, there are a number of uncertainties inherent in the development and construction of an extension to an existing mine or any new mine, including:

- the availability and timing of necessary environmental and governmental permits;
- the timing and cost of constructing mining and processing facilities, which can be considerable;
- the availability and cost of skilled labor, power, water and other materials;
- the accessibility of transportation and other infrastructure, particularly in remote locations;
- the availability and cost of smelting and refining arrangements; and
- the availability of funds to finance construction and development activities.

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We currently maintain a range of focused exploration programs, concentrating on areas not too distant from our operational mines, as well as a number of prospective known gold mineralized regions around the world. During fiscal years 2009 and 2008, the bulk of exploration expenditure was allocated to activities in South Africa and Papua New Guinea (“**PNG**”). However, there is no assurance that any future development projects will extend the life of our existing mining operations or result in any new commercial mining operations.

The costs associated with the pumping of water inflows from closed mines adjacent to our operations could adversely affect our results of operations.

Certain of our mining operations are located adjacent to the mining operations of other mining companies. A mine closure may have an adverse impact on the continued operations at an adjacent mine if appropriate preventative steps are not taken. In particular, this impact can include the ingress of underground water where pumping operations at the closed mine are suspended. Such ingress could result in damage to property, operational disruptions and additional pumping costs, which would adversely affect any one of our adjacent mining operations.

The supply of electricity and increases in the cost of power may adversely affect our results of operations and our financial condition.

Each of our mining operations is dependent on electrical power generated by the state utility Eskom, which holds a monopoly on the South African market. As a result of an increase in demand exceeding available generating capacity, South Africa has been subject to disruptions in electrical power supply. During fiscal 2008, the electricity supply was interrupted by Eskom thereby halting production at certain of our mines. This led to management restructuring operating processes to control and reduce our consumption of electricity at all our operations. There have been no further disruptions and we have been able to continue production at 90% electricity allocation as required by the Energy Conservation Scheme (“**ECS**”) and interim rules imposed by Eskom. All operations were allocated an ECS allocation in line with the Eskom allocation and equipment and management structures were put in place to monitor and manage real-time consumption. Applications submitted to Eskom for additional energy allocation to the four future growth projects were approved, enabling us to proceed with the projects and to ramp-up to full capacity utilising Eskom power. We also submitted applications for additional power allocation for four future projects in the Free State, which were also approved by Eskom. Nevertheless, an insufficient supply of electricity may adversely affect our results of operations and financial condition.

As a result of Eskom’s planned capital expansion program to deal with the current power constraints, several increases in rates charged to consumers have been approved by the National Energy Regulator South Africa (“**NERSA**”) in the past 18 months. More increases are anticipated in the future, which will also be driven by increases in input costs, primarily coal. These increases will have a negative impact on our results of operations going forward.

We may experience problems in identifying, financing and managing new acquisitions and integrating them with our existing operations.

Acquiring new gold mining operations involves a number of risks including:

- our ability to identify appropriate assets for acquisition and/or to negotiate acquisitions on favorable terms;
- obtaining the financing necessary to complete future acquisitions;
- difficulties in assimilating the operations of the acquired business;
- difficulties in maintaining our financial and strategic focus while integrating the acquired business;
- problems in implementing uniform standards, controls, procedures and policies;
- increasing pressures on existing management to oversee a rapidly expanding company; and
- to the extent we acquire mining operations outside South Africa or Australasia, encountering difficulties relating to operating in countries in which we have not previously operated.

Our ability to make successful acquisitions and any difficulties or time delays in achieving successful integration of any of such acquisitions could have a material adverse effect on our business, operating results, financial condition and share price.

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Certain factors may affect our ability to support the carrying value of our property, plant and equipment, goodwill and other assets on our balance sheet.

We review and test the carrying value of our assets on an annual basis when events or changes in circumstances suggest that the carrying amount may not be recoverable.

If there are indications that impairment may have occurred, we prepare estimates of expected future cash flows for each group of assets. These estimates of future cash flows are prepared at the lowest level for which identifiable cash flows are identified as being independent of the cash flows of other mining assets and liabilities. Expected future cash flows are inherently uncertain, and could materially change over time. Such cash flows are significantly affected by reserve and production estimates, together with economic factors such as spot and forward gold prices, discount rates, currency exchange rates, estimates of costs to produce reserves and future capital expenditures.

As of June 30, 2009, we have substantial amounts of property, plant and equipment, goodwill and other assets on our consolidated balance sheets. We have recorded impairment charges relating to these assets and, if any one or a combination of the uncertainties described above occur, management may be required to recognize further impairment charges, which could adversely affect our financial results and condition.

Given the nature of mining and the type of gold mines we operate, we face a material risk of liability, delays and increased cash costs of production from environmental and industrial accidents and pollution.

The business of gold mining by its nature involves significant risks and hazards, including environmental hazards and industrial accidents. In particular, hazards associated with underground mining include:

- rock bursts;
- seismic events;
- underground fires;
- cave-ins or falls of ground;
- discharges of gases and toxic chemicals;
- release of radioactive hazards;
- flooding;
- pillar mining;
- accidents; and
- other conditions resulting from drilling, blasting and the removal and processing of material from a deep-level mine.

Hazards associated with open cast mining (also known as open-pit mining) include:

- flooding of the open-pit;
- collapse of the open-pit walls;
- accidents associated with the operation of large open-pits and rock transportation equipment; and
- accidents associated with the preparation and ignition of large-scale open-pit blasting operations.

Hazards associated with waste-rock mining include:

- accidents associated with operating a waste dump and rock transportation; and
- production disruptions caused by weather.

We are at risk of experiencing any or all of these environmental or other industrial hazards. The occurrence of any of these hazards could delay production, increase cash costs and result in our financial liability.

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The nature of our mining operations presents safety and security risks.

The environmental and industrial risks identified above also present safety risks for our operations and our employees and can lead to the suspension and potential closure of operations for indeterminate periods. For example, in October 2007, an incident occurred at the Elandsrand operation involving a compressed pipe column which broke off below the shaft surface bank and fell to the bottom of the men-and-material shaft, causing extensive damage to the shaft steel work and electrical cables. The incident resulted in 3,000 workers being underground for more than 30 hours. Mining operations were temporarily suspended for 42 days to allow for repairs to be undertaken at the shaft. These and other safety risks, even in situations where no injuries occur, can have a material adverse effect on our operations and production. In addition, security issues need to be continually addressed, including the problem of criminal mining.

These and other safety and security risks, even in situations where no injuries occur, can have a material adverse effect on our operations and production. See *Item 4. “Health and Safety Matters”*.

Our insurance coverage may prove inadequate to satisfy future claims against us.

We have third-party liability coverage for most potential liabilities, including environmental liabilities. While we believe that our current insurance coverage for the hazards described above is adequate and consistent with industry practice, we may be subject to liability for pollution (excluding sudden and accidental pollution) or other hazards against which we have not insured or cannot insure, including those in respect of past mining activities. Further, we maintain and intend to continue to maintain, property and liability insurance consistent with industry practice, but such insurance contains exclusions and limitations on coverage. In addition, there can be no assurance that insurance will continue to be available at economically acceptable premiums. As a result, in the future, our insurance coverage may not cover the extent of claims against us for environmental or industrial accidents or pollution.

Our operations may be negatively impacted by inflation.

Our operations have been materially affected by inflation. Inflation in South Africa has fluctuated widely in recent years, reaching 11.6% at the end of fiscal 2008 before it decreased significantly to 6.9% at the end of fiscal 2009. This decrease was due to inflation targeting by the South African Reserve Bank (“SARB”), a task that it will continue in fiscal 2010. However, working costs and wages especially, have increased considerably over the past three years resulting in significant cost pressures for the mining industry. Our profits and financial condition could also be affected adversely in the absence of a concurrent devaluation of the Rand and an increase in the price of gold.

The socio-economic framework in the regions in which we operate may have an adverse effect on our operations and profits.

We have operations in South Africa and PNG. As a result, changes or instability to the economic or political environment in any of these countries or in neighboring countries could affect our operations and profits. It is difficult to predict the future political, social and economic direction in these countries, or any other country in which we operate, and the impact government decisions may have on our business.

Actual and potential shortages of production inputs may have an adverse effect on our operations and profits.

Our results of operations may be affected by the availability and pricing of raw materials and other essential production inputs. The price of raw materials may be substantially affected by changes in global supply and demand, along with weather conditions, governmental controls and other factors. A sustained interruption to the supply of any of these materials would require us to find acceptable substitute suppliers and could require us to pay higher prices for such materials. Any significant increase in the prices of these materials would increase our operating costs and affect production considerations.

Our financial flexibility could be materially constrained by exchange control regulations as imposed by the SARB.

In terms of South Africa’s exchange control regulations, the export of capital from South Africa is restricted. As a result, our ability to raise and deploy capital outside South Africa is limited. In particular, we are:

- generally not permitted to export capital from South Africa, to hold foreign currency or incur indebtedness denominated in foreign currencies without the approval of the South African exchange control authorities;

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- generally not permitted to acquire an interest in a foreign venture without the approval of the South African exchange control authorities and first having complied with the investment criteria of the South African exchange control authorities;
- generally required to repatriate to South Africa profits of foreign operations; and
- limited in our ability to utilize profits of one foreign business to finance operations of a different foreign business.

These restrictions could hinder our normal corporate functioning, including our ability to make foreign investments and procure foreign currency denominated financings in the future.

Since 1995, certain exchange controls in South Africa have been relaxed. The extent to which the South African government may further relax such exchange controls cannot be predicted with certainty, although the government has committed itself to a gradual approach to the relaxation of exchange control.

We compete with mining and other companies for key human resources.

We compete with mining and other companies on a global basis to attract and retain key human resources at all levels with the appropriate technical skills and operating and managerial experience necessary to continue to operate our business. The need to recruit, develop and retain skilled employees is particularly critical with respect to Historically Disadvantaged South Africans (“HDSAs”), women in mining in South Africa and the recruitment and training of local landowners in PNG. The global shortage of key mining industry human resource skills, including geologists, mining engineers, metallurgists and skilled artisans has been exacerbated in the current environment of increased mining activity across the globe. There can be no assurance that we will attract and retain skilled and experienced employees and, should we lose any of our key personnel, our business may be harmed and our results of operations and financial condition could be adversely affected. See *Item 6. “Employees”*

Since our South African labor force has substantial trade union participation, we face the risk of disruption from labor disputes and new South African labor laws.

Despite a history of positive and constructive engagement with labor unions, there are periods during which the various stakeholders are unable to agree on dispute resolution processes. Disruptive activities on the part of labor, which normally differ in intensity, then become unavoidable. Due to the high level of union membership among our employees, we are at risk of having production stoppages for indefinite periods due to strikes and other disputes. Significant labor disruptions have affected our operations and financial condition before and we are not able to predict whether or not we will experience significant labor disputes in the future.

South African employment law sets out minimum terms and conditions of employment for employees. Though these minimum terms and conditions may be improved by agreements between us and the trade unions, the prescribed minimum terms and conditions form the benchmark for all employment contracts. See *Item 6. “Employees”*

We are required to submit a report in terms of South African employment law detailing the progress made towards achieving employment equity in the workplace. In the event this report is not submitted, we could incur substantial penalties.

Developments in South African employment law may increase our cash costs of production or alter our relationship with our employees and trade unions, which may have an adverse effect on our business, operating results and financial condition.

We may suffer adverse consequences as a result of our reliance on outside contractors to conduct our operations.

A portion of our operations are currently conducted by outside contractors. As a result, our operations are subject to a number of risks, including:

- negotiating agreements with contractors on acceptable terms;
- the inability to replace a contractor and its operating equipment in the event that either party terminates the agreement;
- reduced control over those aspects of operations which are the responsibility of the contractor;
- failure by a contractor to perform in terms of its agreement with us;
- interruption of operations in the event that a contractor ceases to operate due to insolvency or other unforeseen events;

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- failure of a contractor to comply with applicable legal and regulatory requirements, to the extent it is responsible for such compliance; and
- contractor’s problems regarding management of its workforce, labor unrest or other employment issues.

In addition, we may incur liability to third parties as a result of the actions of its contractors. The occurrence of one or more of these risks could have a material adverse effect on our business, operational results and financial condition. See *Item 6. “Directors, Senior Management and Employee s — Employees.”*

HIV & AIDS poses risks to us in terms of productivity and costs.

The incidence of HIV & AIDS in South Africa and PNG, which is forecast to increase over the next decade, poses risks to us in terms of potentially reduced productivity, and increased medical and other costs. If a significant increase in the incidence of HIV & AIDS infection and HIV & AIDS-related diseases among the workforce over the next several years occurs, this may have an adverse impact on our operations, projects and financial condition. See *Item 4. “Regulation — Health and Safety Matters.”*

The cost of occupational healthcare services may increase in the future.

Our operations in South Africa are subject to health and safety regulations which could impose significant costs and burdens. The present Mine Health and Safety Act 29 of 1996 (“**Mine Health and Safety Act**”) imposes various duties on us at our mines, and grants the authorities broad powers to, among other things, close unsafe mines and order corrective action relating to health and safety matters.

The Occupational Diseases in Mines and Works Act 78 of 1973 (the “**Occupational Diseases Act**”), governs the payment of compensation and medical costs related to certain illnesses contracted by persons employed in mines or at sites where activities ancillary to mining are conducted. Occupational healthcare services are available to our employees from our existing healthcare facilities in South Africa. There is a risk that the cost of providing such services could increase in future depending on changes in the nature of underlying legislation and the profile of our employees. This increased cost, should it transpire, is currently indeterminate. We have embarked on a number of initiatives focused on improving the quality of life of our workforce, although there can be no guarantee that such initiatives will not be adversely affected by increased costs.

Laws governing mineral rights affect our business.

We are governed by the South African Mineral and Petroleum Resources Development Act 2002 (“**MPRDA**”). See *Item 4. “Regulation — South Africa”* for a description of the principal objectives set out in the MPRDA.

Under the MPRDA, tenure over established mining operations is secured for up to 30 years (and renewable for periods not exceeding 30 years each thereafter), provided that mining companies apply for new order mining rights over existing operations within five years of May 1, 2004 or before the existing right expires, whichever is the earlier date and fulfill requirements specified in the MPRDA and the Broad-Based Socio-Economic Empowerment Charter for the South African mining industry (“**Mining Charter**”).

The Mining Charter was signed by government and stakeholders in October 2002, and contains principles relating to the transfer, over a 10-year period, of 26% of South Africa’s mining assets (as equity or attributable units of production) to HDSAs, as defined in the Mining Charter. An interim target of 15% HDSA participation over five years has also been set and to this end, the South African mining industry has committed to securing financing to fund participation by HDSAs in an amount of R100.0 billion within the first five years of the Mining Charter’s tenure. The Mining Charter provides for the review of the participation process after five years to determine what further steps, if any, are needed to achieve target participation of 26%. In order to measure progress in meeting the requirements of the Mining Charter, companies are required to complete a Scorecard, in which the levels of compliance with the objectives of the Mining Charter can be “ticked off” after five and ten years, respectively. The Mining Charter and Scorecard require programs for black economic empowerment and the promotion of value-added production, such as jewelry-making and other gold fabrication, in South Africa. In particular, targets are set out for broad-based black economic empowerment in the areas of human resources and skills development; employment equity; procurement and beneficiation. In addition, the Mining Charter addresses socio-economic issues, such as migrant labor, mine community and rural development and housing and living conditions.

We actively carry out mining and exploration activities in all of our material mineral rights areas. All of our South African operations have been granted their mining licenses. We will be eligible to apply for new licenses over existing operations, provided

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that we comply with the Mining Charter. We have taken steps to comply with the expected provisions of the Mining Charter, such as promoting value-added production, exploring black empowerment initiatives and increasing worker participation. Failure to comply with the conditions of the mining licenses could have a material adverse effect on our operations and financial condition.

The MPRDA also makes reference to royalties payable to the South African state in terms of the Mineral and Petroleum Resources Royalty Act (Act 28 of 2008). The Act provides for the payment of a royalty according to a formula based on earnings before interest, tax and depreciation, after the deduction of capital expenditure. This rate is then applied to revenue to calculate the royalty amount due, with a minimum of 0.5% and a maximum of 5% for gold mining companies. It is estimated that the formula could translate to a royalty rate of more than 2% of gross sales in terms of current pricing assumptions. The royalty is to become effective on March 1, 2010. The introduction of the Mining and Petroleum Royalty Act will have an adverse impact on the profits generated by our operations in South Africa.

Once production in PNG is commenced, our PNG mining operations will be subject to royalty payments to the government of PNG. Should we desire to expand any of our initiatives in PNG operations into additional areas under exploration, these operations would need to convert the existing exploration licenses prior to the start of mining, and that process could require landowner title approval. There can be no assurance that any approval would be received. Please also see *Item 4. "Regulation"* for further information.

We are subject to extensive environmental regulations.

As a gold mining company, we are subject to extensive environmental regulation. We have experienced and expect to continue to experience increased cash costs of production arising from compliance with South African and PNG environmental laws and regulations. The MPRDA, certain other environmental legislation and the administrative policies of the South African government regulate the impact of our prospecting and mining operations on the environment.

Pursuant to these regulations, upon the suspension, cancellation, termination or lapsing of a prospecting permit or mining authorization, we will remain liable for compliance with the provisions of the various relevant regulations, including any rehabilitation obligations. This liability will continue until such time as the appropriate authorities certify that we have complied with such provisions.

In the future, we may incur significant costs associated with complying with the increasingly stringent requirements being imposed under new legislation and regulations. This may include the need to increase and accelerate expenditure on environmental rehabilitation and to alter provisions for this expenditure, which could have a material adverse effect on our results and financial condition. We may also face increased environmental costs should other mines in the vicinity of our mines fail to meet their obligations with regard to the pumping or treatment of water.

The South African government has reviewed requirements imposed upon mining companies to ensure environmental restitution. For example, following the introduction of an environmental rights clause in South Africa's constitution, a number of environmental legislative reform processes have been initiated. Legislation passed as a result of these initiatives has tended to be materially more onerous than laws previously applied in South Africa. Examples of such legislation include the MPRDA, the South African National Nuclear Regulator Act 1999, the South African National Water Act of 1998 and the South African National Environmental Management Act 1998, which include stringent "polluter-pays" provisions. The adoption of these or additional or more comprehensive and stringent requirements, in particular with regard to the management of hazardous waste, the pollution of ground and ground-water systems and the duty to rehabilitate closed mines, may result in additional costs and liabilities.

Our PNG operations are also subject to various laws and regulations relating to the protection of the environment, which are similar in scope to those of South Africa. See *Item 4. "Regulation — Environmental Matters"*.

Investors in the United States may have difficulty bringing actions, and enforcing judgments, against us, our directors and our executive officers based on the civil liabilities provisions of the federal securities laws or other laws of the United States or any state thereof.

We are incorporated in South Africa. Each of our directors and executive officers (and our independent registered public accounting firm) reside outside of the United States. Substantially all of the assets of these persons and substantially all of our assets are located outside the United States. As a result, it may not be possible for investors to enforce a judgment against these persons or ourselves obtained in a court of the United States predicated upon the civil liability provisions of the federal securities or other laws of

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- the United States or any state thereof. A foreign judgment is not directly enforceable in South Africa, but constitutes a cause of action which will be enforced by South African courts provided that:
- the court that pronounced the judgment had jurisdiction to entertain the case according to the principles recognized by South African law with reference to the jurisdiction of foreign courts;
 - the judgment is final and conclusive;
 - the judgment has not lapsed;
 - the recognition and enforcement of the judgment by South African courts would not be contrary to public policy, including observance of the rules of natural justice which require that the documents initiating the United States proceeding were properly served on the defendant and that the defendant was given the right to be heard and represented by counsel in a free and fair trial before an impartial tribunal;
 - the judgment does not involve the enforcement of a penal or revenue law; and
 - the enforcement of the judgment is not otherwise precluded by the provisions of the Protection of Business Act 99 of 1978, as amended, of the Republic of South Africa.

Compliance with new and changing corporate governance and public disclosure requirements adds uncertainty to our compliance policies and increases our costs of compliance.

Laws, regulations and standards relating to accounting, corporate governance and public disclosure, new SEC regulations and other listing regulations applicable to us are subject to change and can create uncertainty for companies like us. New or changed laws, regulations and standards could lack specificity or be subject to varying interpretations. Their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs of compliance as a result of ongoing revisions to such governance standards.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, we are required to furnish a report by our management on our internal control over financial reporting. The report in this annual report contains, among other matters, an assessment of the effectiveness of our internal control over financial reporting as of the end of the fiscal year, including a statement as to whether or not our internal controls over financial reporting are effective. If we fail to maintain the adequacy of our internal controls, we may not be able to ensure that we can conclude on an ongoing basis that we have effective internal control over financial reporting in accordance with the Sarbanes-Oxley Act. The requirement to evaluate and report on our internal controls also applies to companies that we may acquire and therefore, this assessment may be complicated by any future acquisitions we may complete. While we continue to dedicate resources and management time to ensuring that we have effective controls over financial reporting, failure to achieve and maintain an effective internal control environment could have a material adverse effect on the market's perception of our business and our stock price. See *Item 15. "Disclosure Controls and Procedures"* for management assessment as of June 30, 2009. In addition to management's assessment of internal controls over financial reporting, we are required to have our independent registered public accounting firm publicly disclose their conclusions regarding the effectiveness of Harmony's internal controls over financial reporting.

We are committed to maintaining high standards of corporate governance and public disclosure, and our efforts to comply with evolving laws, regulations and standards in this regard have resulted in, and are likely to continue to result in, increased general and administrative expenses.

Sales of large quantities of our ordinary shares and ADSs, or the perception that these sales may occur, could adversely affect the prevailing market price of such securities.

The market price of our ordinary shares or ADSs could fall if large quantities of ordinary shares or ADSs are sold in the public market, or there is the perception in the marketplace that such sales could occur. Subject to applicable securities laws, holders of our ordinary shares or ADSs may decide to sell them at any time. The market price of our ordinary shares or ADSs could also fall as a result of any future offerings it makes of ordinary shares, ADSs, or securities exchangeable or exercisable for its ordinary shares or ADSs, or the perception in the marketplace that these sales might occur. We may make such offerings of additional ADS rights, letters of allocation or similar securities at any time or from time to time in the future.

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Because we have a significant number of outstanding share options, our ordinary shares are subject to dilution.

We have employee share option schemes as well as other share schemes. The employee share option schemes came into effect in 1994, 2001, 2003 and 2006. Our Board has authorized up to 14% of the issued share capital to be used for these plans. As a result, shareholders’ equity interests in us are subject to dilution to the extent of the future exercises of the options, through share schemes.

We may not pay dividends or make similar payments to our shareholders in the future.

We pay cash dividends only if funds are available for that purpose. Whether funds are available depends on a variety of factors, including the amount of cash available and our capital expenditures and other cash requirements existing at the time. Under South African law, we are only entitled to pay a dividend or similar payment to shareholders if we meet the solvency and liquidity tests set out in the Companies Act and our Articles of Association. Cash dividends or other similar payments may not be paid in the future.

In February 2007, the South African Government announced a proposal to replace Secondary Tax on Companies with a 10% withholding tax on dividends and other distributions payable to shareholders. This proposal is expected to be implemented in phases to be completed by the end of the 2010 calendar year. Although this may reduce the tax payable by our South African operations, thereby increasing distributable earnings, the withholding tax will generally reduce the amount of dividends or other distributions received by shareholders.

Item 4. INFORMATION ON THE COMPANY

BUSINESS

History and Development

We conduct underground and surface gold mining and related activities, including exploration, processing and smelting. We are currently the third largest producer of gold in South Africa, producing approximately 23% of the country’s annual gold output, and we ranked among the top 10 gold producers in the world, with operations and projects in South Africa and PNG. Our gold sales have increased from 650,312 ounces of gold in fiscal 1995 to approximately 1.5 million ounces of gold in fiscal 2009. As at June 30, 2009, our mining operations reported total proven and probable reserves of 48.2 million ounces, primarily from South African sources. In fiscal 2009, we processed approximately 21.1 million tons of ore.

In fiscal 2009, all of our total gold production took place in South Africa. In fiscal 2009, approximately 93% of our South African gold came from underground mines, and approximately 7% came from our surface operations (which include the Kalgold opencast operation and the Phoenix operation). For more detailed information about our activities, See *Item 4. “Information on the Company — Business — Harmony’s Mining Operations — Overview”* and the notes to the consolidated financial statements included in this annual report. Mining is a highly regulated industry, and we operate under a variety of statutes and regulations. For more detailed information about these statutes and regulations, See *Item 4. “Information on the Company — Regulation”* and *Item 10. “Additional Information — Memorandum and Articles of Association”*.

The majority of our exploration and evaluation done during fiscal 2009 has been focused on PNG. Our PNG exploration and evaluation opportunities are handled through the international office in Brisbane, Australia. Exploration in South Africa focused on the Evander South project, Joel and Tshepong.

We were incorporated and registered as a public company in South Africa on August 25, 1950 (under registration number 1950/038232/06). We poured our first gold on September 11, 1954. In the early 1970’s, we merged with the Anglovaal mines, Merriespruit and Virginia, forming Harmony Gold Mining Company Limited. We then expanded from a single lease-bound mining operation into an independent, world-class gold producer. We acquired additional mineral rights in the Free State, Mpumalanga, Gauteng and North West provinces in South Africa when we acquired Lydex in 1997, Evander in 1998, Kalgold in 1999, Randfontein in 2000, ARMgold in 2003 and Avgold in 2004. In building our Australian portfolio, we acquired Hill 50 and New Hampton in Western Australia in 2001 and 2002, respectively, and started our exploration portfolio in PNG with projects in the Morobe province originally through our acquisition of Abelle in 2003. During fiscal 2009 and 2008, we disposed of several operations in South Africa and Australia, as well as 50% of our interest in gold and copper assets in PNG. See *Item 4. “Disposals”*.

Our principal executive offices are located at Randfontein Office Park, Corner of Main Reef Road and Ward Avenue, Randfontein, 1760, South Africa and the telephone number at this location is +27-11-411-2000.

South African Operations

In South Africa, we operate a total of 10 underground operations, one open cast mine, and eight processing plants which are located in all of the currently known goldfields in the Witwatersrand basin of South Africa as well as the Green Stone belt. These operations produced approximately 1.5 million ounces in fiscal 2009, and South Africa represented approximately 96% (or 46.1 million ounces) of our total proven and probable reserves. The deep level gold are located in four provinces in this basin, being the Free State province, Mpumalanga, the West Rand Goldfields in Gauteng province and the North West province. Surface operations are located in all these provinces as well.

Ore from the shafts and surface material are treated at eight metallurgical plants in South Africa, located near the operations (four in the Free State province, one in the North West province, one in Mpumalanga and two in Gauteng). There are two plants on care and maintenance which can be restarted if additional processing capacity is required (Joel and St. Helena plants in the Free State province).

As part of our “Back-to-Basics” strategy, which we embarked on in August 2007, management reassessed and restructured the manner in which operations are managed and evaluated. Each operation, consisting anywhere from a single shaft to a group of shafts, is managed by a team headed up by a general manager. See *Item 4. “Operational Strategy: Back-to-Basics”* and *“Harmony’s Management Structure”*.

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Operations are classified as “Underground” or “Surface” with the reportable segments in South Africa being as follows:

- Tshepong, Phakisa, Bambanani, Doornkop, Elandsrand, Target, Evander, Masimong, Virginia (the Cooke operations were considered to be a reportable segment in fiscal 2008 and have been disclosed under discontinued operations for all periods presented); and
- all other shafts and surface operations, including those that treat historic sand dumps, rock dumps and tailings dams, are grouped together under “Other — Underground” or “Other — Surface”. Other includes Joel, Kalgold and Phoenix.

International Operations

Our interests internationally are currently mainly located in PNG and represent 4% (or 2.1 million ounces) of our total proven and probable reserves.

Our interests in Australia now consist solely of one site located at Mount Magnet in Western Australia. This site has been closed down and the plant has been put on care and maintenance since December 2007. The South Kalgoorlie operational assets and tenements, which we previously owned and which were also located in Western Australia, were sold to Doro Exploration NL (“**Doro**”) on November 30, 2007. Ore from the underground and surface material were treated at the two metallurgical plants in Australia (one at Mount Magnet and, prior to it being sold, at South Kalgoorlie).

In July 2007, we entered into an agreement with Doro pursuant to which Doro acquired our South Kalgoorlie assets. The total purchase price was A\$45 million (U.S.\$39.8 million), consisting of both a cash and share component. The share component entailed the issuance of 11.4 million Doro shares valued at A\$20 million (U.S.\$17.7 million), and a cash component of A\$25 million (U.S.\$22.1 million). The transaction was subject to various conditions precedent, including a minimum capital raising by Doro of A\$35 million (U.S.\$30.9 million) by the completion date. On November 30, 2007, all conditions precedent were satisfied, and the transaction was completed and accounted for on that date.

During fiscal 2008, we entered into an agreement with Monarch for the sale of our Mount Magnet operation and classified the operations as held-for-sale. However, during July 2008, we were advised that Monarch had placed itself in voluntary administration and, on August 1, 2008, the Administrator indicated that Monarch will not proceed with the proposed purchase and consequently the purchase agreement has been terminated. We have since resumed management of the Mount Magnet operation. The sales process was resumed but due to various factors could not be finalised by the end of fiscal 2009. We have started an intensive drilling program at Mount Magnet and may thus be able to carry out feasibility studies or we may re-embark on a sale process. Accordingly, we have reclassified the Mount Magnet operation to continuing operations.

In PNG, we, through our wholly-owned PNG-based subsidiaries, Morobe Consolidated Goldfields Limited (“**Morobe**”) and Wafi Mining Limited (“**Wafi**”), own development and exploration prospects in the Morobe Province. In August 2008, Newcrest Mining Limited (“**Newcrest**”) acquired a 30.01% interest in our PNG assets and tenements through the Morobe Mining Joint Venture. By the end of fiscal 2009, Newcrest had earned an additional 19.99% in terms of the farm-in agreement, resulting in Newcrest and us each owning a 50% interest in the joint venture. Through the joint venture, we continued with the process of building the Hidden Valley mine, with partial commissioning of the plant completed by the end of fiscal 2009. The commissioning of the full plant and achieving commercial levels of production is scheduled and planned for the December 2009 quarter. Following the end of fiscal 2009, we announced that we had acquired new exploration projects, the Amanab and the Mount Hagen Projects. See *Item 8. “Recent Developments”*.

Strategy

During fiscal 2008, we set ourselves several objectives to achieve financial stability as part of our Back-to Basics strategy. One of those objectives was to be net debt-free (where positive cash balances exceed debt balances), which we achieved in fiscal 2009 after concluding two major asset disposal transactions and paying off our major debt. We still retained a cash balance of R2 billion (U.S.\$253 million) by year end. As a result, we have a healthy balance sheet and are geared to make further investments in our organic growth projects as well as any suitable acquisitions.

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- In August 2007, we embarked on a three-phase, three-component strategy to guide us through 2012:
- Stabilization Phase — this phase extended over a five-month period and included the focused implementation of the first component of the strategy, called “Back-to-Basics”. Back-to-Basics, which continued until the end of fiscal 2009, has now become a guiding philosophy for the overall strategy.
 - Recovery Phase — the second component of the strategy, which focuses on Recovery/Organic Growth, began in fiscal 2008 and will extend into the third phase.
 - Growth Phase — the third and final Organic/Acquisition component will be initiated as the Recovery/Organic Growth component of the strategy delivers results, and will extend through 2012.

Back-to-Basics

The initial Back-to-Basics component of our strategy, designed to stabilize and kick-start recovery, comprised four primary objectives:

- Disciplined mining
 - Cost control
 - Ore reserve management
 - Efficiency
- Key drivers of these objectives and their primary characteristics were:
- Safety
 - The commitment to zero harm initiated at top management, filtering to every level through a deliberate and programmed effort.
 - Comprehensive safety auditing.
 - Agreement on key non-negotiable principles, specifically management to lead by example; continuous verbal communication with all team members; visible creation of awareness of safety-related issues; recognition of and rewarding for safety achievements; and involving all stakeholders.
 - Management focus on improving underground conditions, in particular areas deemed to be of the highest risk — shaft infrastructure and the underground workplace.
 - Empowered management teams
 - Establishment of small, multi-disciplinary, focused management teams at each mining site, responsible for planning and implementing mining operations.
 - Setting of annual operational goals — including volume, grade and cost targets — by each mining site management team in consultation with the executive committee; development by each management team of an operational plan to attain set goals; and regular review of results by the executive committee.
 - Focus on increased productivity:
 - To maximize productivity by structuring the operations such that 60% of the workforce is directly engaged in production mining.
 - Commitment to cost control including the benchmarking of costing parameters, internally between operations and externally against other gold producers:
 - In particular, the control of labor costs which average 50% of operating costs at the South African operations.

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- Pro-active maintenance practices.
- Application of the ‘appropriate maintenance’ principle, involving capital expenditure commensurate with the life of the operation.
- Implementation of cost accounting, ore accounting and reserve management systems to track and measure costs and ore reserve depletion accurately.
- Increasing operational consistency:
 - Commitment to increasing operational consistency in respect of both grade and production in order to extract optimal value from orebodies by increasing development expenditure and a focus on comprehensive ore reserve management.
- Review of opportunities to develop certain assets — uranium in particular, underground resources of which are not currently reflected in the balance sheet or reserve statement — independently of the core gold business:
 - Selected acquisitions to diversify the company’s operations and complement its competitive strengths.
 - Targeted disposals to upgrade the company’s overall portfolio quality.

Organic growth

Harmony’s organic growth strategy focuses on:

- extracting high-quality ounces; and
- developing and operating the company’s long-life mines.

Key drivers of these objectives are:

- the Company’s extensive experience in and established track record for identification, exploration and development of its own projects;
- its ongoing exploration programme focused on both on-mine exploration targeting resources within the economic radius of existing mines and new mine exploration targeting early to advanced stage projects around the world;
- expansion of the production base in South Africa and PNG, with a focus on developing new mines at competitive cash costs and upgrading the overall quality of the company’s portfolio;
- a diverse project pipeline comprising five well-advanced projects — Elandsrand new mine, Doornkop South Reef, Tshepong sub-66 and 71 Declines, Phakisa in South Africa, and Hidden Valley in PNG — which could deliver up to 1.4 million low-cost production ounces by 2012 and a reduction in overall cash costs per ounce;
- a number of additional development projects — including surface sand dumps, rock dumps and tailings dams; the company’s uranium deposits; and the Wafi-Golpu copper-gold deposit in PNG — which could increase production ounces; and
- expansion of the Company’s exploration skills base.

Delivering on strategy

Key deliveries on Harmony’s strategy to end of fiscal 2009 included:

- improvements in two key safety indicator rates — the frequency rates of lost-time injuries and of reportable injuries — and the receipt of several safety-related industry awards;
- reversal of five years of accumulated losses;
- achievement of zero net debt;
- strong cash flow;
- establishment of Rand Uranium (Proprietary) Limited (“**Rand Uranium**”), a significant step in turning to account its uranium resources;
- creation of the Morobe Mining Joint Venture, a 50:50 partnership in the PNG assets with Newcrest of Australia;
- start of production at all five of the companies’ major projects — Phakisa, Doornkop South Reef, Elandsrand and Tshepong in South Africa and Hidden Valley in PNG; and
- stepping up of the company’s exploration programme, with a focus on the Wafi-Golpu copper-gold tenements in PNG and the Evander South project, the St Helena tailings project and several underground areas associated with existing operations in South Africa.

Competitive Strengths

We believe that the following strengths provide us with a competitive advantage:

Leading market position in the attractive gold industry

- We believe that our size and leading market position enables us to undertake exploration and simultaneously develop multiple projects around the world, as well as secure capital on competitive terms.
- The global gold industry offers a number of attractive industry fundamentals from which we benefit. This includes the absence of available substitutes, relatively high barriers to entry, and increasing gold producer concentration.
- We are developing new mines at a planned lower cost per ounce than our current operations, which we believe will help make them robust enough to survive any margin squeeze and to withstand any reversal in the gold price. We expect the gold price to continue its upward trend in the medium term.

Significant reserves with long mine lives

- Our ore reserves as of June 30, 2009 amounted to 48.2 million ounces of gold spread across our assets in South Africa and PNG. This ore reserve base is sufficient to support our existing production profile in excess of 10 years at current production levels. There has been a 2.3 million ounces year-on-year negative variance in ore reserves due to normal depletion of 1.6 million ounces and the equity adjustment at Papua New Guinea to 50% attributable to Harmony which resulted in a further decrease of 0.9 million ounces. On the positive side, there is a net addition of 0.2 million ounces of ore reserves from surface stockpiles and other positive adjustments from the operations.
- Of our 48.2 million ounces of reserves, 36.4 million ounces are classified as above infrastructure and 11.8 million ounces are classified as below infrastructure (reserves for which capital expenditure has still to be approved).

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Highly attractive project pipeline

- We have a diverse portfolio of gold development projects spread across South Africa and PNG. These projects include Elandsrand, Doornkop, Tshepong and Phakisa in South Africa, and Hidden Valley in PNG, which, when developed, could deliver up to 1.4 million ounces of additional production by 2012.
- We believe the relatively higher grade of these South African deposits and/or lower cost base will result in these ounces being produced at highly competitive cash costs. This in turn may result in a reduction in our overall cash cost position as these new projects are commissioned.
- In addition to these projects, we have a number of additional development prospects that are being considered and progressed, including the processing of sand dumps and tailings dams in our tailings projects, the processing of rock dumps, and developing the Wafi-Golpu copper/gold deposit in PNG, which, when all developed, could increase production ounces per annum.
- We have also expanded our exploration skill base, evidenced by our progress in PNG.
- We formed Rand Uranium, to which we have transferred our Cooke assets to optimize the value of our uranium deposits.

Positive gold market outlook

- In the midst of volatile tumultuous global investment markets, the gold market has demonstrated great resilience and a positive upside. The price performance throughout fiscal 2009 supports our positive outlook for gold and, given our operational imperatives, we will seek to contain costs, increase output and optimize our margins.
- Post June 30, 2009, the gold price hit a high of U.S.\$1,059.50 per ounce and, while it was U.S.\$1,050.50 per ounce as of October 19, 2009, this is 32% higher than it was for the same time the previous year.
- We believe the fundamental drivers behind increased demand and decreased new supply of gold will remain in the future, which will in turn support a higher gold price over this period. As an unhedged gold producer, we will benefit from a rising gold price environment.

Increased focus on earnings margins and cost

- Our aim remains to return to profitability. At an operational level we have put in place an intensive process of business planning, with benchmarks and targets we believe to be realistic.
- We are committed to lower our cost base and extensively benchmark our costing parameters both internally among our operations, and externally against other gold producers. Stringent cost cutting and cost control programs have been implemented.
- We are confident that the benefits of our restructuring process and ongoing cost focus will be sustained in the long term, and as a result, our ability to withstand any future adverse market conditions has been significantly enhanced.

Conservative balance sheet and low gearing

- We maintain a conservative gearing policy and seek to fund ongoing capital expenditure (excluding growth projects) through cash generated from existing operations.
- Our low level of gearing should provide us with the ability to utilize debt to fund capital and development expenditure requirements for our new projects.

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Experienced management team with significant industry expertise

- Our senior management team consists of experienced mining executives with extensive industry backgrounds combined with geological and metallurgical expertise.
- Our senior management team has a proven track record in developing and managing the operations under its control, and has demonstrated an ability to optimize underperforming assets as well as developing new projects around the world.

Leading Black Economic Empowerment strategy

- We are proud to be a South African company that fully embraces the country’s transformation initiatives. We are approximately 15% owned by African Rainbow Minerals Limited (“**ARM Limited**”), a black empowerment company in which our chairman, Patrice Motsepe, owns an interest. Of our total production profile, 36% of our South African ounces are attributed empowerment ounces.
- We believe that we have gone beyond the requirements of the Mining Charter by ensuring that our HDSA partners are truly empowered, that we are largely managed by a HDSA Board, and that we continue to engage with black shareholders and/or partners to find more opportunities to invest in BEE transactions and involve HDSA partners.
- We will continue to embrace empowerment as part of our growth strategy and we acknowledge that empowerment forms a fundamental part of our business into the future.

Principal Investments

See *Item 8. “Recent Developments”* for investments made after the reporting date.

We have concluded several other strategic transactions within and outside South Africa in the last three fiscal years, which are summarized below.

On April 17, 2009, we exchanged our interest in Dioro for shares in Avoca Resources Limited (“**Avoca**”). See *Item 4. “Disposals”*. In terms of the offer by Avoca, we received one Avoca share for every three Dioro shares held. The market value of the Avoca shares on the date was U.S.\$4.2 million (A\$1.50 per share).

On December 1, 2008, we issued 3,364,675 shares to Rio Tinto plc (“**Rio Tinto**”) for the purchase of Rio Tinto’s rights to the royalty agreement entered into prior to our acquisition of the Wafi deposits in PNG. The shares were valued at \$23 million on the transaction date. An additional \$10 million in cash will be payable when the decision to mine is made. Of this amount, Harmony is responsible for paying the first \$6 million, with the balance of \$4 million being borne equally by the joint venture partners. The effect of the transaction will be to reduce the cost of any gold produced at Wafi.

On November 21, 2008, we transferred our Cooke operations to Rand Uranium in exchange for cash of \$209 million and a 40% interest in Rand Uranium. See *Item 4. “Disposals”*.

On February 27, 2008, the Group acquired a 32.4% interest in Pamodzi Gold Limited (“**Pamodzi**”) after disposing of its Orkney assets. See *Item 4. “Disposals”*.

In March 2007, we concluded negotiations with Rio Tinto in which we purchased Rio Tinto’s rights to the royalty agreement entered into prior to our acquisition of the Hidden Valley and Kerimenge deposits in PNG. The final condition precedent, which was to obtain approval of the relevant PNG minister on the recommendation of the Mining Advisory Council that the royalty rights may be transferred to us, was met in March 2008. Our cost of U.S.\$22.5 million was met through the issue of shares and a cash payment of U.S.\$2.5 million. The effect of the transaction will be to reduce the cost of gold produced at Hidden Valley and all further extensions to the project, mine life and reserves will be free of this royalty.

On December 8, 2006 we exchanged our Western Areas Limited (“**Western Areas**”) shares for Gold Fields Limited (“**Gold Fields**”) ordinary shares. See *Item 4. “Disposals”*. We received 15.7 million Gold Fields shares, issued at R135.02 (U.S.\$19.15) per share, for our 44.9 million Western Areas shares. During the fiscal years 2008 and 2007, we disposed of our interest in Gold Fields. See *Item 4. “Disposals”*.

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Disposals

On April 17, 2009, we disposed of our Dioro shares in exchange for shares in Avoca. On that date, the market value of the Dioro shares were A\$0.50 per share, or U.S.\$4.2 million.

On November 21, 2008, we transferred our Cooke assets to our wholly-owned, newly formed subsidiary, Rand Uranium, for the consideration of U.S.\$328 million, settled with Rand Uranium shares. In a related transaction on the same date, 60% of these shares were sold to Pamodzi Resources Fund 1 LLP (“**PRF**”) for U.S.\$197 million. U.S.\$40 million was paid on the effective date and the balance of U.S.\$157 million, together with interest at 5% per annum, was paid on April 20, 2009. The conditions precedent for the second part of the Rand Uranium transaction, relating to the sale of the Old Randfontein assets, were fulfilled on April 22, 2009. Additional shares were issued in settlement and 60% of these shares were sold to PRF. PRF paid its portion of the purchase price, amounting to U.S.\$12 million, in cash on April 20, 2009. We recognized a gain of U.S.\$171 million on these transactions.

During fiscal 2009, we disposed of 50% of our interest in our PNG assets in three tranches to Newcrest. The first tranche of 30.01% was disposed of on July 31, 2008 in exchange for \$229 million in cash, which was received on August 7, 2008. On February 28, 2009, the second tranche of 10% was disposed of in terms of the farm-in agreement. Newcrest earned in a further 9.99% interest by contributing to the capital expenditure at Hidden Valley as well as with a cash payment of \$6 million on June 30, 2009. A net profit of \$112 million was realized for the total disposal.

On February 27, 2008, we disposed of our Orkney operations to Pamodzi in exchange for 30 million listed ordinary shares, the market value of which was R345 million (U.S.\$46.5 million).

On November 30, 2007 the South Kalgoorlie operations were sold to Dioro in exchange for 11.4 million listed ordinary shares, the market value of which was, when issued on December 5, 2007, U.S.\$17.7 million (A\$20 million), as well as cash of U.S.\$22.1 million (A\$25 million). A loss of U.S.\$8.8 million (A\$9.8 million), net of tax, was realized.

On August 24, 2007, the Group disposed of the remaining 13,095,079 ordinary Gold Fields shares. The proceeds amounted to R1,310 million (U.S.\$182.9 million), resulting in a loss of R459 million (U.S.\$63.2 million).

In April 2007, the surface assets and metallurgical plant at Deelkraal was sold to Ogoerion Construction CC for R98 million (U.S.\$13.7 million). It was agreed that the purchase price be paid in installments over a 24-month period. Due to various reasons, the agreement was renegotiated and the metallurgical plant was excluded from the new sale agreement. The consideration for the surface assets was set at R45 million (U.S.\$6 million), which had already been received.

In a range of transactions between January 22, 2007 and February 12, 2007, we disposed of 1,150,000 Gold Fields shares for U.S.\$19.7 million. The total cost of these shares was U.S.\$21.4 million, resulting in a loss of U.S.\$1.7 million. During May and June 2007, a further 1.5 million shares with a cost of U.S.\$28.3 million were disposed of for U.S.\$25.1 million, resulting in a loss of U.S.\$3.2 million.

On December 8, 2006, we disposed of our 29.2% interest in Western Areas in exchange for ordinary shares in Gold Fields. This was in terms of an offer by Gold Fields whereby every 100 Western Areas Shares were exchanged for 35 Gold Fields shares.

On October 19, 2006, Randfontein 4 Shaft was sold to Simmer & Jack Limited for an amount of R60 million (U.S.\$8.5 million).

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Hedging Policy

We have consistently maintained a policy of not entering into forward sales, commodity, derivatives or hedging arrangements to establish a price in advance for the sale of our future gold production, although we may do so in the future.

Where any such gold hedging position is acquired, our policy is to eliminate any such positions existing within acquired companies as soon as this can be achieved through sound, commercially advantageous transactions. There may, however, be instances where certain hedge positions in acquired companies need to be kept in place for contractual or other reasons. In line with this policy, we have historically closed out hedging arrangements inherited through our acquisitions. Our revenues are sensitive to the exchange rate of the Rand and other non-U.S. currencies to the U.S. dollar, as all the revenues are generated by gold sales denominated in U.S. dollars. We do not enter into forward sales, commodity, derivatives or other hedging arrangements to establish a Rand to U.S. dollar exchange rate in advance for the sales of our future gold production, although we may do so in the future.

In May 2007, we closed out the remainder of our Australian hedge book, which we inherited with the acquisition of the Hill 50 mine. In these transactions, some 220,000 ounces were closed out at an average spot rate of A\$809/ounce, for a total cost of A\$72.8 million (U.S.\$60.0 million). As a result, we are completely unhedged.

Description of Mining Business

Exploration

Exploration activities are focused on the extension of existing orebodies and identification of new orebodies, both at existing sites and at undeveloped sites.

Our gold-focused exploration program has two components:

- on-mine exploration, which looks for resources within the economic radius of existing mines, and
- new mine exploration, which is the global search for early to advanced stage projects.

Once a potential orebody has been discovered, exploration is extended and intensified in order to enable clearer definition of the orebody and the potential portions to be mined. Geological techniques are constantly refined to improve the economic viability of prospecting and mining activities.

We conduct exploration activities on our own or with joint venture partners. As at June 30, 2009, our prospecting interest in South Africa measured 48,983 hectares (121.037 acres), 327,600 hectares (809,514 acres) in PNG and 80,123 hectares (197,988 acres) in Australia. We spent U.S.\$32 million on exploration in fiscal 2009 and the bulk of exploration expenditure was allocated to activities in PNG and South Africa. In fiscal 2010, we intend to carry out exploration in PNG and South Africa.

Mining

The mining process can be divided into two main phases: (i) accessing the orebody and (ii) mining the orebody. This basic process applies to both underground and surface operations.

- *Accessing the orebody.*

In our South African underground mines, access to the orebody is by means of shafts sunk from the surface to the lowest economically and practically mineable level. Horizontal development at various intervals of a shaft (known as levels) extends access to the horizon of the reef to be mined. On-reef development then provides specific mining access. Horizontal development at various intervals of the decline extends access to the horizon of the ore to be mined. The declines are advanced on a continuous basis to keep ahead of the mining taking place on the levels above. In our open-pit mines, access to the orebody is provided by overburden stripping, which removes the covering layers of topsoil or rock, through a combination of drilling, blasting, loading and hauling, as required.

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- *Mining the orebody.*

The process of ore removal starts with drilling and blasting the accessible ore. The blasted faces are then cleaned, and the ore is transferred to the transport system. In open-pit mines, gold-bearing material may require drilling and blasting, and is usually collected by bulldozers or shovels to transfer it onto trucks, which transport it to the mill.

In our South African underground mines, once ore has been broken, train systems collect ore from the faces and transfer it to a series of ore passes that gravity feed the ore to hoisting levels at the bottom of the shaft. The ore is then hoisted to the surface in dedicated conveyances and transported either by conveyor belts directly or via surface railway systems or roads to the treatment plants. In addition to ore, waste rock broken to access reef horizons must similarly be hoisted and then placed on waste rock dumps.

Processing

We currently have eight operational metallurgical plants and two metallurgical plants on care and maintenance in South Africa. We also have a metallurgical plant at the Hidden Valley project in PNG. The principal gold extraction processes we use are carbon in leach, or CIL, and carbon in pulp, or CIP.

The gold plant circuit consists of the following:

- *Comminution.*

Comminution is the process of breaking up the ore to expose and liberate the gold and make it available for treatment. Conventionally, this process occurs in multi-stage crushing and milling circuits, which include the use of jaw and gyratory crushers and rod and tube and ball mills. Our more modern milling circuits include semi- or fully-autogenous milling where the ore itself is used as the grinding medium. Typically, ore must be ground to a minimum size before proceeding to the next stage of treatment.

- *Treatment.*

In most of our metallurgical plants, gold is extracted into a leach solution from the host ore by leaching in agitated tanks. Gold is then extracted onto activated carbon from the solution using the CIL or CIP processes.

Gold in solution, at one of our plants, is recovered using zinc precipitation. Recovery of the gold from the loaded carbon takes place by elution and electro-winning. Cathode sludge or dore bars produced from electro- winning is now currently sent directly to Rand Refinery. Most of the South African plants no longer use smelting to produce rough gold bars (dore). Our South African zinc precipitation plants continue to smelt precipitate to produce rough gold bars. These bars are then transported to the Rand Refinery which is responsible for refining the bars to a minimum of good delivery status.

In fiscal 2006, we operated the only independent gold refinery and fabrication plant in South Africa. In fiscal 2006, approximately 84% of our South African gold production was refined at our refinery and the remainder was refined at the Rand Refinery, which is owned by a consortium of the major gold producers in South Africa. Since July 2006, all of our gold produced in South Africa has been sent to the Rand Refinery, as a decision was made to close the Harmony Refinery for economic reasons. The Australian gold production for fiscal years 2007 to 2009 was refined in Australia at an independent refiner, AGR Matthey.

The South African government has emphasized that the production of value-added fabricated gold products, such as jewelry, is an important means for creating employment opportunities in South Africa and has made the promotion of these beneficiation activities a requirement of the Mining Charter described in *Item 4. "Information on the Company-Regulation — Mineral Rights"*. We support jewelry ventures in South Africa.

Harmony’s Management Structure

We have a de-centralized management structure that is based on small, empowered management teams led by General Managers at each of our operations. In South Africa, the General Managers report to Alwyn Pretorius and Tom Smith, the Chief Operations Officers, and are responsible for business optimization, ore reserve optimization, and for developing a business culture at the operations. They also focus on long-term viability and growth of the operations. The General Managers are supported by an Ore Reserve Manager, a Financial Manager, a Human Resources Manager and a Technical Manager in ensuring the growth and long-term sustainability of the operations.

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Capital Expenditures

Capital expenditures for continuing operations, including the non-cash portion, incurred for fiscal 2009 totalled U.S.\$487 million compared with U.S.\$504 million for fiscal 2008 and U.S.\$340 million for fiscal 2007. In Rand terms, the capital expenditure increased by 19% from fiscal 2008. The decrease in dollar terms can be attributed to the weakening of the Rand against the US dollar during the year. For fiscal 2009, the capital development at PNG accounted for 41% of the total. The majority of the PNG development was funded by Newcrest in terms of the farm-in agreement. The increase in capital expenditure was due to the capital development at the Doornkop South Reef Project, Tshepong Sub 71 Decline, Phakisa and Elandsrand new mine. The increase in capital expenditure in fiscal 2008 compared with 2007 was primarily related to the development of the PNG assets, which accounted for 39% of the project capital expended at the continuing operations. Capital was also expended on the Doornkop South Reef Project, Tshepong Sub 66 and 71 Declines, Phakisa and Elandsrand new mine. During fiscal 2007, the increased development in PNG accounted for 21% of the project capital expended in the year at the continuing operations, with the balance being expended at the Doornkop South Reef Project, Phakisa, Tshepong Sub 66 Decline and Elandsrand new mine.

The focus of our capital expenditures in recent years has been underground development and plant improvement and upgrades. Construction in certain areas at these projects are close to completion and will start building up production in the next 12 months. The remainder of the projects will still require a great deal of capital expenditure over the next two to three years until they are substantially completed. During fiscal 2009, the projects were funded from the Company’s cash reserves, as well as by the partnering agreement entered into with Newcrest for the PNG assets.

Capital expenditure for discontinued operations, including the non-cash portion, incurred for fiscal 2009 totaled U.S.\$10 million, compared with U.S.\$38 million for fiscal 2008 and U.S.\$41 million for fiscal 2007.

We have budgeted approximately U.S.\$410 million for capital expenditures in fiscal 2010. Details regarding the capital expenditures for each operation are found in the individual mine sections under “*Business — Harmony’s Mining Operations*”. We currently expect that our planned operating capital expenditures will be financed from operations and new borrowings as needed. However, if we decide to expand major projects such as the Poplar Project and the Rolspruit Project at Evander beyond our current plans, we may consider alternative financing sources. See *Item 4. “Information on the Company — Business — Harmony’s Mining Operations — Evander Operations”*.

Reserves

As at June 30, 2009, we have declared proven and probable reserves of 48.2 million ounces, broken down as follows: 46.1 million ounces in South Africa and 2.1 million ounces in PNG. Of our 48.2 million ounces of ore reserves, 11.8 million ounces are classified as below infrastructure (that is, reserves for which capital expenditure has yet to be approved). There has been a 2.3 million ounces year-on-year negative variance in ore reserves due to the following reasons:

- normal depletion of 1.6 million ounces;
- the equity adjustment at Papua New Guinea to 50% attributable to Harmony resulted in a further decrease of 0.9 million ounces; and
- a net addition of 0.2 million ounces of ore reserves from surface stockpiles and other positive adjustments from the operations.

We use the South African Code for the Reporting of Exploration Results, Mineral Resources and Ore Reserves (“**SAMREC Code**”), which sets out the internationally recognized procedures and standards for reporting of mineral resources and ore reserves. We use the term “ore reserves” herein, which has the same meaning as “mineral reserves”, as defined in the SAMREC code. Our reporting of the PNG Ore Reserves complies with the Australian Code for the Reporting of Mineral Resources and Ore Reserves (“**JORC**”) of the Australian Institute of Mining and Metallurgy. This code is materially the same as the SAMREC Code. In reporting of reserves, we have complied with Industry Guide 7 of the U.S. Securities and Exchange Commission.

For the reporting of Ore Reserves at our South African and PNG operations, we use a gold price of U.S.\$750 per ounce. An exchange rate of R9.33 per U.S. dollar is used for South Africa and for PNG an exchange rate of U.S.\$0.75 per Australian dollar is used giving a gold price of R225,000 per kilogram and AU\$1,000 per ounce, respectively. These gold prices have also been used in mine planning.

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In order to define that portion of a measured and indicated mineral resource that can be converted to a proven and probable ore reserve at our underground operations, we apply the concept of a cut-off grade. This is done by defining the optimal cut-off grade as the lowest grade at which an orebody can be mined such that the total profits, under a specified set of mining parameters, are maximized. The cut-off grade is determined using our Optimizer computer program which requires the following as input:

- the database of measured and indicated resource blocks (per shaft section);
- an assumed gold price which, for this ore reserve statement, was taken as R225,000 per kilogram;
- planned production rates;
- the mine recovery factor (“**MRF**”) which is equivalent to the mine call factor (“**MCF**”) multiplied by the plant recovery factor; and
- planned cash costs (cost per tonne).

Rand per tonne cash costs of the mines are historically based, but take into account distinct changes in the cost environment, such as the future production profile, restructuring, right-sizing, and other cost reduction initiatives which we expect in the aggregate to lead to lower unit costs, and for below-infrastructure ounces, an estimate of capital expenditure.

The block cave reserve at Golpu (PNG) used the PCBC computer program to define the optimal mine plan and sequencing.

The open pit reserve at Hidden Valley (PNG) is constrained by the capacity of the tailings storage facility with Whittle optimization program guiding the most efficient mine design given this constraint.

The ore reserves represent that portion of the measured and indicated resources above cut-off in the life-of-mine plan and have been estimated after consideration of the factors affecting extraction, including mining, metallurgical, economic, marketing, legal, environmental, social, and governmental factors. A range of disciplines which includes geology, survey, planning, mining engineering, rock engineering, metallurgy, financial management, human resources management, and environmental management have been involved at each mine in the life-of-mine planning process and the conversion of resources into reserves. The ore flow-related modifying factors used to convert the mineral resources to ore reserves through the life-of-mine planning process are stated for each individual shaft. For these factors, historical information is used, except if there is a valid reason to do otherwise. Because of depth and rock engineering requirements, some shafts design stope support pillars into their mining layouts which accounts for approximately 7% to 10% discounting. Further discounting relates to the life-of-mine extraction to provide for unpay and geological losses.

Our standard for narrow reef sampling with respect to both proven and probable reserve calculations for underground mining operations in South Africa is applied on a 6 meter by 6 meter grid. Average sample spacing on development ends is at 2 meter intervals in development areas. For the massive mining at the Target operations, our standard for sampling with respect to both proven and probable reserves are fan drilling with “B” sized diamond drill holes (43mm core) sited at 50 meter spaced sections along twin access drives. The Kalgold open cast operations are sampled on diamond drill and reverse circulation drill spacing of no more than 25 meters on average. Surface mining at South African operations other than Kalgold involves recovering gold from areas previously involved in mining and processing, such as metallurgical plants, waste rock dumps and tailing dams (slimes and sand) for which random sampling is used.

The PNG resources are hosted in large porphyry or related mesothermal geological systems. Data is gained through diamond drilling using PQ down to NQ sized core. The core is cut in half, one half sampled at a maximum of 2 meter intervals and the other half stored in designated core storage facilities. Drill spacing is typically on less than 20 meter centers for Measured category, 20 to 40 meter centers for the Indicated category and greater than 40m for Inferred category material. Assaying for gold is by fire assay and various methods are used for copper and other elements. All assays informing the resource calculation are analyzed at a National Association of Testing Authorities accredited commercial laboratory. Some sample preparation is done at the mine site laboratory. Extensive Quality Assurance/Quality Control work is undertaken and data is stored in an electronic database.

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Our mining operations’ reported total proven and probable reserves as of June 30, 2009 are set out below:

Ore Reserves statement (Imperial) as at June 30, 2009									
OPERATIONS GOLD	PROVEN RESERVES			PROBABLE RESERVES			TOTAL RESERVES		
	Tons (million)	Grade (oz/ton)	Gold oz ⁽¹⁾ (000)	Tons (million)	Grade (oz/ton)	Gold oz ⁽¹⁾ (000)	Tons (million)	Grade (oz/ton)	Gold oz ⁽¹⁾ (000)
South Africa									
Underground									
Bambanani	3.9	0.247	965	1.3	0.318	420	5.2	0.265	1,385
Joel	1.0	0.168	161	2.5	0.161	404	3.5	0.163	565
Masimong	4.9	0.152	751	1.5	0.154	233	6.4	0.152	984
Phakisa	0.4	0.145	56	22.2	0.236	5,239	22.6	0.235	5,295
Target	5.3	0.178	942	9.9	0.163	1,617	15.2	0.168	2,559
Tshepong	14.1	0.154	2,184	12.6	0.169	2,130	26.7	0.161	4,314
Virginia	7.3	0.129	940	3.1	0.133	407	10.4	0.130	1,347
Doornkop	0.7	0.104	70	1.3	0.113	153	2.0	0.110	223
Elandsrand	12.6	0.190	2,395	28.9	0.178	5,146	41.5	0.182	7,541
Evander	3.1	0.169	522	7.9	0.181	1,434	11.0	0.177	1,956
Evander(below infrastructure)	—	—	—	54.5	0.217	11,849	54.5	0.217	11,849
Total South Africa Underground	53.3	0.169	8,986	145.7	0.199	29,032	199.0	0.191	38,018
South Africa Surface									
Kalgold	17.3	0.025	425	9.8	0.031	307	27.1	0.027	732
Free State Surface	928.3	0.007	6,459	112.2	0.008	845	1,040.5	0.007	7,304
Total South Africa Surface	945.6	0.007	6,884	122.0	0.009	1,152	1,067.6	0.008	8,036
Total South Africa	998.9		15,870	267.7		30,184	1,266.6		46,054
Papua New Guinea ⁽²⁾									
Hidden Valley and Kaveroi	1.5	0.068	105	19.4	0.058	1,126	20.9	0.059	1,231
Hamata	0.2	0.064	7	2.1	0.078	164	2.3	0.078	171
Golpu	—	—	—	39.0	0.018	694	39.0	0.018	694
Total Papua New Guinea	1.7	0.068	112	60.5	0.033	1,984	62.2	0.034	2,096
GRAND TOTAL	1,000.6		15,982	328.2		32,168	1,328.8		48,150

(1) Metal figures are fully inclusive of all mining dilutions and gold losses, and are reported as mill delivered tonnes. Metallurgical recovery factors have not been applied to the reserve figures stated above. The approximate metallurgical recovery factors for the table above are as follows: Bambanani 96%, Joel 96%, Masimong 95%, Phakisa 95%, Target 96%, Tshepong 97%, Virginia 95%, Doornkop 95%, Elandsrand 96%, Evander 97%, Kalgold 90%, Free State Surface 47%, Hidden Valley/Kaveroi 93%, Hamata 93%, Golpu 56%.

In order to derive the appropriate plant recovery factors for ore reserve estimates a process have been followed where realistic assumptions based on historical performance have been applied. There may be short term fluctuation either positive or negative which can lead to small discrepancies between actual and planned recovery factors.

(2) Represents Harmony’s equity portion of 50%.

Note: 1 ton = 907 kg = 2,000 lbs

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In addition to the gold reserves, we also report our equity reserves for silver, copper and molybdenum from our PNG operations. Metal prices are assumed at U.S.\$10/oz for silver, U.S.\$2.27/lb for copper and U.S.\$13/lb for molybdenum.

OPERATIONS SILVER	PROVEN RESERVES			PROBABLE RESERVES			TOTAL RESERVES		
	Tons (million)	Grade (oz/ton)	Silver oz ⁽¹⁾ (000)	Tons (million)	Grade (oz/ton)	Silver oz ⁽¹⁾ (000)	Tons (million)	Grade (oz/ton)	Silver oz ⁽¹⁾ (000)
Papua New Guinea ⁽²⁾									
Hidden Valley and Kaveroi	1.5	1.137	1,755	19.4	1.070	20,767	20.9	1.075	22,522
COPPER	Tons (million)	Grade (%)	Cu lbs (million)	Tons (million)	Grade (%)	Cu lbs (million)	Tons (million)	Grade (%)	Cu lbs (million)
Papua New Guinea ⁽²⁾									
Golpu	—	—	—	39.0	1.025	882	39.0	1.025	882
MOLYBDENUM	Tons (million)	Grade (lbs/ton)	Mo lbs (million)	Tons (million)	Grade (lbs/ton)	Mo lbs (million)	Tons (million)	Grade (lbs/ton)	Mo lbs (million)
Papua New Guinea ⁽²⁾									
Golpu	—	—	—	39.0	0.231	9	39.0	0.231	9

(1) Metal figures are fully inclusive of all mining dilutions and metal losses, and are reported as mill delivered tonnes
(2) Represents Harmony’s equity portion of 50%

Note: 1 ton = 907 kg = 2,000 lbs

Our methodology for determining our reserves is subject to change and is based upon estimates and assumptions made by management regarding a number of factors as noted above in this section.

Worldwide Operations

Description of Property

The following is a map of our worldwide operations:

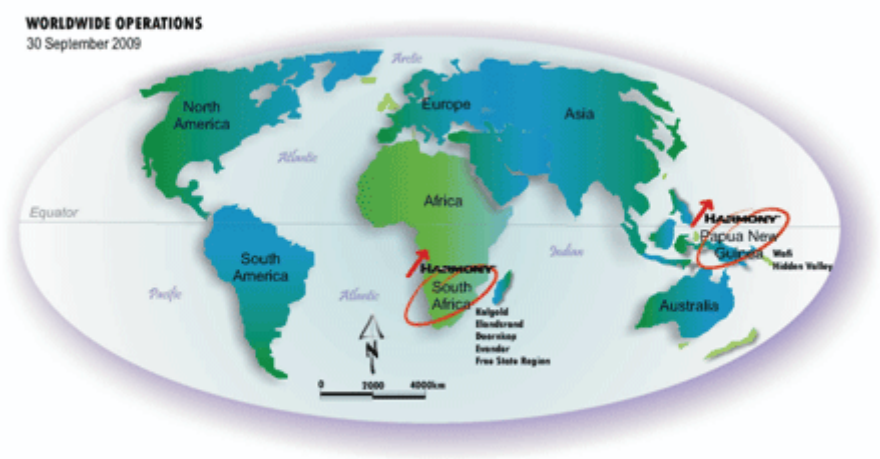


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Our operational mining areas in South Africa are set forth below:

	Hectares	Acres
Doornkop	2,941	7,267
Elandsrand	5,113	12,634
Free State (includes Masimong and Virginia)	22,583	55,802
Tshepong and Phakisa	10,799	26,683
Bambanani	2,356	5,821
Joel	2,162	5,342
Kalgold	615	1,520
Evander	36,898	91,174
Target (includes Loraine)	7,952	19,649
Total	91,419	225,892

In Australia and PNG, we hold granted tenements as set forth below:

	Hectares	Acres
Mount Magnet	80,123	197,988
PNG	327,600	809,514
Total Worldwide Operations	499,142	1,233,394

We acquired new tenements in PNG for exploration after June 30, 2009. See *Item 8. “Recent Developments”*.

In line with the rest of the South African mining industry, and in an effort to reduce costs, we have been rationalizing our mineral rights holdings in recent years. Accordingly, over the past three years, we have disposed of our shares and participation rights in areas within and outside of South Africa in which we have not actively pursued mining. However, in some cases we have retained certain participation rights and option clauses in disposed-of properties and mining rights. We may continue to investigate further disposals.

Geology

The major portion of our South African gold production is derived from mines located in the Witwatersrand Basin in South Africa. The Witwatersrand Basin is an elongated structure that extends approximately 300 kilometers in a northeast-southwest direction and approximately 100 kilometers in a northwest-southeast direction. It is an Archean sedimentary basin containing a six kilometer thick stratigraphic sequence consisting mainly of quartzites and shales with minor volcanic units. The majority of production is derived from auriferous placer reefs situated at different stratigraphic positions and at varying depths below the surface in three of the seven defined goldfields of the Witwatersrand Basin.

Our Hidden Valley project comprises low sulphidation carbonate-base metal-gold epithermal deposits within the Morobe Goldfield, in the Morobe Province of PNG. In the Hidden Valley project area, a batholith of Morobe Granodiorite (locally a coarse grained monzogranite) is flanked by fine metasediments of the Owen Stanley Metamorphics. Both are cut by dykes of Pliocene porphyry ranging from hornblende-biotite to feldspar-quartz porphyries. A number of commonly argillic altered and gold anomalous breccias are known, including both hydrothermal and over printing structural breccias. The Hidden Valley deposit area is dominated by a series of post Miocene faults controlling the gold mineralization, including an early north trending set and the main northwest faulting.

Our Wafi project comprises the sedimentary/volcaniclastic rocks of the Owen Stanley Formation that surround the Wafi Diatreme and host the gold mineralization. Gold mineralization occurs as extensive high-sulphidation epithermal alteration overprinting porphyry mineralization and epithermal style vein-hosted and replacement gold mineralization with associated wall-rock alteration. The Golpu Copper-Gold project is located about one kilometer northeast of the Wafi gold orebody. It is a porphyry (diorite) copper-gold deposit. The host lithology is a diorite that exhibits a typical zoned porphyry copper alteration halo and the mineralized body can be described as a porphyry copper-gold “pipe”.

Harmony’s Mining Operations — Overview

In South Africa, we conduct underground mining at 10 operations:

- Tshepong
- Phakisa
- Bambanani
- Doornkop
- Elandsrand
- Masimong
- Virginia (consists of Harmony 2, Merriespruit 1 & 3, Unisel and Brand 3 & 5)
- Target
- Evander (consists of Evander 2, 5, 7 and 8)
- Joel (included under “Other — Underground”)

During fiscal 2008, the Cooke operations (consists of Cooke 1, 2 and 3 shafts) were considered to be a reportable segment. An effective 60% interest in these operations was sold on November 21, 2008 and the results for the five months up to that date have been included in discontinued operations for fiscal 2009.

We conduct surface mining at four sites (all included in “Other — Surface”):

- Free State (also known as Phoenix)
- Freegold
- Kalgold
- Target

Surface mining was conducted at Randfontein’s Cooke operations up to the date of sale and the Cooke plant has been classified as discontinued operations along with the Cooke operations.

Surface mining conducted at the South African operations other than Kalgold involves recovering gold from areas previously involved in mining and processing, such as metallurgical plants, waste rock dumps and tailings dams (slimes and sand). We are conducting studies to determine the feasibility of further retreatment projects in the Free State and at Evander.

Internationally, our mining was previously conducted at the following two sites in Australia:

- Mount Magnet — The site was put on care and maintenance at the end of December 2007. We have commenced with a drilling program in order to further define the orebody. Management may decide to resume the sale process as soon as the drilling results are available. — See “*International Operations*” above.
- South Kalgoorlie — we finalized the sale of this operation with Dioro on November 30, 2007 — See “*Disposals*” above.

Underground and surface mining was conducted at each of these operations, with underground access through two declines at Mount Magnet and one decline at South Kalgoorlie and surface access principally through open-pits. Surface mining at South Kalgoorlie ceased in fiscal 2006 with treatment consisting of Mount Marion ore and low grade stockpiles. Open-pit mining

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recommenced at South Kalgoorlie mines during fiscal 2007. The Mount Marion underground operation at South Kalgoorlie ceased in June 2007, with only open-pit operations continuing on that site until the date of sale to Dioro.

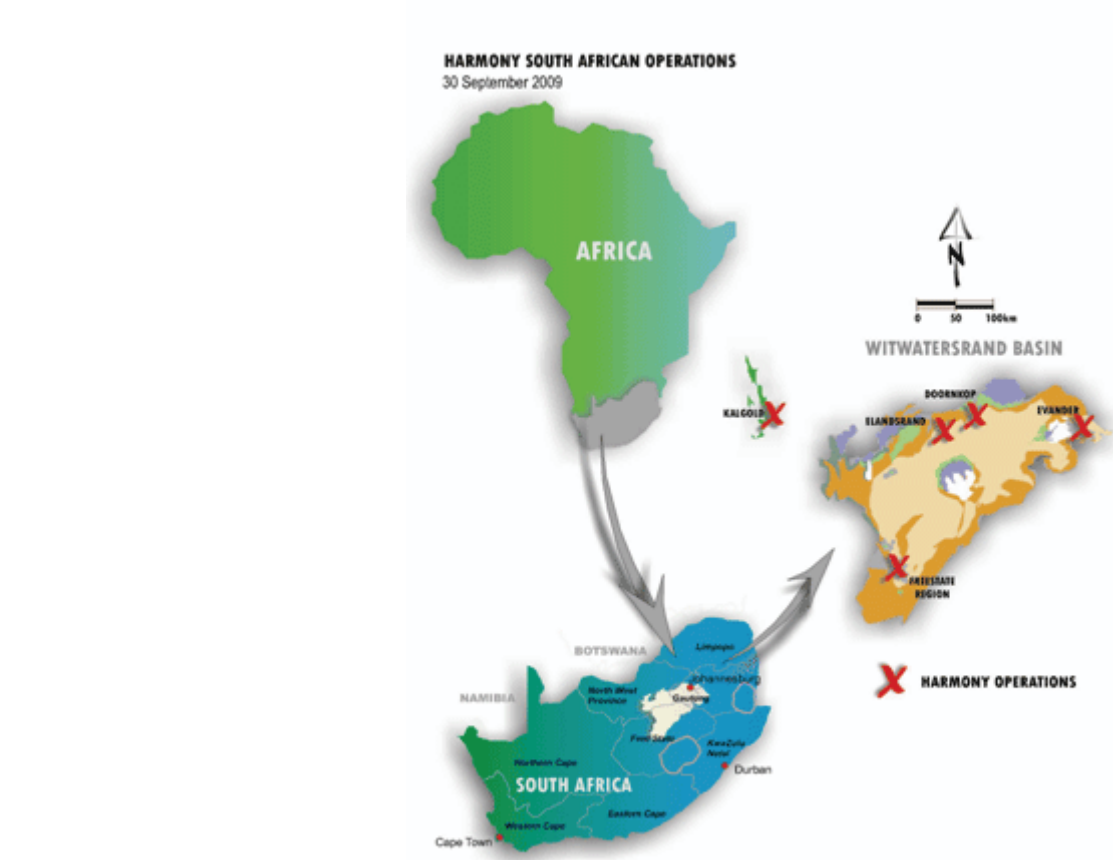
The following discussion is a two-part presentation of our operations:

- an overview of our South African mining operations with a discussion and production analysis of each of our operating segments; and
- an overview of our International (Australian and PNG) operations.

Previously, we disclosed cash costs and cash cost per ounce which including the movement in inventory and calculated using gold ounces sold as a denominator. These amounts have been re-presented for all comparative periods in the discussions and production analyses below following the changes to the calculation of these measures, See *Item 3. “Selected Financial Data — Selected Historical Consolidated Financial Data.”*

Where we have translated the Rand amount budgeted for capital expenditures in 2010 into U.S. dollars, we have used the closing rate at the balance sheet date.

South African Mining Operations



Unless indicated otherwise, the discussions below are for continuing operations.

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Underground

Tshepong, Phakisa and Bambanani

Introduction: We acquired Tshepong, Phakisa and Bambanani when we, in January 2002, acquired the Freegold operations from AngloGold Ashanti Limited (“**Anglogold**”) through a 50% joint venture with African Rainbow Minerals Gold Limited (“**ARMgold**”). In September 2003, we acquired 100% of these operations when ARMgold became a wholly owned subsidiary. These operations are located in the Free State province. Production from the operations is processed through Harmony One Plant.

History: Exploration, development and production history in the area of the Freegold assets dates from the early 1900’s, leading to commercial production by 1932. Subsequent consolidation and restructuring led to the formation of Free State Consolidated Gold Mine (Operations) Limited, which became a wholly-owned subsidiary of AngloGold in June 1998.

Geology: The operations are located in the Free State Goldfield, which is on the southwestern edge of the Witwatersrand basin. The Bambanani, Tshepong and Phakisa mines are located to the north and west of Welkom. Mining is primarily conducted in the Basal reef, with limited exploitation of the B Reef at Tshepong. The reefs generally dip towards the east or northeast while most of the major faults strike north-south. B Reef is being mined at Tshepong with potential of being exploited elsewhere.

Mining Operations: These operations are subject to the underground mining risks detailed in the Risk Factors section. The management teams regularly revisit their mining strategy and management procedures in order to minimize risks.

Mining is conducted at depths ranging from 1,911 and 3,680 meters at Bambanani. The primary mining challenges at these operations are seismic risks, ventilation and fire avoidance. Bambanani is classified as a seismically active operation with seismic activity monitoring systems installed to do active seismic risk evaluation. Seismic activity monitoring systems are upgraded on a continuous basis to ensure that it is kept abreast of emerging technology. Operations at Tshepong were hampered by fires, safety stoppages and major equipment repairs during fiscal 2009.

Bambanani was restructured during the third quarter of fiscal 2008 due to the power shortages in the country. This resulted in the tonnages being reduced by 50%. There was also a significant reduction in the labor complement, with 2,086 people leaving through transfers and voluntary retrenchments. Implementation of the revised mining plan to convert Bambanani to a high-grade, low-volume operation continued during fiscal 2009, but there were some set-backs. While tons mined were on target, several fires occurred in the second quarter in high-grade areas. The average grade for the year was negatively affected as a result, as crews had to be deployed to lower grade panels. In addition, the mine was affected by troublesome industrial relations activities which were resolved by year-end. The split reef/waste hoisting process put in place to some extent ameliorated this loss in grade. Two of the affected areas are being systematically reopened, and will become available in fiscal 2010. Plans are in place to prepare for mining of the high-grade shaft pillar in such as way as to minimize risk and maximize the opportunity this presents. The Bambanani Shaft Pillar Project will be accessed from West Shaft (which will be reopened for this purpose) and release an expected 87% of the resource. The cost of the project is expected to be some R309 million (US\$40 million) and is expected to reach full production in June 2013.

Mining is conducted at depths ranging from 1,671 and 2,154 meters at Tshepong. Operations at Tshepong were hampered during fiscal 2009 as a series of operational, infrastructural and safety-related problems affected the mine. These included a fire in the first quarter that affected 18 panels for a period of a week and constrained flexibility during the year, safety-related stoppages, a power supply failure and a labour go-slow in the second quarter. By the fourth quarter some improvement in volumes were seen. Management spent much time during the year addressing industrial relations issues; these were largely resolved by year-end. The self-directed work team training that was originally pioneered at Tshepong has been reintroduced.

The average grade declined by 6% during fiscal 2009 This was primarily as a result of mining taking place at the edge of the orebody’s main pay shoot, where grades are more variable. Once the Sub 66-decline project has been completed, mining will move into higher-grade, less variable grade zones and grades are expected to rise from fiscal 2011. As impacting on the lower grade was higher than planned off-reef mining in the lower grade north-west area. To mitigate against this grade decline, Tshepong has focussed on quality mining, with attention being paid to improved sweepings, and reduced off-reef mining and stoping widths. By its nature the under-cut mining method employed at Tshepong results in the liberation of gold from finely fragmented ore. Historically, the MCF at Tshepong has been low. Pleasingly, the MCF improved year-on-year from 62% to 67%. The full commissioning of the belt level in the sub-66 decline will also result in higher grades being achieved.

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To improve flexibility, particular emphasis was placed on development in the second half of fiscal 2009. Other key issues that are being addressed by this mine to return it to optimal performance are the performance of the refrigeration plant and pumping infrastructure.

Given the proximity of Tshepong to Phakisa, there are access, ventilation and service synergies that can be exploited to allow access at depth.

The Tshepong Decline project, which started in April 2003, has accessed an additional two levels (69 and 71) of the Tshepong Shaft. The Sub 66 project neared completion at the end of June 2008 with a total capital expenditure of R289 million (U.S.\$39.8 million). The final development component was completed in June 2008. Poor ground condition necessitated intense secondary support and ore pass lining delayed completion. All secondary support has been completed and the lining of orepasses was completed safely during fiscal 2009. Following design alterations recommendations on box front infrastructure installations on 72 Level Cross Belt, all work is scheduled for completion by February 2010. Production commenced at Sub 66 Decline during the year, with the build-up to continue over the next three years. Emphasis is being placed on increasing mineable reserves from this area.

Sub 71 Project made good progress until November 2008 when extreme poor ground conditions were experienced in the developed section. A decision was taken to stop all development and install secondary support in the area. The stoppage continued for seven months until end fiscal 2009. The work was completed safely, without disrupting the production operations from the Sub 66 decline. Cumulatively a total of 1,582 meters have been completed. To date the baseline variation on the original plan is one year. The escalation of input costs, combined with delays and additional material required had a negative impact on the project. First production is expected in August 2012, with full production anticipated in July 2017. The total estimated cost of this project is R194 million (U.S. \$25.1 million).

The development at Phakisa, a surface shaft, sunk to 75 level elevations and a planned decline shaft to 85 level will access the ore reserves to a depth of 2,662 meters below surface. It is estimated that the area will yield 22.6 million tons, recovering 180.9 tons of gold over a project life of 21 years. Project completion requires sinking, equipping and commissioning of a decline shaft up to 85 level. The major project includes access development and stoping to maximum production build-up at a capital cost of R1.6 billion (U.S.\$190 million). To date, R1.2 billion (U.S.\$158.4 million) has already been spent. Good progress was achieved during fiscal 2009, with completion of all infrastructures except the permanent water handling system. Installation of the permanent water handling systems (i.e., Settlers, Main Pump Station on 77 Level, Mud press and underground dams) have been delayed requiring extensive sealing of the dams and re-torque of all the bolts in the shaft pump column to avoid leaks on gaskets, but expected completion is September 2009. The second train on the Rail-veyor was successfully commissioned in November 2008 and the third train planned for October 2009. Three of the 10 ice plant modules have been successfully commissioned and to complete the first phase of the 10 MW cooling system, seven more modules must be commissioned with due date December 2010. The first phase of surface offices and change houses have been successfully completed with the second phase scheduled for June 2010. Phakisa started the first production during September 2007 and will be opening up ore reserves going forward. The project is expected to be in full production in September 2011 at 91,492 tons per month. The average production rate per annum over the peak period of life of mine is 245,243 ounces.

During fiscal 2009, Tshepong accounted for 15% (14% in 2007 and 2008) of our total gold production, with Phakisa accounting for 1.5% (nil for 2007, 0.2% in 2008) and Bambanani 8% (8% in 2007 and 2008).

Safety: During fiscal 2009, the safety statistics for the operations compared to the Group average for lost time injury frequency rate (“**LTIFR**”) of 9.35 (2008: 12.83) per million hours worked and fatality frequency injury rate (“**FFIR**”) of 0.21 (2008: 0.18) are as follows:

	LTIFR	FFIR
Tshepong	15.18	0.62
Phakisa	2.48	0.00
Bambanani	7.48	0.15

Phakisa was awarded, for the second consecutive year, the trophy for the safest mine in the Harmony group for fiscal 2009. There were no fatal accidents in fiscal 2009, and there has not been a fall of ground accident for more than 18 months.

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Regrettably there were seven fatalities at Tshepong during fiscal 2009 (2008: 2), five of which were outside the stoping areas and in areas that would generally be considered lower risk. A behaviour-based safety programme has been implemented to promote safety awareness, particularly in the services areas, so as to address this issue.

Plants: The ore from these operations are sent to Harmony 1 Plant for processing. This plant, which processes underground ore, waste rock and various surface accumulations, was commissioned in 1986 and is a conventional CIP plant processing ore that has been milled by semi-autogenous grinding. Gold is recovered from the eluate solution using zinc precipitation and a precoat vacuum filter. The precipitate recovered from the filter is calcined and smelted to bullion.

The following table sets forth processing capacity and average tons milled during the fiscal 2009 for the Harmony 1 Plant:

Plant	Processing Capacity (tons/month)	Average Milled for the Fiscal Year Ended June 30, 2009 (tons/month)
FS 1	420,000	410,682

In fiscal 2009, Harmony 1 Plant recovered approximately 95.9% of the gold contained in the ore delivered for processing.

Production analysis:

Tshepong	Fiscal Year Ended June 30,		
Production	2009	2008	2007
Tons ('000)	1,516	1,649	1,824
Recovered grade (ounces/ton)	0.152	0.161	0.175
Gold produced (ounces)	230,778	265,914	319,192
Gold sold (ounces)	227,113	273,119	318,887
Results of operations (\$)			
Product sales ('000)	197,726	223,185	202,757
Cash cost ('000)	108,605	124,720	112,043
Cash profit('000)	89,121	98,465	90,714
Cash costs			
Per ounce of gold (\$)	483	455	360
Capex ('000)(\$)	27,711	26,834	26,072

Tons milled declined by 10% from 1,824,000 tons in fiscal 2007 to 1,649,000 in fiscal 2008, with gold production decreasing by 17% from 319,192 ounces in fiscal 2007 to 265,914 ounces in fiscal 2008. The decrease was attributable to the decrease in the recovery grade to 0.161 ounces per ton in fiscal 2008, compared with 0.175 ounces per ton in fiscal 2007. The decrease in recovery grade was primarily due to the decrease in the shaft call factor and the average mining grade which was 1,275 cmg/t in fiscal 2008, compared to 1,365 cmg/t in fiscal 2007. The drop in the average mining grade is in line with the Life of Mine profile. During fiscal 2007 the mining in the east south block was in the main high grade pay shoot and as we continued mining south during fiscal 2008 we were mining closer to the edge of this high grade channel. The continuation of this channel will be mined once the sub 66 and sub 71 decline is completed. Tshepong was hampered by a number of fires and seismic events that significantly affected production in the first half of fiscal 2008. The cessation of Conops also resulted in lower production.

Cash costs for the Tshepong shaft were U.S.\$125 million in fiscal 2008, compared with U.S.\$112 million in fiscal 2007. Cash costs per ounce were U.S.\$455 in fiscal 2008, compared with U.S.\$360 in fiscal 2007. This increase in unit cost is attributable primarily to decrease in the number of ounces of gold produced. Cash costs have increased by 11% in fiscal 2008, primarily due to increases in the costs of labor and supplies and the effect of inflation on supply contracts.

Tons milled declined by 8% from 1,649,000 tons in fiscal 2008 to 1,516,000 in fiscal 2009, with gold production decreasing by 13% from 265,914 ounces in fiscal 2008 to 230,778 ounces in fiscal 2009. The decrease was attributable to the decrease in the recovery grade to 0.152 in fiscal 2009, compared with 0.161 in fiscal 2008. The decrease in recovery grade was primarily due to a decrease in the average mining grade which was 1,153 cmg/t in fiscal 2009, compared to 1,275 cmg/t in fiscal 2008. The drop in the average mining grade is in line with the Life of Mine profile. During fiscal 2008 the mining in the east south block was on the edge of

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the main high grade pay shoot and as mining continued south during fiscal 2009, mining have moved out of this high grade channel. The continuation of this channel will be mined once Sub 66 and Sub 71 decline is completed.

Production volume at Tshepong was negatively influenced due to the phasing out of Conops year on year as well as business interruptions due to a fire, safety, national stay away actions and repairs on major engineering equipment.

Cash costs for the Tshepong shaft were U.S.\$108.6 million in fiscal 2009, compared with U.S.\$124.7 million in fiscal 2008. Cash costs per ounce was U.S.\$483 in fiscal 2009, compared with U.S.\$455 in fiscal 2008. This increase in unit cost is attributable primarily to decrease in the number of ounces of gold produced. Cash cost for fiscal 2009 was impacted by increases in the costs of labor and electric power.

Assuming no additional reserves are identified, at expected production levels and, at the current planned gold price, it is foreseen that the reported proven and probable ore reserves of 26.7 million tons (4.3 million ounces) will be sufficient for Tshepong to maintain underground production until approximately 2026. Any future changes to the assumptions upon which the ore reserves are based, as well as any unforeseen events affecting production levels, could have an effect on the expected period of future operations.

Capital Expenditure: Tshepong incurred approximately R249.4 million (U.S.\$27.7 million) in capital expenditure during fiscal 2009. The expenditure was primarily for the decline project and ongoing development. For fiscal 2010 capital expenditure of R243 million (U.S.\$31.5 million) is planned, primarily for ongoing capital development.

Phakisa	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	204	34	—
Recovered grade (ounces/ton)	0.109	0.118	—
Gold produced (ounces)	22,216	4,024	—
Gold sold (ounces)	21,477	4,212	—
Results of operations (\$)			
Product sales ('000)	19,009	3,891	—
Cash cost ('000)	11,903	2,348	—
Cash profit ('000)	7,106	1,543	—
Cash costs			
Per ounce of gold (\$)	555	497	—
Capex ('000) (\$)	51,210	40,335	31,593

Tons milled increased from 34,000 tons in fiscal 2008 to 204,000 tons in fiscal 2009, with gold production increasing from 4,024 ounces to 22,216 ounces. This was as a result of the planned ramp up in production during the year. Grade was lower in fiscal 2009 at 0.109 ounces per ton, compared to 0.118 in fiscal 2008. This was due to the fact that mining was confined to a single raise line in a lower grade area.

Cash costs per ounce for Phakisa was \$555 per ounce in fiscal 2009, compared with \$497 per ounce in fiscal 2008. This increase is primarily attributable to the increase in tons mined.

The expected capacity of the Phakisa shaft will be 131,175 tons per month. Phakisa has no rock hoisting facilities and all rock will be transported via a rail system on 55 level to the Nyala shaft for hoisting to surface. First production took place during October 2007, with a build up to full production expected in the next two to three years.

Proven and probable underground ore reserves of 22.6 million tons (5.3 million ounces) will be sufficient for the Phakisa shaft to, once production commences, maintain production until approximately fiscal 2030. Any future changes to the assumptions upon which the reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

Capital Expenditure: Phakisa incurred approximately R460.9 million (U.S.\$51.2 million) in capital expenditures in the fiscal year ended June 30, 2009, primarily for the main project. Planned capital expenditure for fiscal 2010 is R489 million (US\$63 million) — R141 million (US\$18 million) on on-going development and R52 million (US\$7 million) on major equipment maintenance and other shaft capital. Capital planned for the main project is R296 million (US\$38 million).

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Bambanani	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	570	912	1,283
Recovered grade (ounces/ton)	0.213	0.170	0.154
Gold produced (ounces)	121,530	154,879	197,084
Gold sold (ounces)	119,665	158,985	197,060
Results of operations (\$)			
Product sales ('000)	102,645	128,346	125,324
Cash cost ('000)	72,343	101,962	115,469
Cash profit ('000)	30,302	26,384	9,855
Cash costs			
Per ounce of gold (\$)	611	639	599
Capex ('000) (\$)	5,779	14,737	17,306

Tons milled from the Bambanani shaft decreased to 912,000 in 2008 compared with 1,283,000 in fiscal 2007. Ounces produced were 154,879 in fiscal 2008, compared with 197,084 in fiscal 2007. This decrease was due to the restructuring of the shaft due to power constraints but was offset by a better recovered grade, which increased from 0.154 in fiscal 2007 to 0.170 in fiscal 2008.

Cash costs per ounce for Bambanani were U.S.\$639 in fiscal 2008, compared with U.S.\$599 in fiscal 2007. The costs per ounce increased by 7% in fiscal 2008, due to the slow start up after the collapsing of the old ore pass system increases in the costs of labor and supplies and the effect of inflation on supply contracts.

Tons milled from the Bambanani shaft decreased to 570,000 in 2009 compared with 912,000 in fiscal 2008. Ounces produced were 121,530 in fiscal 2009, compared with 154,879 in fiscal 2008. This decrease was due to the restructuring of the shaft due to power constraints but was offset by a better recovered grade, which increased from 0.170 in fiscal 2008 to 0.213 in fiscal 2009.

Cash costs per ounce for Bambanani were U.S.\$611 in fiscal 2009, compared with U.S.\$639 in fiscal 2008. The costs per ounce decreased by 4% in fiscal 2009, due to an increase in grade mined offset by an increases in the cost of labor and supplies and the effect of inflation on supply contracts.

The rock hoisting capacity at Bambanani is 116,000 tons per month. The average tons milled in fiscal 2009 was 47,500 tons per month. 52,900 tons per month are planned for fiscal 2010.

Assuming no additional reserves are identified, at expected production levels, it is foreseen that the reported proven and probable ore reserves of 5.2 million tons (1.4 million ounces) will be sufficient for Bambanani to maintain underground production until approximately 2021. Any future changes to the assumptions upon which the ore reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

Capital Expenditure: Bambanani incurred approximately R52 million (U.S.\$5.8 million) in capital expenditure in fiscal 2009, primarily for ongoing development. We budgeted R73 million (U.S.\$9.4 million) for capital expenditure in fiscal 2010 for access development for the shaft pillar extraction and R25.5 million (U.S.\$2.8 million) for ongoing development with R18.4 million (U.S.\$2.0 million) for major equipment maintenance.

Doornkop

Introduction: Doornkop is located in the Gauteng Province of South Africa, approximately thirty kilometers west of Johannesburg. The operation is owned by Randfontein Estates Limited (“**Randfontein**”). Doornkop currently operates under its own mining authorization of 2,941 hectares. Production is treated at the Doornkop plant.

History: Harmony acquired this operation when it took over Randfontein.

Geology: These operations are situated in the West Rand Goldfield of the Witwatersrand Basin, the structure of which is dominated by the Witpoortjie and Panvlakte Horst blocks, which are superimposed over broad folding associated with the southeast plunging West Rand Syncline.

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The Doornkop shaft lease area is bounded by and lies to the south-east of the major north-easterly striking Roodepoort Fault, which dips to the south and constitutes the southern edge of the Witpoortjie Horst Block or Gap. This Horst Block is comprised of the stratigraphically older sediments of the West Rand Group, the overlying Central Rand Group sediments having been removed by erosion. A number of other faults, forming part of and lying southeast of the Roodepoort Fault, including the Saxon Fault, also constitute conspicuous structural breaks. A second major fault, the Doornkop Fault, which trends in an east west direction occurs towards the southern portion of the lease area. This fault dips to the south and has an up-throw to the north. Nearly the entire upper Witwatersrand section is present in the lease area and therefore all the major zones are present, though due to the distance of the area from the fan head, the number of economic bands and their payability is limited. Eight of the well-known reefs are present in the area, but only the Kimberley Reef and South Reef are considered viable at this stage. The resource is concentrated in the Kimberley and South Reefs. The Kimberley Reef is contained in the Vlaktefontein Member of the Westonia Formation. This reef, also known as the K9 Reef horizon, rests on an unconformity and is a complex multi-pulse conglomerate, which can be separated into four facies or cycles. All four cycles consist on average of an upper conglomerate and a lower quartzite. The characteristics of every cycle are area-dependent and the grades are variable within each cycle. The South Reef is approximately 900 metres below the current Kimberley Reef mining, and between 7.5 and 60 metres above the Main Reef horizon. The hanging wall to the South Reef consists of siliceous quartzites with non-persistent bands of “blue-shot” grit and thin argillite partings. The footwall to the South Reef is a light coloured and fairly siliceous quartzite. Secondary conglomerate bands and stringers in the hanging wall and footwall of the South Reef may contain sporadic gold values. The general strike of the reef is east-west, with a dip from 10 to 20 degrees. The orebody at Doornkop has a strike length of 4km and a width of 4 km from west to east.

During the fiscal 2009 year, the gathering of additional geological information from on-reef development and exploration drilling on the South Reef has continued. This has further increased our knowledge of the sedimentology and grade characteristics of this ore body. The latest data supports the sheet-type depositional model as described in fiscal 2008. The geological, depositional, facies & evaluation models receive regular attention and are being expanded as the new data becomes available. An exercise is underway to capture all data electronically and have a 3-D geological model as an end product. This model will incorporate the Kimberley, South & Main Reefs and forms part of the geological risk mitigation strategy.

Mining Operations: These operations are subject to the underground mining risks detailed in the Risk Factors section. Due to the shallow to moderate depths of the operations, seismicity and high rock stress related problems are infrequent. There is a risk of subterranean water and/or gas intersections in some areas of the mines. However, this risk is mitigated by active and continuous management and monitoring, which includes the drilling of boreholes in advance of faces. Where water and/or gas are indicated in the drilling, appropriate preventative action is taken.

Production from the Kimberley reef section of the mine continued in the trackless sections and will continue for a further two years while the build-up of production from the south reef sections continues. Grades from the Kimberley reef mining on level 106 declined and steps are being taken to move to level 71. Volumes were also affected by the lack of availability of trackless vehicles. Production volumes from the higher grade South Reef areas was slower than planned, largely as a result of logistical constraints and delays which related to transport of men and material as well as the hoisting of rock from the project areas. By April 2009, both the dual purpose winder, which was fully commissioned to a depth of 2,000 meters, and the dedicated rock winder to hoist Kimberley reef ore were commissioned which assisted to relieve the rock hoisting bottleneck that had been experienced. During May and June of fiscal 2009 the operation achieved record monthly hoisting volumes and meters of development.

The Doornkop South Reef Project was announced on January 22, 2003. The project involved the deepening of the Doornkop main shaft to 1,973 meters to access the South Reef between 1,650 and 2,000 meters below surface, and includes development towards these mining areas. The estimated final capital cost is R1,740 million (U.S.\$193.33 million) with R1,251 million (U.S.\$139.0 million) spent as of June 30, 2009.

The most significant achievement for fiscal 2009 was the commissioning of both the dual purpose winder and the dedicated rock winder (to level 132) which resulted in South Reef ore being hoisted separately from waste and further ensured that the rock hoisting bottleneck was alleviated. In addition, level 197 in the South Reef area came into production. Remaining work includes the commissioning of the pump station on level 207 and the Rock winder commissioned to level 212, the lowest working level, by February 2010. Full production is expected by March 2015.

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During fiscal 2009, Doornkop accounted for 3% (2% in 2007 and 2008) of our total gold production.

Safety: The safety record at these operations during fiscal 2009 was as follows: in terms of LTIFR of 6.25 per million hours worked achieved at Doornkop compared favorably with the group average of 9.35. The FFIR (0.0) compared favorably with the group average of 0.21.

Safety at the operations receives constant and high-level attention and where problems are identified, steps are taken to address the risks.

Plants: The processing facilities presently comprises of one operating plant, the Doornkop metallurgical plant, which is serviced by a surface rail network. The Doornkop metallurgical plant, commissioned in 1985, is a conventional CIP plant, which was used to treat waste rock and other surface accumulations. It is now treating all ore from underground mining at the Doornkop operation and Rand Uranium’s Cooke operations.

The following table sets forth processing capacity and average tons milled during fiscal 2009 for the Doornkop plant:

Plant	Processing Capacity (tons/month)	Average Milled for the Fiscal Year Ended June 30, 2009 (tons/month)
Doornkop	220,000	138,735

In fiscal 2009, the Doornkop plant recovered approximately 94.7% of the gold contained in the ore delivered for processing.

Production analysis:

	2009	Fiscal Year Ended June 30, 2008	2007
Doornkop Production			
Tons ('000)	605	494	597
Recovered grade (ounces/ton)	0.070	0.089	0.095
Gold produced (ounces)	42,150	44,038	56,810
Gold sold (ounces)	43,211	44,143	57,364
Results of operations (\$)			
Product sales ('000)	38,128	35,489	36,503
Cash cost ('000)	31,253	31,014	25,210
Cash profit ('000)	6,875	4,475	11,293
Cash costs			
Per ounce of gold (\$)	804	749	438
Capex ('000) (\$)	43,918	48,039	37,557

Tons milled from Doornkop shaft were 494,000 in fiscal 2008, compared with 597,000 in fiscal 2007. Volumes were negatively affected mainly as a result of an 18 day planned production stoppage to facilitate required shaft work and a reduction in volume at the conventional Kimberley mining section due to low grades.

The shaft work was related to the South Reef project sinking program. In addition three days were lost to the industry through the Eskom power management process. Ounces produced were 44,038 in fiscal 2008, compared 56,810 in fiscal 2007.

The decrease in ounces produced was primarily due to the lower recovery grade and decrease in tons milled. The recovered grade deteriorated to 0.089 in fiscal 2008, compared with 0.095 in fiscal 2007, due to the depletion of higher grade reserves in the Kimberley reef section of the mine. The conventional mining sections of this reef mined in the channel edge areas and production was stopped during June 2008. Production from trackless areas will continue during the build-up phase of mining from the project South Reef areas.

Cash costs per ounce of gold were U.S.\$749 in fiscal 2008, compared with U.S.\$438 in fiscal 2007. This increase was attributable primarily to the lower production volumes and industry wide cost increases. It was also adversely influenced by the movement out of

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Capital areas into production areas which resulted in costs previously incurred as capital expenditure, now being spent as operational costs.

Tons milled from Doornkop shaft were 605,000 in fiscal 2009, compared with 494,000 in fiscal 2008. Volumes increased, largely as a function of the increase in tons mined at the South Reef workings (96,000), as well as an increase in the stoping width at the Kimberley reef mining. Ounces produced were 42,150 in fiscal 2009, compared 44,038 in fiscal 2008.

The decrease in ounces sold was primarily due to the lower recovery grade. The recovered grade deteriorated to 0.070 in fiscal 2009, compared with 0.089 in fiscal 2008, mainly due to the decline in the grade mined from the Kimberley reef trackless mining sections. Production from trackless areas will continue during the build-up phase of mining from the South Reef project areas. Grade from the South Reef project was negatively affected by the large unavoidable volumes of development waste rock that were included in the reef stream which resulted in diluted head-grade. South Reef ore is now hoisted separately from waste which resulted in much improved recovered grades during the final two months of fiscal 2009.

Cash costs per ounce of gold were U.S.\$804 in fiscal 2009, compared with U.S.\$749 in fiscal 2008. The increase was mainly from labor, consumables and services cost. Labour cost increased due to an increase in labor to cater for the new South reef production levels and from annual wage increases. Consumable costs increased as a result of the South reef production build-up where additional metres were mined. In addition significant increases in power cost (38%) and company overhead cost (78%) were incurred, measured against fiscal 2008.

The hoisting capacity of the Doornkop shaft is 185,000 tons per month. The average tons milled in fiscal 2009 were 50,416 tons per month.

Assuming no additional resources are identified, at expected production levels, it is foreseen that the reported proven and probable ore reserve of 2.0 million tons (0.223 million ounces) will be sufficient for the Doornkop shaft to maintain production until approximately fiscal 2013. Any future changes to the assumptions upon which the reserves & resources are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

Capital Expenditure: Harmony incurred R395 million (U.S.\$43.9 million) in capital expenditure in fiscal 2009 at Doornkop, primarily for shaft equipping, supporting infrastructure, development and rolling stock for material and rock transport. The planned capital expenditure for fiscal 2010 is R283 million (US\$36.7 million), of which R62 million (\$8 million) is for on-going development, R12 million (US\$1.55 million) for other shaft capital and major equipment maintenance and R209 million (US\$27.1 million) for the South Reef project. Total project capital expenditure incurred amounts to R1,251 million (U.S.\$139.0 million) as of June 30, 2009.

Elandsrand

Introduction: Elandsrand is located near Carletonville on the Gauteng/North West province border in South Africa. The assets and associated liabilities were purchased during fiscal 2001 for approximately R1 billion (U.S.\$128.4 million) from Anglogold. Ore from the operation is treated at the Elandskraal plant.

History: Gold mining began at Elandsrand in 1978 following approval of the project in 1974 by Elandsrand Gold Mining Company. Two surface shafts and two adjoining sub-vertical shafts were sunk at Elandsrand. The sub-vertical shafts at Elandsrand, which accessed the deeper part of the VCR reef in the lease area, were completed in 1984. The deepening of the sub-vertical shafts to approximately 3,600 meters below surface has been completed by the previous owners after the deepening project was commissioned in 1991. Activities are currently focused on accessing and opening up areas of the new mine and on the development and construction of support infrastructure.

Geology: At Elandsrand we primarily exploit the Ventersdorp Contact Reef, or VCR, the Carbon Leader Reef, or CLR, with the Middelvlei Reef and the Mondeor Conglomerate Reef Zone as secondary targets. Only the VCR is economic to mine and has been mined at depths below surface between 1,600 and 2,800 meters with future production to take place up to 3,600 meters below surface at the Elandsrand operations. The VCR consists of a narrow (20 centimeters to 2 meters) tabular orebody of quartz pebble conglomerates hosting gold, with extreme lateral continuity.

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At the Elandsrand operation, the vertical separation between the VCR and CLR increases east to west from 900 meters to 1,300 meters as a result of the relative angle of the VCR unconformity surface to the regional stratigraphic strike and dip. The VCR strikes east-northeast and has a regional dip of 21 degrees to the south-southeast. Local variations in dip are largely due to the terrace-and-slope palaeotopography surface developed during VCR deposition.

Mining Operations: The Elandsrand mine is subject to the underground mining risks detailed in the Risk Factors section.

The Elandsrand mine, a mature mine with a declining production profile, has the challenge of a new mine being developed underneath the old mine. The implementation of Conops between August 2004 and February 2005 improved production. However, after an assessment done during fiscal 2007, Conops was stopped during February 2008. The operation is still hampered by the lack of flexibility, an issue that will be addressed by the full commissioning of the new mine. Due to the operating depths of the Elandsrand underground operations, seismicity and high rock stress are significant risks at the mine. We regularly review our mining strategy and management procedures at all of the mining operations in our efforts to mitigate these risks. The primary challenges facing the Elandsrand operations are seismicity, lack of mining flexibility, high cash costs, and the timely completion of the Elandsrand New Mine project by fiscal 2011.

During fiscal 2009, good progress continued to be made with the development and the build-up of production on the Elandsrand new mine project. The winder and headgear for the No 3 backfill shaft were installed and commissioned in May 2009 and sinking started. This shaft will supply feed and return chilled water to 109 and 113 levels. By year-end both 22 kV transformers had been installed and commissioned at 100 level, as had two of eight bulk air coolers. Commissioning of the second settler dam will begin once the dam wall and suction piping on 115 level has been completed. Progress was also made with the installation of the refrigeration plant pipes and the ventilation system. Commissioning of the pump station at 115 level, scheduled for the end of fiscal 2009, was delayed owing to leaks in the No 1 settler dam. Access development on 113 level was completed in February 2009.

The project is expected to be completed by fiscal 2011 and is expected to have a life of mine of 28 years. From the inception of the project through to the end of fiscal 2009, R940 million (U.S.\$104.0 million) has been expended. A further R160 million (U.S.\$20.7 million) has been budgeted to complete the project.

In fiscal 2009, our Elandsrand operations accounted for approximately 11% (9% in fiscal 2008 and 8% in fiscal 2007) of our total gold production.

Safety: During fiscal 2009, the safety record at the Elandsrand mine in terms of LTIFR, 12.67 per million hours worked, compared unfavorably with the group average of 9.35. Although this is a good improvement compared to fiscal 2008 (16.24), the benchmark has still not been achieved. During the second half of fiscal 2009, a LTIFR of less than 10 has been achieved consistently due to the implementation of the Qaphelangozi safety campaign, which was started during the period. Significant work was done to address the seismic risk described above and the FFIR (0.36) returned to a more consistent ratio with the group average of 0.21 for underground operations.

Plants: Commissioned in 1978, the Elandsrand Plant consist of milling in closed circuit with primary and secondary hydrocyclones, secondary ball milling in closed circuit with hydrocyclones, thickening and cyanide leaching in a CIP pump cell carousel circuit. The CIP was commissioned after an upgrade of the facility in 1999. Loaded carbon from the Elandsrand Plant is transported by road to the Central Plant at Virginia for elution, electro-winning and smelting to produce gold. Residues from the CIP are pumped either to a backfill plant or directly to the tailings facility. Ore from Elandsrand underground operations is delivered to the plant for treatment via conveyor belt after being hoisted from underground. Due to a high percentage of freegold, a gravity concentration circuit is used to extract a large percentage of the gold. The sludge from this concentrator is then transported by air to the Target Plant for extraction and smelting.

The following table sets forth processing capacity and average tons milled during fiscal 2009 for the plant:

Plant	Processing Capacity (tons/month)	Average Milled for the Fiscal Year June 30, 2009 (tons/month)
Elandsrand Plant	185,000 ⁽¹⁾	83,951

⁽¹⁾ Processing capacity will reach its optimal capacity upon completion of the Elandsrand New Mine Project.

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In fiscal 2009, the Elandsrand Plant recovered approximately 96.6% of the gold contained in the ore delivered for processing.

Production analysis:

Elandsrand	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	1,061	981	1,117
Recovered grade (ounces/ton)	0.164	0.167	0.175
Gold produced (ounces)	174,321	164,215	195,412
Gold sold (ounces)	183,676	158,631	194,710
Results of operations (\$)			
Product sales ('000)	157,956	132,699	124,347
Cash cost ('000)	117,321	103,351	102,534
Cash profit ('000)	40,635	29,348	21,813
Cash costs			
Per ounce of gold (\$)	660	652	535
Capex ('000) (\$)	46,915	43,830	33,094

Tons milled from the Elandsrand shaft were 981,000 in fiscal 2008, compared with 1,117,000 in fiscal 2007, and ounces produced were 164,215 in fiscal 2008, compared with 195,412 in fiscal 2007. Volumes were negatively affected, mainly as a result of days lost to the shaft accident, namely 42, and the continued lack of flexibility in face length to deal with erratic face grades and seismicity. The recovered grade declined during fiscal 2008 as a result of higher channel widths on the Western section of the mine, as well as a delay in starting up some of the higher grade areas, due to it taking longer than expected to bring the environmental conditions within standard in deeper mining areas, after the shaft incident in October 2007.

The increase in labor rates and inflation were the main contributors to the increase in cash cost from U.S.\$535 per ounce in fiscal 2007 to U.S.\$652 per ounce in fiscal 2008. Costs per ounce have increased in fiscal 2008 by 22%, due primarily to the reduced ounces as a result of the shaft incident causing the mine to stand for 42 days. Increases in the costs of labor and supplies, especially steel and the effect of inflation on supply.

Tons milled from the Elandsrand shaft were 1,061,000 in fiscal 2009, compared with 981,000 in fiscal 2008. Ounces produced increased to 174,321 in fiscal 2009, compared with 164,215 in fiscal 2008 as a result of the increased volumes in production. Mining continues in the old, upper areas of the mine, while the new mine project is completed. Recovered grades decreased marginally during fiscal 2009, resulting in an average of 0.164 ounces per ton in fiscal 2009, compared to the average of 0.167 ounces per ton in fiscal 2008.

The increase in electricity costs, labor rates and inflation were the main contributors to the increase in cash cost from U.S.\$652 per ounce in fiscal 2008 to U.S.\$660 per ounce in fiscal 2009. Cash cost per ounce only increased by 1% due to increased ounces produced which neutralized the higher than normal increases in labor rates and electricity increases approved by the NERSA. Electricity rates are expected to continue rising above the norm until Eskom has developed additional power generating plants.

Elandsrand shaft has a hoisting capacity of 190,000 tons per month which will be utilized to its full capacity once the Elandsrand New Mine Project is complete and the production buildup reaches its maximum. The average tons milled in fiscal 2009 was 83,951 tons per month.

Assuming no additional reserves are identified, at expected production levels, it is foreseen that the reported proven and probable ore reserves of 41.5 million tons, or 7.5 million ounces will be sufficient for the Elandsrand shaft to maintain underground production until approximately calendar year 2037. Any future changes to the assumptions upon which the ore reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

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Capital Expenditure: Harmony incurred R422.3 million (U.S.\$46.9 million) in capital expenditure at the Elandsrand operations in fiscal 2009 mainly for the sub shaft deepening project and ongoing development. An additional project, the Emergency Escape project was started during fiscal 2009, to improve the effectiveness of evacuation of people from underground during a shaft emergency.

Harmony budgeted R513 million (U.S.\$66.5 million), for capital expenditure at the Elandsrand operations in fiscal 2010, primarily for the sub-shaft deepening project and ongoing development expenditure.

Masimong

Introduction: Masimong is located in the Free State province, near Riebeeckstad. The Masimong complex comprises of an operating shaft — 5 shaft — and 4 shaft which, although closed, is used for ventilation, pumping and as a second outlet. Mining is conducted at depths ranging from 1,518 meters to 2,300 meters. Ore is treated at the Harmony One Plant.

History: Masimong is located in the Free State Goldfield on the south-western edge of the Witwatersrand Basin. The company purchased the Masimong complex (formerly know as Saaiplaas Shafts 4 and 5) during September 1998.

Geology: The operation, exploits the Basal Reef, which varies from a single pebble lag to channels on more than 2m thick. It is commonly overlain by shale, which thickens northwards. Masimong is also mining secondary reefs, most notably the Leader Reef (15-20m above Basal) and the B Reef (140m above Basal). The Leader Reef consists of multiple conglomerate units, separated by thin quartzitic zones, often totalling up to 4 metres thick. A selected mining cut on the most economic horizon is often undertaken. The B Reef is a highly channelised orebody. Within the channels, grades are excellent, but this falls away to nothing outside of the channels. Consequently, the operation has undertaken extensive exploration to locate these pay channels.

Mining Operations: The operations are subject to the underground mining risks detailed in the Risk Factors section. Due to the shallow to moderate depths of the underground operations, seismicity related problems are relatively infrequent. We regularly revisit our mining strategy and management procedures in connection with our efforts to mitigate risks of these problems. There is a risk of subterranean water and/or gas intersections in some areas of the mine. However, this risk is mitigated by active and continuous management and monitoring, which includes the drilling of boreholes in advance of faces. Where water and/or gas are indicated in the drilling, appropriate preventative action is taken.

The restructuring programme which began in fiscal 2008 at Masimong has taken this operation from the brink of closure to being among the lowest cost-per-kilogram-producers in the Harmony stable. This restructuring included management positions, as well as the termination of continuous operations. Masimong is now a steady-state operation, although further improvements in efficiencies are envisaged. Volumes improved by 10% in fiscal 2009. This was despite a fire in the B reef area and ventilation incidents relating to illegal mining activities. Damaged ventilation seals in the disused 4 shaft area caused major airflow problems at 5 shaft, particularly in the third and fourth quarters, and repairs are likely to be effected by December 2009. A booster fan will be installed between 4 and 5 shafts to partially address this ventilation issue.

A focus on training (People Transformation Project), in which all production crews received training on safety and health, business awareness, productivity improvement and team-building, presented positive results. Supervisory training, specifically aimed at front line supervisors, was also completed during the year.

An infrastructural upgrade involving tracks, locomotives, refrigeration, ventilation and compressors was recently begun and will continue in fiscal 2010. Steps were also taken to improve ore reserve management and quality mining on the Basal Reef stopes. Good grades achieved from the B reef further contributed to the overall improvement in grade.

In fiscal 2009, Masimong accounted for approximately 10% (6% in fiscal 2007 and fiscal 2008) of our total gold production.

Safety: The safety record at Masimong during fiscal 2009 in terms of LTIFR of 8.67 per million hours worked compared favorably with the group average of 9.35. The FFIR of 0.27 at Masimong doesn't compare favorably with the group average of 0.21 for underground operations. A Behavioral Safety program is in place to correct and reduce the human element in accidents.

Plants: The ore from theses operations are sent to Harmony One Plant for processing. This plant, which processes underground ore, waste rock and various surface accumulations, was commissioned in 1986 and is a conventional CIP plant processing ore that has been milled by semi-autogenous grinding. Gold is recovered from the eluate solution using zinc precipitation and a precoat vacuum filter. The precipitate recovered from the filter is calcined and smelted to bullion.

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Production analysis:

Masimong Shaft Complex	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	981	892	1,074
Recovered grade (ounces/ton)	0.157	0.131	0.136
Gold produced (ounces)	154,034	116,424	146,575
Gold sold (ounces)	154,581	117,575	147,958
Results of operations (\$)			
Product sales ('000)	135,025	96,147	94,534
Cash cost ('000)	73,494	87,630	82,833
Cash profit ('000)	61,531	8,517	11,701
Cash costs			
Per ounce of gold (\$)	476	756	543
Capex ('000) (\$)	14,479	15,686	15,141

Tons milled from the Masimong shaft complex were 892,000 in fiscal 2008, compared with 1,074,000 in fiscal 2007. Ounces produced were 116,424 in fiscal 2008, compared with 146,575 in fiscal 2007. This is mainly attributable to the reduction in tons milled.

The drop in recovered grade by 0.005 ounces per ton from fiscal 2008 to fiscal 2007 can be attributed to a 3.7% drop in grade mined and a 0.72% drop in the MCF. Both these parameters were negatively influenced by the B Reef, as mining of B Reef in fiscal 2008 was significantly focused in the South Eastern portion of the 5 shaft lease area. This area is typically a highly channelized deposit with economic channels occurring at oblique to perpendicular angles to the normal depositional axis of the B Reef. These channels are generally small measured on the latitudinal axis and highly unpredictable, thus making mining and valuation extremely difficult.

Cash costs were U.S.\$87.6 million in fiscal 2008 compared with U.S.\$82.8 million in fiscal 2007 with cash costs per ounce at U.S.\$756 in fiscal 2008 compared with U.S.\$543 in fiscal 2007. This increase in cash cost is mainly attributable to increase in labor costs as a result of the annual wage increases.

Tons milled from the Masimong shaft complex were 981,000 in fiscal 2009, compared with 892,000 in fiscal 2008, and ounces produced were 154,034 in fiscal 2009, compared with 116,424 in fiscal 2008. Year on year gold production increased due to an increase in tons as well as the recovered grade.

Cash costs were U.S.\$73.5 million in fiscal 2009 compared with U.S.\$87.6 million in fiscal 2008 with cash costs per ounce at U.S.\$476 in fiscal 2009 compared with U.S. \$756 in fiscal 2008. This decrease in cash cost is mainly attributable to a 9.7% decrease in labor. Labor efficiencies contributed significantly to the improved performance. This was the first year that Masimong was fully off the Conops cycle.

The increase in recovered grade by 0.026 ounces per ton from fiscal 2008 to fiscal 2009 can be attributed to an increase in quality mining discipline. Most notable was the 6.9% increase in MCF and a 20% increase in face grade mined. This was achieved on the back of the Masimong transformation process initiated in April 2008. Furthermore the amount of B reef mining was decreased from 25% of total mining to 16% of total mining. This step reduced the high risk with regards to grade associated with the traditionally variable B Reef ore body.

Assuming no additional reserves are identified, at expected production levels, it is foreseen that the reported proven and probable ore reserves of 6.4 million tons (0.984 million ounces) will be sufficient for the Masimong shaft complex to maintain underground production until approximately fiscal 2021. Any future changes to the assumptions upon which the reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

Capital Expenditure: Masimong incurred approximately R130.3 million (U.S.\$14.5 million) in capital expenditures in fiscal 2009, primarily on refrigeration infrastructure. We have budgeted a total of R238 million (\$30.8 million) for capital expenditures at Masimong in fiscal 2010, primarily for upgrading of the rail bound equipment as well as for back up generators for Masimong Complex.

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Virginia operations

Introduction: The Virginia operations are located in the Free State province, near Virginia and Welkom. The Virginia operations consist of the original Harmony mines, the Unisel mine, Brand shafts 1 and 3(mined from Brand 1 shaft). Mining is conducted at these operations at depths ranging from 682 meters to 2,042 meters. Ore is treated at the Central Plant and Harmony One Plant.

History: Our operations in the Free State began with the Harmony mine, which is an amalgamation of the Harmony, Virginia and Merriespruit mines. Beginning in 1996, we began purchasing neighboring mine shafts. The Unisel mine was purchased in September 1996, the Saaiplaas mine Shafts 2 and 3 were purchased in April 1997, the Brand mine Shafts 1, 2, 3 and 5 were purchased in May 1998.

Geology: These operations are located in the Free State Goldfield on the south-western edge of the Witwatersrand Basin. The basin, situated on the Kaapvaal Craton, has been filled by a 6-kilometre thick succession of sedimentary rocks, which extends laterally for hundreds of kilometres. The Free State goldfield is divided into two sections, cut by the north-south striking De Bron Fault. This major structure has a vertical displacement of about 1,500m in the region of Bambanani, as well as a lateral shift of 4km. This lateral shift can allow a reconstruction of the orebodies of Unisel to the west of the De Bron and Merriespruit to the east.

A number of other major faults (Stuirmanspan, Dagbreek, Arrarat and Eureka) lie parallel to the De Bron Fault.

Unisel and Brand are situated to the west of the De Bron. Dips are mostly towards the east, averaging 30 degrees but become steeper approaching the De Bron Fault. To the east of the fault lie Merriespruit 1 and 3 and Harmony 2 mines. These mostly dip towards the west at 20 degrees, although Masimong is structurally complex and dips of up to 40 degrees have been measured. Between these two blocks lies the uplifted horst block of West Rand Group sediments with no reef preserved. The western margin area is bound by synclines and reverse thrusts faults and is structurally complex. Towards the south and east, reefs sub-crop against overlying strata, eventually cutting out against the Karoo to the east of the lease area.

Most of the Ore Resource tends to be concentrated in reef bands located on one or two distinct unconformities. A minority of the Mineral Resource is located on other unconformities. Mining that has taken place is mostly deep-level underground mining, exploiting the narrow, generally shallow dipping tabular reefs.

The Basal Reef is the most common reef horizon and is mined at all shafts. It varies from a single pebble lag to channels on more than 2m thick. It is commonly overlain by shale, which thickens northwards.

The second major reef is the Leader Reef, located 15-20m above the Basal Reef. This is mostly mined at the shafts to the south — Unisel, Harmony 2, Merriespruit 1 and Merriespruit 3. Further north, it becomes poorly developed with erratic grades. The reef consists of multiple conglomerate units, separated by thin quartzitic zones, often totalling up to 4 metres thick. A selected mining cut on the most economic horizon is often undertaken.

The A Reef is a highly channelised reef. This is currently only mined at Harmony 2 and Brand. It consists of multiple conglomerate bands of up to 4m thick and a selected mining cut is usually required to optimise the orebody.

Mining Operations: The operations are subject to the underground mining risks detailed in the Risk Factors section. Due to the shallow to moderate depths of the underground operations, seismicity related problems are relatively infrequent with the exception of Unisel and Harmony shafts and Merriespruit 1 shaft pillar, where these problems receive constant attention. We regularly revisit our mining strategy and management procedures in connection with our efforts to mitigate risks of these problems. There is a risk of subterranean water locally at Merriespruit 1, referred to as water pillar area, and/or gas intersections in some areas of the mine. However, this risk is mitigated by active and continuous management and monitoring, which includes the drilling of boreholes in advance of faces. Where water and/or gas are indicated in the drilling, appropriate preventative action is taken. The principal challenges at the operations of achieving optimal volumes and grades of ore production are addressed by stringent ore reserve management.

The inner shaft pillar at Merriespruit 1 is being successfully mined. Approximately 70% of the pillar is mined out.

Merriespruit 3 shaft improved its haulage and tramming conditions during fiscal 2007 and 2008, allowing the shaft to improve its safety and tonnage profile. Equipping of basal reef on 12 level took place during 2008 and limited mining of the basal reef will resume for the first time since 2002.

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Harmony 2 shaft re-started the H2 shaft pillar Leader reef exploration program in 2005, following the improvement in the gold price. This ground has been successfully mined and the extension of the pay shoot towards H3 shaft is currently being explored. The evaluation and quantification of the “A reef vent” project block were completed in 2007 (drilling etc.) and development started in 2008. Basal reef pillars belonging to Merriespruit 1 are being accessed through the shaft. The first pillar is currently being mined and equipping towards further pillars is ongoing.

Brand 1 shaft is being utilized to mine the Brand 1 and 3 ore bodies. Major effort has been done to improve the infrastructure of the shaft, which has allowed the shaft to improve its tonnage handling to the current levels of some 44,000t per month. A loop is currently being developed in the 40 level haulage to allow access to the A reef in the Brand 3 area. This will allow improved servicing of the area and a 2.5 kilometer reduction in tramming distances. Re-equipping on 44 level is in progress to open up a Basal Reef pillar located on the Saint Helena boundary pillar. This block of ground will come into production during the course of fiscal 2010.

Unisel mining is scattered to the south of the shaft and in the decline area towards the east of the shaft. Mining also takes place west in the Tarka block. Development is targeted towards Basal and Leader Reef channels which cut the lease area in a west to east direction. Prospecting for A and B Reefs is in progress.

The Brand 2 and Brand 5 Shafts are currently on care and maintenance whilst Brand 5 serves as a major pumping shaft for the President Steyn, Brand, and Bambanani mining areas.

Harmony 3 shaft is currently used only as a service shaft for pumping although some of its reserves are mined through the adjacent Harmony 2 shaft.

In fiscal 2009, Virginia operations accounted for approximately 17% (13% in fiscal 2008 and 11% in 2007) of Harmony’s total gold production.

Safety: The safety record during fiscal 2009 in terms of LTIFR of 12.38 per million hours worked compared unfavorably to the group average of 9.35. The FFIR of 0.06 compared favorably to the group average of 0.21 for underground operations.

Plants: There are two metallurgical plants at the Free State operations, namely Central and Saaiplaas plants. A third plant, Virginia plant, was closed in fiscal 2005 and clean-up operations implemented and, during fiscal 2008, a project was initiated on the demolition of the plant which will continue through into fiscal 2010. The Central plant was commissioned in 1986 and employs CIP/CIL hybrid technology. It is currently dedicated to the treatment of both underground ore and waste rock. The Saaiplaas plant, commissioned in the late 1950’s, has been converted from the zinc precipitation filter process to the CIL. During 2007, the ROM mills were de-commissioned and the plant started treating slime from Dam 22 and Brand A tailings storage facilities. The plant was officially re-named the Phoenix plant and currently processes reclaimed slime at 6 million tons per annum.

The following table sets forth processing capacity and average tons milled during fiscal 2009 for each of the plants:

Plant	Processing Capacity (tons/month)	Average Milled for the Fiscal Year Ended June 30, 2009 (tons/month)
Central	168,000	161,768
Phoenix	500,000	480,262

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In fiscal 2009, Central plant recovered approximately 93.8% of the gold contained in the ore delivered for processing and Phoenix plant, approximately 43.1%.

Virginia operations	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	2,493	2,349	2,507
Recovered grade (ounces/ton)	0.104	0.106	0.106
Gold produced (ounces)	258,170	247,820	264,890
Gold sold (ounces)	259,070	250,324	266,948
Results of operations (\$)			
Product sales ('000)	225,897	204,807	171,297
Cash cost ('000)	165,274	180,133	145,739
Cash profit ('000)	60,623	24,674	25,558
Cash costs			
Per ounce of gold (\$)	638	726	528
Capex ('000) (\$)	22,133	20,868	18,860

Tons milled from the Virginia operations decreased from 2,507,000 in fiscal 2007 to 2,349,000 in fiscal 2008. A fire at Merriespruit 1 affected production in the first quarter of fiscal 2008 and also adversely affected the flexibility at this operation. Power outages also affected production negatively in the latter part of the year. Industrial action by labor unions led to loss of production shifts. Stopping restrictions as recommended by rock engineers affected production in the pillar areas.

Lack of availability of replacement ground at Merriespruit 3 also impacted negatively on the volumes for fiscal 2008.

Harmony 2 shaft was affected by power shortages during the third quarter of fiscal 2008 resulting in a number of lost production shifts. Coupled with this was an incident at the substation at Harmony 2 Shaft which led to a loss of two shifts in March 2008. Seismicity in high grade basal pillars leading to a drop in the face grade and production stoppages during fiscal 2008.

Ounces produced were 247,820 in fiscal 2008, compared with 264,890 in fiscal 2007. The decrease in ounces was primarily due to a decrease in tons milled. The grade for fiscal 2008 of 0.106 ounces per ton was similar to the recovered grade for fiscal 2007.

Cash costs were U.S.\$180.1 million in fiscal 2008, compared with U.S.\$145.7 million in fiscal 2007. This can be partly attributed to an increase in labor cost as well as costs at Merriespruit 1 for additional support required in the shaft pillar area and the cost related to the fire in the first quarter. Cash costs per ounce were U.S.\$726 in fiscal 2008, compared with U.S.\$528 in fiscal 2007. This increase was attributable primarily to increased labor rates and inflationary escalations as well as the decrease in ounces produced.

The upgrading of the old infrastructure at Brand 3 and Unisel during fiscal 2008 led to the increase in their cash cost. Labor in fiscal 2008 on Brand 3 increased due to the inclusion of equipping crews to assist with the opening up of old areas, which were previously stopped. This led to the increase in the tons and an increase in plant costs. The upgrading of rails and the loco conversions on Unisel and Brand 3, to comply to new railbound specifications, also contributed to the higher cash costs in fiscal 2008.

Tons milled from the Virginia operations increased to 2,493,000 in fiscal 2009, compared with 2,349,000 in fiscal 2008. This is partially attributable to the fire in the Basal pillar as well as power shortages in 2008.

Ounces produced were 258,170 in fiscal 2009, compared with 247,820 in fiscal 2008. The increase in ounces produced was as a result of improved volumes.

Cash costs were U.S.\$165.3 million in fiscal 2009, compared with U.S.\$180.1 million in fiscal 2008. Cash costs per ounce was U.S.\$638 in fiscal 2009, compared with U.S.\$726 in fiscal 2008. This decrease was attributable primarily to higher tons produced resulting in higher ounces as well as a decrease in cash costs.

Assuming no additional reserves are identified, at expected production levels, it is foreseen that the reported proven and probable ore reserves of 10.4 million tons (1.3 million ounces) will be sufficient for the Virginia operations to maintain production until approximately 2015, but at a reduced rate from 2011 as some shafts are closing. However, any future changes to the assumptions upon which the reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of the future operations.

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Capital Expenditure: Virginia incurred approximately R199 million (U.S.\$22.1 million) in capital expenditures in fiscal 2009, principally for ongoing capital development. We have budgeted R162 million (U.S.\$20.9 million) for ongoing capital development in fiscal 2010, as well as R30 million (U.S.\$3.9 million) for maintaining/upgrading shaft infrastructure.

Target

Introduction: We acquired the Target mine when Avgold became a wholly owned subsidiary in fiscal 2004. Target is situated near the town of Allanridge in the Free State Province, some 270 kilometers southwest of Johannesburg. Located at approximately latitude 28 (LOGO) 00’S and longitude 26 (LOGO) 30’E on the northern limit of the Welkom Goldfields, the site is accessed via the R30 motorway situated between the towns of Bothaville and Welkom.

History: The Target Operations area was initially explored through surface drilling in the late 1980s with further exploration being undertaken from a 5.6 kilometers long decline, commenced in 1995, driven from 203L at Lorraine No. 1 Shaft. A positive feasibility study into the development of a 105 ktpm operation was produced in May 1998 resulting in the decision to develop the Target mine. A detailed mine design was produced in 2000 and the mine officially opened in May 2002. Upon closure of the Lorraine mine in August 1998, the Lorraine No. 1 and No. 2 Shafts were transferred to the Target mine, becoming Target No. 1 and No. 2 Shafts, respectively. No 5 Shaft being the up-cast Ventilation Shaft.

Geology: The gold mineralization currently exploited by Target mine is contained within a succession of Elsburg and Dreyerskuil quartz pebble conglomerate reefs hosted by the Van Heeverrust and Dreyerskuil Members of the Eldorado Formation, respectively. Additional mineral resources have been delineated in the Big Pebble Reefs of the Kimberley Formation but these are not planned to be exploited in the current life of mine plan.

The majority of the mineral reserves at Target mine are contained within the Eldorado fan, a structure with dimensions of some 135 meters vertically, 450 meters down-dip and 500 meters along strike. The Eldorado fan is connected to the subsidiary Zuurbron fan, located between the Target mine and Lorraine, by a thinner and lower grade sequence of Elsburg reefs termed the Interfan area. To the north of the Eldorado fan, a number of fans have been intersected by surface drilling of which the Siberia and Mariasdal fans are the most significant. These fans are subject to ongoing technical studies and do not form part of the current Target mine life of mine mineral reserve.

A number of faults that displace the reefs of the Target mine have been identified of which the most prominent are the north-south trending Eldorado fault and the east-west trending Dam and Blast faults. The Eldorado uplifts the more distal portions of the Elsburg and Dreyerskuil Reefs while the Blast fault forms the northern border of the Target mine.

Target North is sub-divided into the Paradise, Siberia and Mariasdal areas by the east-west trending Siberia and Mariasdal faults. To the north of the Siberia fault, the Eldorado fault continues trending more to the northwest and an additional north-south trending fault, the Twin fault has uplifted the distal portions of the reefs. North of the Maraisdal fault, the reef horizons are at a depth greater than 2,500 meters below surface. Resources have been delineated on strike up to 15 kilometers north of the Target mine.

Approximately 40 kilometers north of Target mine, surface boreholes have intersected gold bearing reefs in the Oribi area close to the town of Bothaville. Resources have been delineated at Oribi on the VCR and Elsburg at depths of approximately 2,750 meters below surface.

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Mining operations: Target is subject to the risks associated with underground mining detailed in the Risk Factors section.

Mining operations comprise one primary underground mine commissioned in May 2002, making use of information systems and mechanization, combined with process-driven organizational design that relies on a multi-skilled workforce. The majority of the production is derived from mechanized mining; however, conventional stoping is still employed primarily to de-stress areas ahead of the mechanized mining.

Volumes and grade were negatively affected in the first quarter of fiscal 2009 following a fall of ground in a massive high-grade stope that claimed the life of a load haul dump operator, and put this stope out of production for 18 days. Volumes were further affected by a lack of massive stope availability. Through better planning, evaluation and dedicated efforts to improve development and blasting, the process of opening up the massive stopes improved during the course of fiscal 2009. Two new massive stopes were brought into production in December 2008 and another one in March 2009, bringing the total number of massive stopes in production to four. Volumes mined increased as a result, rising by 4% year-on-year. The absence of available worked-out massive stopes in the first quarter of fiscal 2009 also had an impact on waste packing, and waste had to be tipped with reef during that period. But, concerted efforts, including back-analysis of the orebody, resulted in improved planning and the implementation of more effective control systems. Poor ventilation conditions prompted a decision to suspend development on Block 3. The focus was moved to Block 4, which is quicker to access with less development. This change also resulted in reduced capital requirements, and provided additional time to address ventilation needs. Block 3 remains an important future mining area and development will recommence on completion of the orebody re-assessment process in December 2009.

Target also underwent significant management and operational restructuring in fiscal 2009. Mine infrastructure, including the trackless fleet, ventilation and ore transport systems and water reticulation, which had been neglected in the past, was upgraded. The trackless fleet upgrade (at a total cost of R138 million (US\$15 million)) is a three-year programme which will continue until fiscal 2010. The infrastructural upgrade programme enabled the mine to maintain its current levels of production by June 30, 2009 and the benefits of this upgrade will be more fully felt in fiscal 2010. A 15-point turnaround plan is being implemented at Target. In particular, a great deal of attention is being paid to development and improving flexibility. Some of the improvements effected during fiscal 2009 started to bear results by year end.

Following on from a revision of the Mineral Resource, the longer term planning of Target Mine is in the process of being re-evaluated. Production going forward is expected to be a steady state of 60,000 tonnes per month for the next two years after which we expect to ramp up to the 75,000 tonnes per month thereafter.

In fiscal 2009, Target's operations accounted for 6% of our total gold production, compared to 6% in fiscal 2007 and 4% in 2008.

Safety: Safety performance was disappointing, although significant management effort in the second half of fiscal 2009 yielded improvement. Two fatalities during the year undermined the mine's safety track record. No falls of ground were recorded in the second half of the year, which is a considerable achievement as falls of ground had plagued the mine for the prior two years. The safety statistics at Target during fiscal 2009 in terms of LTIFR of 9.66 per million hours worked is higher than the group average of 9.35 while the FFIR of 0.4 is also higher than the group average of 0.21 and higher than the previous year.

Safety at the operation remains the number one priority and received constant and high-level attention. Problem areas are identified and the necessary actions steps are taken to address these areas.

Plants: Target Plant was commissioned in November 2001 and currently treats both underground ore and surface sources, which include both waste rock dump and plant clean up material. The process route comprise of a closed circuit SAG mill as well as a closed circuit ROM mill. Both these mills are in closed circuit with hydro-cyclones. The milling circuit is followed by thickening, cyanide leaching, CIP adsorption, elution, electro-winning, smelting and tailings disposal. Both the milling circuits are incorporated in the gravity concentration circuit and the concentrates from this circuit are processed via intensive cyanidation and electro-winning.

The ROM mill was commissioned in November 2008 and it was installed in order to reduce the steel ball consumption on the plant. The initial objective was to save R 1.2 million (U.S.\$0.13 million) on grinding media monthly, but when a review of the project was done in June 2009 it was found that the actual saving amounted to R1.4 million (U.S.\$0.16 million) per month.

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The following table sets forth processing capacity and average tons milled during fiscal 2009:

Plant	Processing Capacity (tons/month)	Average Milled For the Fiscal Year Ended June 30, 2009 (tons/month)
Target Plant	105,000	103,834

In fiscal 2009, the Target Plant recovered approximately 95.2% of the gold contained in the ore delivered for processing.

Production analysis:

Target	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	710	686	904
Recovered grade (ounces/ton)	0.123	0.116	0.158
Gold produced (ounces)	87,225	79,602	142,653
Gold sold (ounces)	87,611	85,006	142,433
Results of operations (\$)			
Product sales ('000)	76,435	69,469	91,228
Cash cost ('000)	59,599	51,463	52,730
Cash profit ('000)	16,836	18,006	38,498
Cash costs			
Per ounce of gold (\$)	645	716	403
Capex ('000) (\$)	37,994	35,307	16,745

Tons milled from the Target shaft decreased from 904,000 in fiscal 2007 to 686,000 in fiscal 2008. The main issues contributing to the drop in production include trackless fleet availability, flooding of mining block, fragmentation problems in massive stopes and lack of face length especially for massive stopes. Problems encountered in the massive stopes were the main contributor to grade and volume decreases.

Ounces produced were 79,602 in fiscal 2008, compared with 142,653 in fiscal 2007. The decrease in ounces sold was negatively influenced by the lower grade. The recovery grade decreased from 0.158 ounces per ton in fiscal 2007 to 0.116 ounces per ton in fiscal 2008.

Cash costs for Target were U.S.\$51.5 million in fiscal 2008, compared with U.S.\$52.7 million in fiscal 2007. This decrease was primarily attributed to lower production levels. Cash costs per ounce were U.S.\$716 in fiscal 2008, compared with U.S.\$403 in fiscal 2007. This increase was attributable primarily to a lower recovery grade.

Tons milled from the Target shaft increased from 686,000 in fiscal 2008 to 710,000 in fiscal 2009. Target experienced a number of issues impacting on production. These include:

- infrastructural problems with the belts, fridge plants and other environmental infrastructure, resulting in higher face temperatures and lower efficiencies.
- water handling.
- low availability of massive stopes.

The conveyor belt system was extensively rehabilitated during the course of fiscal 2009. An executive audit was done by Good Year which formed the basis of the rehabilitation plan that was implemented. The belt availability and reliability has increased. The crusher plant, which feeds the belts, is in the process of rehabilitation.

Electrical reticulation to the mining areas is currently being updated with substations being reviewed for compliance purposes. The process is expected to be completed by December 2009.

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During 2009 a campaign was started to update the reticulation, clean out the dams and getting the dewatering equipment to a standard. In addition to updating the reticulation in the mining areas, flow meters and dual pressure reducing valve systems are being installed to better understand, measure and manage the water usage in the actual workplaces. This campaign is currently in progress and is expected to be completed by September 2009.

Availability of massive stopes has been improved with increased focus on planning and development.

Tons milled increased from 686,000 in fiscal 2008 to 710,000 tons in fiscal 2009. This was primarily due to the new massive stopes being brought into production during fiscal 2009. Ounces produced were 87,225 in fiscal 2009, compared with 79,602 in fiscal 2008. The increase in ounces produced was due to higher milled tonnages and improved recovered grade.

The recovery grade increased marginally from 0.116 in fiscal 2008 to 0.123 in fiscal 2009. A major review of the geological modeling and evaluation of Target’s Mineral Resource is in progress and has resulted in a greater understanding of the available ore-body and improved valuation. This process will be completed in December 2009.

Cash costs for Target was U.S.\$59.6 million in fiscal 2009, compared with U.S.\$51.5 million in fiscal 2008. This increase was primarily attributed to increased tonnages produced, increase in total employees costed and inflationary cost increases. Cash costs per ounce were U.S.\$645 in fiscal 2009, compared with U.S.\$716 in fiscal 2008. This reduction was due to higher gold production.

Capital Expenditure: Target incurred approximately R342 million (U.S.\$38 million) in capital expenditures in fiscal 2009, principally for on-going underground development, access development to Block 3, continuing replacement of the underground vehicle fleet and infrastructural rehabilitation.

Development of the new decline to access the Block 3 area, which represents a significant portion of our future Reserves, was paused in December 2008 due to infrastructural constraints. Continuation of the Block 3 project is anticipated in January 2010. For fiscal 2010, we have budgeted R257 million (U.S.\$33.3 million) for capital expenditure, primarily for ongoing development.

Evander Operations

Introduction: The Evander operations are located in the province of Mpumalanga in South Africa and comprise of an amalgamation of the former Kinross, Bracken, Leslie and Winkelhaak mines into a mining right of 36,898 hectares and additional adjacent Prospecting Rights comprising 19,933 hectares. Mining at the Evander operations is conducted at depths ranging from 300 meters to 2,300 meters.

History: Gold mining in the Evander Basin began in 1955. Eventually, four mining operations were established at Evander. In 1996, as a result of the depletion of ore reserves, all four mining areas were merged to form Evander Gold Mines. In August 1998, Harmony acquired Evander as a wholly-owned subsidiary.

Geology: The area covered by Evander’s mining authorization and mineral rights is situated within the Evander basin. The Evander Basin is a tectonically preserved sub-basin outside the main Witwatersrand Basin and forms an asymmetric syncline, plunging to the north-east. It is structurally complex with a series of east-north-east striking normal faults. At the south-east margin of the basin, vertically to locally overturned reef is present. The only economic reef horizon exploited in the Evander Basin is the Kimberley Reef. The Intermediate Reef is generally poorly mineralised, except where it erodes the sub-cropping Kimberley Reef in the south and west of the basin.

Mining Operations: The Evander operations are primarily engaged in underground mining but a limited amount of surface material, containing gold, from the surface cleanup operations also processed. These operations are subject to the underground mining risks detailed in the Risk Factors section. Due to the shallow to moderate depths of the Evander underground operations, seismicity and high rock stress related problems are relatively infrequent. There is a risk of subterranean water and/or gas intersections in some areas of the mine. However, this risk is mitigated by active and continuous management and monitoring, which includes the drilling of boreholes in advance of faces. Where water and/or gas is indicated in the drilling, appropriate preventative action is taken. In fiscal 2004, an agreement was reached with the unions for the implementation of Conops at Evander. Downsizing and restructuring of the 7 Shaft area resulted in labor surpluses and it was also decided to stop Conops in fiscal 2008 at Evander 5 shaft. Parts of Evander 8 shaft continue to work on Conops.

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Production at the Evander operations was disappointing in fiscal 2009. Production remained constrained by environmental conditions at Evander 8 shaft for most of the year. The raise borehole to supply cool air to 24 level from 17 level (thus improving working conditions), was completed later than planned (in the third quarter of fiscal 2009) and is expected to result in improved production going forward. Flooding of the pump chamber at Evander 2 resulted in a two-week production delay at both Evander 2 and 5.

At Evander 2 in particular, high waste dilution, lower grade and logistical constraints further hampered production. While actions have been implemented to improve the underperformance at these shafts, restructuring may be unavoidable. Having undergone operational restructuring in fiscal 2008, performance at Evander 7 was much improved for most of the year. Volumes and grades increased and the life-of-mine was extended by an additional 12 months. However, lower volumes from the vamping section and a stope panel that could not be mined for safety reasons, resulted in lower production in the fourth quarter of 2009. As a result of these factors, volumes decreased by 14%. This, together with poor performance in the higher grade areas of Evander 8 and 2 shafts, as well as under-performance on the MCF at Evander 2 and 5 shafts, resulted in a decrease in gold production of 18%.

Surface material from the footprint of the old Leslie Plant and from waste rock dumps was also processed during fiscal 2009. The tons treated produced 4,147 ounces of gold and generated additional revenue of U.S.\$3.6 million. Additional production from surface sources is planned for fiscal 2010.

Potential exists at several areas in Evander:

Evander South

- Project currently at an exploration stage following the prefeasibility study.
- Surface exploration drilling for phase one is progressing as planned and is intended to improve the quality of and confidence in the geological model and resource estimates.

Shaft 7 portion of the 2010 Payshoot

- Project at exploration stage following the geological study.
- Underground development, to be used as an underground drilling platform, advanced 233 meters (or 19%). This is intended for investigation of the 7 Shaft flank of the postulated 2010 payshoot.
- Feasibility study to follow, pending confirmation of the ore resource in this area.

Twistdraai and Shaft 6

- Joint Venture with the African Precious Minerals (“**APM**”) was formed to explore these two target areas.
- APM will earn in the 52% equity stake upon completion of the full bankable feasibility study for each area.
- The geological studies are under way and drilling will commence in fiscal 2010.

Rolspruit

- This is a future mining area on the downdip extension of the 8 shaft payshoot.
- Synergies with the current 8 Shaft deepening are being considered.

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Poplar

- Surface exploration drilling is required to bring this project into the full bankable feasibility study.
- The surface exploration drilling at Evander South is likely to produce information that will enhance the Poplar geological interpretation.

In fiscal 2009, the Evander operations accounted for approximately 12% (12% in fiscal 2008 and 10% in fiscal 2007) of Harmony’s total gold production.

Safety: Evander 2 and 5 shafts won the Safety Achievement Flag presented by the Mine Health and Safety Council for 2008. Evander 8 shaft achieved 1.5 million fatality-free shifts during the year, while both the Winkelhaak Plant and the Evander operations as a whole achieved one million fatality-free shifts. Evander 7 shaft was accident-free for nine months. Regrettably, however, there were two fatalities in one incident at the Evander operations during fiscal 2009 as compared to one in fiscal 2009. The FFIR per million hours worked was 0.17, a deterioration on the performance of 0.07 in fiscal 2008, while the LTIFR of 10.16 was a substantial improvement on the 16.64 reported in fiscal 2008. Behaviour-based safety initiatives have been introduced at Evander to further improve safety performance.

Plants: Evander has one active processing plant, the Kinross-Winkelhaak plant, which is operated as two geographically distinct sections. Ore from Evander 7 and 8 is hoisted directly to and treated at the Kinross plant, which is a hybrid CIP/CIL plant. All of the ore from Shafts 2 and 5 is milled and thickened at the Winkelhaak plant, and the slurry is pumped to the Kinross plant for further processing.

The following table sets forth processing capacity and average tons milled during fiscal 2009 for the operating plant:

Plant	Processing Capacity	Average Milled for the Fiscal Year Ended June 30, 2009
	(tons/month)	(tons/month)
Kinross-Winkelhaak	200,000	99,083

In fiscal 2009, the plant at Evander operations recovered approximately 96.4 % of the gold contained in the ore delivered for processing.

Production analysis:

Evander operations	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	1,241	1,447	1,667
Recovered grade (ounces/ton)	0.153	0.160	0.141
Gold produced (ounces)	190,075	231,799	235,857
Gold sold (ounces)	195,668	240,037	235,443
Results of operations (\$)			
Product sales ('000)	168,180	192,978	151,039
Cash cost ('000)	110,869	125,995	113,348
Cash profit ('000)	57,311	66,983	37,691
Cash costs			
Per ounce of gold (\$)	572	526	495
Capex ('000) (\$)	23,352	33,388	28,389

Tons milled at the Evander operations were 1,447,000 in fiscal 2008, compared with 1,667,000 in fiscal 2007, and ounces produced were 231,799 in fiscal 2008, compared with 235,857 in fiscal 2007. The decrease in tons milled is partially attributable to the reduction of the development at Evander 7 in November 2007 and the closure of the pillars in the old mine in February 2008. At Evander 8, tons milled decreased by 113,000 tons due to poorer environmental conditions in the decline area which affected mining from this area. The shaft is currently busy with a raise-borehole from 17 Level to 24 Level which will alleviate the medium term ventilation constraints. Recovered grade was 0.160 in fiscal 2008, compared with 0.141 in fiscal 2007. The higher recovered grade is

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partially due to an improvement of the MCF at Evander 5 from 70.5% in 2007 to 71.7% in 2008, as well as mining in higher grade areas at the shaft. At Evander 7 and 8, the closure of the more marginal pillar sections and focusing on the higher grade decline sections also contributed to the higher recovered grade.

The increase in cash costs from U.S.\$495 per ounce in fiscal 2007 to U.S.\$526 per ounce in fiscal 2008 was attributable primarily due to the increase in cash costs from U.S.\$113.3 million in fiscal 2007 to U.S.\$125.9 million in fiscal 2008 as result of labor increases and inflation on consumables and electricity increases in excess of current inflation and lower ounces produced.

Tons milled at the Evander operations were 1,241,000 in fiscal 2009, compared with 1,447,000 in fiscal 2008, and ounces produced were 190,075 in fiscal 2009, compared with 231,799 in fiscal 2008. The decrease in tons milled is partially attributable to the reduction of the development at Evander 7 in November 2007 and the closure of the pillar section in February 2008. At Evander 8, tons milled decreased by 56,000 tons due to unfavorable environmental conditions in the decline area that affected mining from this area. The shaft completed a raise-borehole from 17 Level to 24 Level during fiscal 2009 that enables chilled ventilation to reach 24 level on the decline directly which alleviated the medium term ventilation constraints. Recovered grade was 0.153 ounces per ton in fiscal 2009, compared with 0.160 ounces per ton in fiscal 2008. The lower recovered grade is partially due to deterioration in the MCF at Evander 5 from 71% in 2008 to 61% in 2009.

The increase in cash costs per ounce from U.S.\$526 per ounce in fiscal 2008 to U.S.\$572 per ounce in fiscal 2009 was attributable primarily to the decrease in gold ounces produced in fiscal 2009 compared to fiscal 2008 due to the successful restructuring and downscaling at Evander 7 that was implemented in January 2008. Cash costs decreased from U.S.\$125.9 million to U.S.\$110.9, primarily as a result of the closure of Evander 7.

Assuming no additional reserves are identified, at expected production levels, it is foreseen that the reported proven and probable ore reserves of 11.0 million tons (1.9 million ounces) (excluding the below infrastructure reserves) will be sufficient for the Evander operations to maintain production until approximately fiscal 2027 at Evander 8, as the other shafts will have reached end of life prior to then. Any future changes to the assumptions upon which the reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

Capital Expenditure: Harmony incurred approximately R210.1 million (\$23 million) in capital expenditures at the Evander operations in fiscal 2009. The expenditure was primarily for ongoing development, abnormal expenditure for the upgrading of the infrastructures as well as phase 6 of the No 2 Decline at Evander 8 and 2 ventilation bore holes. Harmony budgeted R181 million (\$23.4 million) for capital expenditures in fiscal 2010 primarily for ongoing development and the upgrading of major equipment. Included is also an amount for a Ventilation project at Evander 8 and a feasibility study for phase 7 of the No 2 decline project.

Other — Underground

Introduction: Other — Underground consists of several shafts, including Joel and St Helena. As the most significant portion of the results from this segment is attributable to Joel, we have only disclosed the relevant information for Joel. Joel mine, which is located in the Free State, near the town of Theunissen, on the south-western edge of the Witwatersrand Basin, comprises two shafts. Ore mined is transported to Central Plant some 38 kilometres away for processing, although the Joel Plant is in the process of being recommissioned and should come into operation in November 2009.

History: Joel was purchased from a subsidiary of AngloGold at the same time as the rest of the Freegold assets in January 2002.

Geology: The mine is located in the Free State Goldfield, which is on the southwestern edge of the Witwatersrand basin. Joel is located 30 kilometers south of Welkom and is mining the shallow flat-dipping Beatrix/VS5 Reef.

Mining operations: These operations are subject to the underground mining risks detailed in the Risk Factors section.

Scattered mining takes place on the Beatrix Reef, down to a depth of some 1,400 metres. Upgrading of the infrastructure at North Shaft is currently in progress.

Joel was beset by a series of operational problems that were consistently addressed during fiscal 2009 and overall performance improved substantially year-on-year. The effects of the seismic event in the fourth quarter of fiscal 2008, that closed access to the four highest grade panels at the mine, continued into fiscal 2009. Access to these panels was re-established in November 2008, and extra vamping was undertaken to compensate for the loss of volumes. Winder, loading and water problems were experienced during fiscal

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2009, hampering production. The north shaft winder rehabilitation programme was completed in the third quarter of 2009, and it is expected that winder stoppages will be reduced in the future. The replacement of shaft guide ropes and the installation of pipes from 137 to 145 level to clean the north shaft bottom further exacerbated these production constraints. Lock-up tons, as a result of past winder problems, continued to be cleared. Water still hampered development at 129 level where a system of dykes had to be negotiated and structures were put in place to ensure cover drilling and sealing operations took place. By year-end, development had advanced through most of the water-bearing structures, which will improve matters in fiscal 2010. Although some water may still be encountered in the main haulage, it will be less of a problem. The Klippan wash-out which was encountered to the east of Joel, has moved slightly further east enabling the development of two additional raise lines, which will assist in the build-up of production on 129 level.

The Joel Plant will be recommissioned in November 2009. This will reduce transport costs and create the capacity to treat 44,000 tons of the waste rock dump material at Joel.

During fiscal 2009, Joel accounted for 4% of our total gold production (3% in fiscal 2007 and fiscal 2008).

Safety: Safety performance at Joel continued to be exemplary. Joel has operated for two years and three months without a fatal accident, and has not had a fall of ground accident in over 18 months. During fiscal 2009, the LTIFR at Joel of 2.59 per million hours worked compared favorably with the group average of 9.35. The FFIR at Joel of 0.00 compared favorably with the group average of 0.21.

Plants: The Joel plant is a hybrid CIP/CIL plant and was commissioned in 1987. During fiscal 2005, it was decided to close the Joel Plant and place the plant under care and maintenance. A feasibility study has been completed and the Joel plant will again start operating from October 2009. Initially surface sources will be treated and from November 2009 Joel's underground ore will be treated.

Production analysis:

Joel	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	566	449	504
Recovered grade (ounces/ton)	0.116	0.133	0.159
Gold produced (ounces)	65,684	59,557	79,894
Gold sold (ounces)	64,784	61,215	79,927
Results of operations (\$)			
Product sales ('000)	55,862	51,557	50,839
Cash cost ('000)	40,649	39,131	33,412
Cash profit ('000)	15,213	12,426	17,427
Cash costs			
Per ounce of gold (\$)	636	638	428
Capex ('000) (\$)	6,183	5,375	3,911

Tons milled from Joel shaft decreased to 449,000 in fiscal 2008, compared with 504,000 in fiscal 2007. Tons milled were negatively influenced in fiscal 2008 due to the fact the rehabilitation work on North Shaft was only completed at the end of October 2007. Consequent teething problems also impacted here, for instance shaft bottom cleaning, installation of ventilation pipes on the platform, winder motor burnout which resulted in a delay as another motor had to be sourced from AngloGold. Ounces produced were 59,557 in fiscal 2008, compared with 79,894 in fiscal 2007. The decrease in tons negatively influenced ounces produced. Recovered grade decreased to 0.133 ounces per ton in fiscal 2008 compared with 0.159 in fiscal 2007.

Cash costs for Joel increased to U.S.\$39.1 million in fiscal 2008, compared with U.S.\$33.4 million in fiscal 2007. This increase was due to wage and salary increases granted to labor as well as an increase in skilled labor complement to address the skills shortage at Joel. As Joel does not have its own plant, ore is transported to a plant in Virginia, which is 33 kilometers away. This is done by means of trucks. Due to the increase in the diesel price, a fuel levy was charged to compensate the cartage contractor for the fuel price increases. This also resulted in increased costs. Cash costs per ounce were U.S.\$638 in fiscal 2008, compared with U.S.\$428 in fiscal 2007. This increase was primarily attributable to the decreased tonnage due to the re-equipping whereafter the shaft was not fully operational for the first two quarters of fiscal 2008.

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The increase in tons milled from 449,000 in fiscal 2008 to 566,000 in fiscal 2009 is due to the rehabilitation work on North Shaft. Further work was done to improve the smooth operation which included the reconditioning of the liquid controller, installing an additional cooling tower, increasing the lubrication intervals of the guide ropes and the changing of the guide ropes on the south side. There was also a significant increase in square meters from 60,752 in fiscal 2008 to 83,413 in fiscal 2009.

Grade was affected by the loss of two high-grade raise lines which necessitated a move to lower grade raise lines. Higher than expected stoping widths were encountered which affected the face grade. Joel has a centralized high grade area with the outskirts being of lower grade. Due to flexibility and availability constraints Joel was forced to move to the outskirts therefore causing a lower recovery grade.

Ounces produced were 65,684 in fiscal 2009, compared to 59,557 in fiscal 2008. This was mainly due to higher tons milled.

The increase in cash costs from U.S.\$39.1 million in fiscal 2008 to U.S.\$40.6 million in fiscal 2009 is due to wage and salary increases granted. The labor complement also increased by 9% to accommodate an increase in stoping panels from 16 to 18. Development labor also increased as development meters increased from 2,141 metes in 2008 to 3,554 meters in 2009. An afternoon shift was also introduced to reduce the underground lockup tons. This was done with contract labor, which increased the contractor costs. There was a substantial increase in electricity charges, which came about due to the electricity shortage experienced.

Cash costs per ounce were U.S.\$636 in fiscal 2009, compared with U.S.\$638 in fiscal 2008. The decrease was primarily attributable to the increase in tonnage due to the increase in square meters in 2009 compared to 2008 as well as a decrease in lockup tons year on year.

The rock hoisting capacity at Joel is 60,000 tons per month. The average tons milled in fiscal 2009 was 47,170 tons per month.

Assuming no additional reserves are identified, at expected production levels, it is foreseen that the reported proven and probable ore reserves of 3.5 million tons (0.565 million ounces) will be sufficient for Joel to maintain underground production until approximately 2017. Any future changes to the assumptions upon which the ore reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

Capital Expenditure: Joel incurred R56 million (U.S.\$6 million) in capital expenditures in fiscal 2009 on development on 129 level, general replacement and maintenance. Capital budgeted is R67 million (U.S.\$8.7 million) primarily for deepening the lift shaft from 121 level to 129, to enable mining on 129 level and to equip it, as well as North Shaft shaft bottom cleaning.

Other — Surface

Introduction: Other — Surface consists of Kalgold, Phoenix and the surface operations owned by the Freegold, Avgold and Evander companies. As the results of operations for Other — Surface consists primarily of the results from Kalgold and Phoenix, these two operations have been discussed separately.

Kalgold

Introduction: Harmony’s only open pit mining operation in South Africa is the Kalgold gold mine that is situated 60 kilometers south of Mafikeng in the North West Province of South Africa. Through Kalgold, Harmony also control extensive mineral rights on the Kraaipan Greenstone Belt in the North West Province of South Africa.

History: Harmony acquired Kalgold on July 1, 1999 and fully incorporated Kalgold into its existing operations in October 1999. Prior to Harmony’s acquisition of the Kalgold mine, the mine had already been in operation for three years.

Geology: The Kalgold operation is located within the Kraaipan Greenstone Belt, 60km south of Mafikeng. This is part of the larger Amalia-Kraaipan Greenstone terrain, consisting of north trending linear belts of Archaean meta-volcanic and metasedimentary rocks, separated by granitoid units. Mineralization occurs in shallow dipping quartz veins, which occur in clusters or swarms, within the steeply dipping magnetitechert banded iron formation. Disseminated sulphide mineralization, dominated mostly by pyrite, occurs around and between the shallow dipping quartz vein swarms. The D Zone is the largest orebody encountered and has been extensively mined within a single open-pit operation, along a strike length of 1,300m. Mineralization has also been found in the Mielie Field Zone (adjacent to the D Zone), the A Zone and A Zone West (along strike to the north of the D Zone), and the Watertank and Windmill areas to the north of the A Zone.

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Mining Operations: The Kalgold operation is engaged in open-pit mining. This operation is subject to the open cast mining risks detailed in the Risk Factors section. Small subterranean water intersections in the pit are common and are actively managed and appropriate action is taken when necessary. The primary mining challenges at the Kalgold operations of achieving optimal volumes and grades of ore production are addressed by stringent ore reserve management. The processing design capacity of the Kalgold operation is 150,000 tons per month. The average tons milled in fiscal 2009 were 128,387 tons per month. Although milled tons were below capacity, this was as a result of rains that affected throughput in the plant due to oxidized material being mined from Watertank pit.

Volumes processed at Kalgold for fiscal 2009 were similar to fiscal 2008, despite technical problems (failure of a bearing on the C-mill), disruption to power supply as a result of excessive thunderstorm activity, excessive rain and delays caused by chokes in the crushers as a result of the high clay content of ore mined from the weathered zone in the Watertank pit. However, gold production declined by 30%, owing largely to the 30% decline in grade as operations at the high-grade D Zone pit came to an end in March 2009. Nonetheless, this zone was mined for six months longer than scheduled. Mining now takes place at the lower-grade Watertank satellite pit.

In fiscal 2009, the Kalgold operations accounted for approximately 4% (5% in fiscal 2008 and 2% in fiscal 2007) of our total gold production.

Safety: The Kalgold operations had a LTIFR of 2.9 per million hours worked in fiscal 2009, and recorded no fatal accidents in fiscal 2009. Kalgold achieved 2,000,000 fatality free shifts on October 7, 2008.

Plants: Ore is trucked from the pit and is directly tipped into the feed bin of the pre-primary crusher or stockpiled. The ore then undergoes a four phase crushing process before it reaches the Dome stockpile. Three ball mills are used to grind the ore down to between 70-80% less than 75 micron for the leaching process.

The following table sets forth processing capacity and average tons milled during fiscal 2009 for the plant:

Plant	Processing Capacity (tons/month)	Average Milled for the Fiscal Year Ended June 30, 2009 (tons/month)
CIL	150,000	128,387
Heap Leach ⁽¹⁾	—	—

⁽¹⁾ Active use of heap leaching was discontinued in July 2001.

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In fiscal 2009, the plant at our Kalgold operations recovered approximately 87.5% of the gold contained in the ore delivered for processing.

Production analysis:

Kalgold	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	1,700	1,687	1,740
Recovered grade (ounces/ton)	0.038	0.055	0.033
Gold produced (ounces)	64,784	92,229	56,714
Gold sold (ounces)	66,841	93,172	56,135
Results of operations (\$)			
Product sales (\$) ('000)	56,915	76,685	35,743
Cash cost (\$) ('000)	32,390	38,272	27,218
Cash profit (\$) ('000)	24,525	38,413	8,525
Cash costs			
Per ounce of gold (\$)	506	401	506
Capex (\$) ('000)	1,090	1,347	376

Tons milled decreased from 1,740,000 in fiscal 2007 to 1,687,000 in fiscal 2008. Ounces produced increased to 92,229 in fiscal 2008, compared with 56,714 in fiscal 2007, primarily due to the higher grade mined from the D Zone pit. The recovered grade increased to 0.055 in fiscal 2008, compared with 0.033 in fiscal 2007.

Cash costs increased from U.S.\$27.2 million in fiscal 2007 to U.S.\$38.3 million in 2008 as result of the write off of the deferred stripping account as mining in the D-zone pit reached completion. In spite of this, cash costs at Kalgold were U.S.\$401 per ounce in fiscal 2008, compared with U.S.\$506 per ounce in fiscal 2007. The decrease was mainly due to the increase in ounces produced as a result of higher recovered grade.

Tons milled increased from 1,687,000 in fiscal 2008 to 1,700,000 in fiscal 2009. Ounces produced decreased to 64,784 in fiscal 2009, compared with 92,229 in fiscal 2008, due to a lower recovered grade.

Cash costs decreased from U.S.\$38.3 million in fiscal 2008 to U.S.\$32.4 million in 2009 mainly due to the deferred stripping write off from the previous financial year.

The processing design capacity of the Kalgold operation is 150,000 tons per month. The average tons milled in fiscal 2009 were 128,387 tons per month.

Active use of heap leaching was discontinued in July 2001; however, Harmony expects to put the material on the heap leach pad through the processing mills at the end of the life of mine to recover the residual gold. Although the heapleach was actively stopped in July 2001, some tonnage was fed through on an adhoc basis as a contingency during the rain season and because of the difficulty of feeding oxidized material from the new Watertank pit through the crushers circuit.

Assuming no additional reserves are identified and at expected production levels, it is foreseen that the reported proven and probable ore reserves of 27.1 million tons (0.732 million ounces) will be sufficient for the Kalgold operations to maintain production until approximately fiscal 2024. However, any future changes to the assumptions upon which the reserves are based, as well as any unforeseen events affecting production levels, could have a material effect on the expected period of future operations.

Capital Expenditure: Harmony incurred approximately R9.8 million (U.S.\$1.1 million) in capital expenditures at the Kalgold operations in the fiscal 2009. Harmony budgeted R12 million (U.S.\$1.5 million) for capital expenditures in fiscal 2010, primarily for exploration drilling, preparation of the new pits for mining and replacing some of the plant structures.

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Phoenix

Introduction: Phoenix is a tailings retreatment operation, located at Virginia and adjacent to our current and historical mining operations in the Free State province.

History: The project commenced during fiscal 2007 and is aimed at treating the surface sources from our operations in the Free State province.

Safety: Safety at the Phoenix operations improved year-on-year. The LTIFR improved by 27% to 3.09 per million hours worked (2008: 4.23). There were no fatalities.

Mining operations: Slimes tonnage reclamation decreased during fiscal 2009, to an average of 479,863 tons per month by year end. The focus during the year was on improving efficiencies, recoveries and ultimately profitability.

Fiscal 2009 was characterized by severe downward pressure on recovered grades, which impacted directly on the profitability margin. Problems were experienced with lower-than-expected grades at one of the dams being processed on the Phoenix tailings retreatment programme. Several projects were launched to increase the recoveries, but without success, mineralogical analysis conducted at Mintek revealed that the gold particles are extremely fine (5 -10 micron) and totally occluded in silica. Because no milling of the slime takes place prior to treatment, the extraction of these gold particles will remain problematic. The mining plan was consequently amended, as a result of which grades are expected to increase in fiscal 2010. Problems were also experienced regarding water availability and contractor labour issues. Slime deposition capacity constraints played a major factor in the treatment capacity of Phoenix during fiscal 2009, two new deposition sites were earmarked for use by Phoenix late in fiscal 2009. These Tailing Storage Facilities (“TSF’s”) are due for commissioning in August 2009.

During fiscal 2009, Phoenix accounted for 1.4% of our total gold production (1.7% in 2008 and less than 1% in fiscal 2007).

Production analysis:

Free State (Phoenix)	Fiscal Year Ended June 30,		
	2009	2008	2007
Production			
Tons ('000)	6,578	7,033	2,368
Recovered grade (ounces/ton)	0.003	0.005	0.009
Gold produced (ounces)	22,345	32,215	21,346
Gold sold (ounces)	22,345	32,215	21,348
Results of operations (\$)			
Product sales ('000)	19,448	26,247	13,628
Cash cost ('000)	11,924	12,286	6,489
Cash profit ('000)	7,524	13,961	7,139
Cash costs			
Per ounce of gold (\$)	534	381	293
Capex ('000) (\$)	0.279	0.492	—

Tons treated from Phoenix were 7,033,000 in fiscal 2008, compared with 2,368,000 in fiscal 2007. Ounces produced increased to 32,215 in fiscal 2008, compared with 21,346 in fiscal 2007, primarily due to the increase in tons treated. The recovered grade decreased from 0.009 in fiscal 2007 to 0.005 in fiscal 2008. The grade of the tons treated is dependent on the time at which the original deposition was done.

Cash costs were U.S.\$12.3 million in fiscal 2008, compared with U.S.\$6.5 million in fiscal 2007, primarily due to the increase in volumes as well as the higher costs of reagents. Cash costs per ounce increased during fiscal 2008 to U.S.\$381 per ounce, compared with U.S.\$293 in fiscal 2007 due to increase in volume and increase in transport rates and the price of consumables.

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Tons treated from Phoenix decreased to 6,578,000 tons in fiscal 2009, compared with 7,033,000 in fiscal 2008. Ounces produced decreased to 22,345 ounces in fiscal 2009, compared with 32,215 in fiscal 2008, primarily due to the decrease in tons treated as well as the lower recovery grade.

Cash costs decreased to U.S. \$11.9 million in fiscal 2009 from U.S.\$12.3 million, despite the increase in some reagent costs, rising by as much as 40%. Cash costs per ounce increased to U.S. \$534 per ounce, primarily due to the decrease in ounces produced for fiscal 2009.

Capital Expenditure: We incurred approximately R2.5 million (U.S.\$0.3 million) in capital expenditures at the Free State operations in fiscal 2009. For 2010, R8.7 million (U.S. \$0.9 million) is planned for capital for screens and bund wall repairs as well as upgrade of equipment.

Cooke operations

Introduction: The Cooke operations are located in the Gauteng Province of South Africa, approximately thirty kilometers west of Johannesburg.

During fiscal 2008, an agreement was entered into for the sale of the Cooke operations, together with the associated surface assets. As a result, the assets and related liabilities were classified as held-for-sale and the results from operations have been included under “Discontinued Operations” in the income statement. On November 21, 2008, the conditions precedent were fulfilled and the sale of an effective 60% interest in the operations was recognized. The discussion below relates to the period up to the effective date of the sale.

Geology: These operations are situated in the West Rand Goldfield of the Witwatersrand Basin, the structure of which is dominated by the Witpoortjie and Panvlakte Horst blocks, which are superimposed over broad folding associated with the southeast plunging West Rand Syncline. At the Cooke operations, two major fault trends are present. The first is parallel to the Panvlakte Fault and strikes north to north-east, having small throws and no lateral shift. The second trend, which runs north-west to west, has small throws, but significant lateral shift, resulting in the payshoots becoming displaced.

There are six identified main reef groupings in the area of these operations: the Black Reef; the Ventersdorp Contact Reef; the Elsburg Formations; the Kimberleys; the Livingstone Reefs; and the South Reef. Within these, several economic reef horizons have been mined at depths below surface between 600 and 1,260 meters.

The reefs comprise fine to coarse grained pyritic mineralization within well developed thick quartz pebble conglomerates or narrow single pebble lags, which in certain instances are replaced by narrow carbon seams.

Mining Operations: These operations are subject to the underground and waste rock mining risks detailed in the Risk Factors section. Due to the shallow to moderate depths of the operations, seismicity and pressure related problems are infrequent. There is a risk of subterranean water and/or gas intersections in some areas of the mines. However, this risk is mitigated by active and continuous management and monitoring, which includes the drilling of boreholes in advance of faces. Where water and/or gas are indicated in the drilling, appropriate preventative action is taken.

The Cooke assets and related liabilities were classified as a disposal group and held-for-sale during fiscal 2008.

We incurred R53.7 million (U.S.\$7.4 million) in capital expenditure in fiscal 2008 at Cooke 3 Shaft for accessing the reserves in the 128 South Area to extend the life of mine reserves. The area contains an estimated total in situ resource of approximately 4.9 million tons at 5.5 grams per ton. It is intended to extract the UE1A reef band which is mainly a conglomerate type reef.

Production at the Cooke operations was negatively affected in fiscal 2008 by a change in the mining mix, with less ore from the high grade VCR reef at Cooke 3 shaft and lower than expected grades from 128 South project at Cooke 3 shaft and from the 90 North 6 area at Cooke 2 shaft. The power shortages during the third quarter in 2008 also impacted negatively on volumes.

During fiscal 2009, the Cooke operations accounted for 5% (10% and 12% in 2007 and 2008, respectively) of our total gold production.

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Plants: The processing facilities at the operations presently comprises of the Cooke metallurgical plant, which is serviced by a surface rail network. The Cooke metallurgical plant, commissioned in 1977, is a hybrid CIP/CIL plant, which processes the tailings from the surface sands dumps around Randfontein.

Feasibility studies are being done for a proposed Uranium Plant of an approximate capacity of 500,000 tons per month. It is envisaged that the plant will be completed in approximately three years when it will treat uranium ore from the Cooke dumps as well as from the Cooke 3 underground operations.

Production analysis:

Cooke operations	Fiscal Year Ended June 30,		
	2009 ⁽¹⁾	2008	2007
Production			
Tons ('000)	1,419	3,905	2,327
- Underground	514	1,322	1,432
- Surface	905	2,583	895
Recovered grade (ounces/ton)	0.057	0.060	0.105
- Underground	0.137	0.152	0.155
- Surface	0.011	0.013	0.025
Gold produced (ounces)	80,377	236,170	244,056
- Underground	70,378	201,884	221,463
- Surface	9,999	34,286	22,593
Gold sold (ounces)	85,746	236,242	243,219
- Underground	75,747	201,939	224,245
- Surface	9,999	34,305	18,974
Results of operations (\$)			
Product sales('000)	68,204	193,613	154,711
Cash cost ('000)	49,625	121,978	117,603
Cash profit ('000)	18,579	71,635	37,108
Cash costs			
Per ounce of gold (\$)	644	511	475
- Underground	613	545	497
- Surface	868	525	256
Capex ('000) (\$)	9,655	22,357	19,494

(1) As the operations were sold on November 21, 2008, the results are for the five months then ended and are not comparable with the prior years.

During fiscal 2008, the assets and related liabilities for Cooke 1, 2 and 3 as well as the Cooke plant were classified as a disposal group and are held-for-sale. The results from the operations were also classified as discontinued operations in the income statement. The table above and the discussion below include the results of the surface operations. A comparison between the results for fiscal 2008 and 2009 has not been presented as the results for fiscal 2009 are only for the five months to November 2008.

Tons milled were 3,905,000 in fiscal 2008, compared with 2,327,000 in fiscal 2007, and ounces produced were 236,170 in fiscal 2008, compared with 244,056 in fiscal 2007. The increase in tons milled can mainly be attributed to the Cooke plant, used for the treating of tailings from sand surface dumps, coming into full production during fiscal 2008. The plant is treating on average 215,000 tons per month. This was offset by a decrease in tons milled from underground due to the stopping of Conops, electricity constraints and a reduction in volume from Cooke 1. The decrease in ounces sold was primarily due to lower volumes from underground as a result of the reasons mentioned above. The recovery grade from surface decreased from 0.025 in fiscal 2007 to 0.013 in fiscal 2008, mainly due to the replacement of higher grade waste rock with lower grade sand from Dump 20.

Cash costs per ounce of gold were U.S.\$511 in fiscal 2008, compared with U.S.\$475 in fiscal 2007. The increase was influenced by decreased efficiency of the machinery in the Trackless areas, increased maintenance cost on those machines, increases in the costs of labor and supplies and the effect of inflation on supply contracts also negatively affected cash costs.

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Other — Discontinued operations

Introduction: The results of operation from Other — Discontinued Operations consists of results from the Orkney operations and South Kalgoorlie. South Kalgoorlie formed part of our International operations. Refer to “*Western Australia*” below for a discussion on its operations and results. In fiscal 2007, Mount Magnet, a part of our International operations, was classified as held-for-sale and as discontinued operations, and its results were presented as such for all periods shown. In fiscal 2009, as a result of the Mount Magnet operations ceasing to be classified as held-for-sale, the results of its operations were reclassified as continuing operations. All periods shown have been re-presented for this change.

The discussion on Orkney follows below.

Introduction: We acquired the Orkney operations when on September 22, 2003, we merged with ARMgold via a share exchange which resulted in ARMgold becoming our wholly-owned subsidiary. In September 2007, we announced that we had entered into formal agreements with Pamodzi for the sale of the Orkney Shafts. The sale was finalized on February 27, 2008 and the related assets and liabilities derecognized.

History: Exploration and development at Orkney started from 1886 and following dormant periods, large-scale production commenced during the 1940s with the formation of Vaal Reefs Gold Mining and Exploration Company Limited in 1944.

Geology: At the Orkney operations, the Vaal Reef is the most significant reef mined. The reef strikes northeast, dipping southeast and is heavily faulted to form a series of graben structures. The dip is generally less than 30 degrees but can vary locally in direction and magnitude to exceed 45 degrees. The VCR is also exploited, as well as the Elsburg Reef. There are several major faults in the lease area, being Nooitgedacht, Buffelsdoorn, Witkop, WK2, No 3 BU, No 5 BU and No 2 BU Fault. These faults typically have throws of tens of meters and further divide the reef into blocks of up to 100 meters in width.

Mining operations: These operations are subject to all of the underground mining risks detailed in the Risk Factors section. Mining depths ranged from 1,600 meters to 2,000 meters below the surface at the Orkney operations.

During February 2008, the Orkney shafts were sold to Pamodzi. These shafts had been managed by Pamodzi since October 2007.

For fiscal years 2008 and 2007, the Orkney operations accounted for approximately 5% of our total gold production.

Plants: Ore from the Orkney operations was treated at Vaal River Operations’ (“**VRO**”) No. 1 Gold Plant (of AngloGold). Various agreements between us and VRO governed the supply and quality of the ore and gold apportionment.

Production analysis:

Orkney operations	Fiscal Year Ended June 30,		
	2009	2008 ⁽¹⁾	2007
Production			
Tons ('000)	—	571	947
Recovered grade (ounces/ton)	—	0.100	0.126
Gold produced (ounces)	—	46,655	119,061
Gold sold (ounces)	—	57,132	119,109
Results of operations (\$)			
Product sales ('000)	—	42,810	75,499
Cash cost ('000)	—	51,482	64,603
Cash (loss)/profit ('000)	—	(8,672)	10,896
Cash costs			
Per ounce of gold (\$)	—	1,093	544
Capex (\$)	—	3,579	15,119

⁽¹⁾ The results are for the eight months ended February 2008.

The Orkney operations were sold to Pamodzi during fiscal 2008 and therefore the results for fiscal 2008 are only for eight months and are not comparable with fiscal 2007.

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International Mining Operations



Western Australia Operations

During fiscal 2008, we entered into an agreement with Monarch for the sale of our Mount Magnet operations. However, subsequent to fiscal 2008 year-end, we were advised that Monarch had placed itself in voluntary administration and, on August 1, 2008, the Administrator indicated that Monarch will not proceed with the proposed purchase and consequently the purchase agreement has been terminated. We have since resumed management of the Mount Magnet operations. The sales process was resumed but due to various factors (conditionality of contracts and the impact of the global financial crisis) could not be finalized by the end of fiscal 2009. The conditions put on indicative offers related mainly to performing a successful feasibility study which will prolong the sales process and the realization of the sales proceeds. To remove this condition from prospective buyers' offers, we started an intensive drilling program at Mount Magnet to be able to provide a Life of Mine model. As a result the Mount Magnet disposal group is therefore no longer disclosed as held-for-sale as at 30 June 2009 and we have re-classified the Mount Magnet operations to Continuing Operations. The comparative income statement and cash flow related note information has been adjusted to reflect this.

As of June 30, 2009, our Western Australian operations had 13 employees (these include care and maintenance and exploration personnel on the Mount Magnet site).

In fiscal 2009, our Australian operations accounted for 0% of our total gold production, as compared to 5% in fiscal years 2007 and 2008.

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Mount Magnet Operations

Introduction. In 2002, we acquired Mount Magnet as part of the Hill 50 transaction. In fiscal 2009, Mount Magnet’s operations accounted for approximately 0% of our total gold production, as compared to 6% and 4% respectively in fiscal years 2007 and 2008. This change was the result of the site being placed on care and maintenance as from December 31, 2007.

History: Mining at Mount Magnet began after the discovery of gold in 1896. From that time to June 30, 2009, the Mount Magnet area has produced approximately 6 million ounces. The most recent Mount Magnet operations commenced production in the late 1980s on the Hill 50 and Star underground mines and nearby open-pits, and the processing of low grade ore from previously accumulated stockpiles. Production ceased at the Star underground mine in June 2005. The Star underground mine was subsequently replaced by St. George, a new underground mine. The Mount Magnet site was put on care and maintenance as from December 31, 2007.

Geology: The Mount Magnet operations are located near the town of Mount Magnet in the Murchison region, some 600 kilometers northeast of Perth. The geology consists of folded basaltic and komatiitic greenstones with intercalated banded iron formations and volcanoclastic units. In addition to having been intensely folded, the area has undergone substantial faulting and later intrusion by felsic intrusives. Mineralization within the Murchison belt consists of sulphide replacement style (characteristic of the Hill 50 mine) and quartz lode and shear-hosted hydrothermally emplaced bodies proximal to fault conduits. Smaller stockwork bodies within felsic intrusives are also common. As is typical of the Archaean Shield, the deep weathering profile at Mount Magnet has resulted in supergene enrichment and hypogene dispersion of gold in the oxidizing environments. These effects lend themselves well to the process of small scale open-pit mining. Historically underground mining of primary lodes was the largest contributor to Mount Magnet’s gold production.

Mining Operations: The Mount Magnet operations were engaged in underground, open-pit and waste rock mining prior to site closure. These operations are subject to the underground, open-pit, and waste rock mining risks detailed in the Risk Factors section.

Underground operations at Mount Magnet consisted of the Hill 50 and St. George mines, each of which operated a decline. The Hill 50 mine, which approached 1,525 meters in depth, was one of Australia’s deepest underground mines. The St. George Mine was approximately 300 meters in depth. Underground mining was conducted by decline tunnel access. The principal challenges confronted by the Hill 50 underground mine related to its continuing depth and the geotechnical, ventilation and cost impediments that increased depth imposes, including increased ground stress and potential increased seismic activity. A decision was made in May 2007 which placed the Hill 50 mine’s decline development on hold due to significant seismic activity, and effectively put the mine in harvest mode at that time.

With the closure of Star, the development of the new underground mine at the St. George open-pit provided additional underground tonnage for the Mount Magnet operations. Underground development at St. George started in December 2005. The first stope was mined in the second quarter of fiscal 2006. Underground mining continued at this mine during fiscal 2007. This mine reached its economic depth limit during fiscal 2007, and was put in harvest mode, with mining operations ceasing in October 2007. Open-pit production was hindered by the delay in the start up of the Cue open-pits until the last quarter of fiscal 2005 as a result of delayed mining approvals and extended contractor negotiations, although these were subsequently resolved and mining commenced in fiscal 2006. Open-pit mining mainly took place around Mount Magnet during fiscal years 2007 and 2008.

Surface operations at Mount Magnet exploited several medium-sized open-pits, as well as numerous smaller open-pits. Surface materials from areas previously involved in production, including waste rock dumps and tailings dams, are also processed at Mount Magnet. The principal challenge faced by the Mount Magnet operations involved the short mine lives which results from the open-pits being situated on small orebodies. The Mount Magnet site was put on care and maintenance as from December 31, 2007.

Plant: The Mount Magnet operations include one metallurgical plant which was built in 1989 as a CIL plant and upgraded in 1999 to a CIP plant. Actual throughputs of the Mount Magnet plant varies based upon the blend of oxide and sulphide ores in their feed. Processing capacity is an estimate of nominal throughput based on a 70% hard (sulphide) and 30% oxide (soft) blend.

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Production analysis:

	2009 ⁽¹⁾	Fiscal Year Ended June 30, 2008 ⁽¹⁾	2007
Production			
Tons ('000)	—	966	1,875
Recovered grade (ounces/ton)	—	0.080	0.073
Gold produced (ounces)	—	75,297	136,415
Gold sold (ounces)	—	77,097	136,415
Results of operations (\$)			
Product sales ('000)	—	56,215	85,760
Cash cost ('000)	—	41,405	70,528
Cash profit ('000)	—	14,810	15,232
Cash costs			
Per ounce of gold (\$)	—	545	517
Capex ('000) (\$)	—	3,909	20,199

(1) The operation was on care and maintenance as of December 31, 2007.

Recovered grade was 0.080 ounces per ton in fiscal 2008 compared to 0.073 ounces per ton in fiscal 2007. This was due to higher grades produced from the Hill 50 underground mine. Tons milled were 966,000 in fiscal 2008 compared to 1,875,000 in fiscal 2007. Ounces sold decreased to 77,097 in fiscal 2008, compared to 136,415 in fiscal 2007. The decrease in both tons and ounces in fiscal 2008 are a reflection of the Mount Magnet production figures representing just 6 months of production due to the site being placed on care and maintenance.

Cash costs per ounce were U.S.\$545 for fiscal 2008, compared to U.S.\$517 for fiscal 2007. This increase was due to higher underground and open-pit contracting cost due to the underlying mining cost increases in the Western Australian and a wider Australian mining market environment.

The majority of declared ore reserves were mined during fiscal 2008. The mines were closed and the processing plant has been put on care and maintenance.

Capital Expenditure: We spent A\$0 million on capital expenditure at the Mount Magnet operations in fiscal 2009, primarily due to the fact that the site was put on care and maintenance during 2008 and a feasibility study was commenced during April 2009. No capital expenditure was therefore incurred.

Exploration: Activities at Mount Magnet, Western Australia, were performed to the minimum level required to keep the tenements in good standing as the site and the plant is currently on care and maintenance.

South Kalgoorlie Operations

Introduction: The South Kalgoorlie Operations are made up of New Hampton’s Jubilee Operations and Hill 50’s New Celebration operations. Since the commencement of operations to November 30, 2007, total gold production from the mines in the South Kalgoorlie area has exceeded 2.5 million ounces. In fiscal 2008, South Kalgoorlie operations accounted for 1% of Harmony’s total gold production, and accounted for 4% of our total gold production in 2007.

In July 2007, we announced the sale of the South Kalgoorlie Mine to Dioro. The total purchase price was A\$45 million (U.S.\$39.8 million), which consisted of a cash and a shares component. On November 30, 2007, all conditions precedent to the transaction were satisfied. The results for fiscal 2008 below reflect only the 5 months ended November 30, 2007.

History: The South Kalgoorlie operations included several open-pits at Jubilee and New Celebration, as well at the Mount Marion underground mine. The Jubilee operations were originally comprised of the large Jubilee open-pit and a number of smaller open-pits. The New Celebration operations were initially developed in 1987 by Newmont exploiting the same ore body that hosted the Jubilee Pit. Hill 50 acquired these operations from Newcrest Mining Ltd. in June 2001. The Mount Marion decline was established in 1998. Open-pit mining ceased at the South Kalgoorlie Operations at the end of fiscal 2005, with only low grade stockpiles treated during fiscal 2006 together with Mount Marion ore. During fiscal years 2008 and 2007, open-pit mining recommenced at South Kalgoorlie Mines, with a cutback on the HBJ pit, as well as the Shirl open-pit.

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Geology: The South Kalgoorlie mines were located approximately 30 kilometers south of Kalgoorlie in the Eastern Goldfields region of Western Australia. The South Kalgoorlie orebodies were located in a number of geological domains including the Kalgoorlie-Kambalda belt, the Boulder-Lefroy Structure, the Zuleika Shear, the Coolgardie Belt and Yilgarn-Roe Structures. At South Kalgoorlie, the mining tenure and geology straddled the three major fault systems or crystal sutures considered to be the main ore body plumbing systems of the Kalgoorlie Goldfield. The geology consisted of Archaean greenstone stratigraphy of basalts and komatiites with intercalated sediments, tuffs, volcanoclastics and later felsic intrusives. Late stage and large scale granitic (Proterozoic) intrusion stoped out large sections of the greenstone. Quartz filled lode and shear-hosted bodies are the most dominant among many mineralization styles. Large scale stockwork bodies hosted in felsic volcanics were an important contributor to bulk tonnage of relatively low grade deposits.

Mining Operations: The South Kalgoorlie operations are engaged in open-pit, underground and waste rock mining. These operations are subject to the underground, open pit and waste rock mining risks detailed in the Risk Factors section.

At the South Kalgoorlie operations during fiscal 2008, open cast mining took place at Shirl open-pit, together with a cutback project on the HBJ open-pit. The HBJ open-pit had a mine life of three years and consisted of 3.3 million tons of 0.048 ounces per ton at the time the cutback was completed. The discovery of the Shirl prospect during fiscal 2006, which resulted in an open-pit reserve of 50,000 ounces and a 15 month mine life, together with an improved gold price environment, lead to the recommencement of open-pit mining at South Kalgoorlie mines during fiscal years 2008 and 2007. The primary challenge that faced the South Kalgoorlie operations involved identifying adequate sources of new open-pit and underground reserves and managing the geotechnical risk on the HBJ pit cutback. See *Item 3. “Key Information — Risk Factors — Risks Relating to Our Business and Our Industry — To maintain gold production beyond the expected lives of Harmony’s existing mines or to increase production materially above projected levels, Harmony will need to access additional reserves through development or discovery.”*

Plant: The South Kalgoorlie operation had a metallurgical plant located at Jubilee. This CIL treatment plant was capable of treating the planned production from the mining operations. Ore was hauled from the open-pits and from low grade Shirl stockpiles to the treatment plant by conventional road trains. Actual throughputs of the Jubilee plant varied based upon the blend of oxide and sulphide ores in their feed. Processing capacity was an estimate of nominal throughput based on a 70% hard (sulphide) and 30% soft (oxide) blend.

Production analysis:

	2009 ⁽¹⁾	Fiscal Year Ended June 30,	
		2008 ⁽¹⁾	2007
Production			
Tons ('000)	—	477	1,391
Recovered grade (ounces/ton)	—	0.058	0.064
Gold produced (ounces)	—	27,778	88,375
Gold sold (ounces)	—	27,778	88,371
Results of operations (\$)			
Product sales ('000)	—	18,858	56,253
Cash cost ('000)	—	14,453	44,567
Cash profit ('000)	—	4,405	11,686
Cash costs			
Per ounce of gold(\$)	—	517	504
Capex ('000) (\$)	—	12,526	6,859

(1) The South Kal Operations sales process was concluded on November 30, 2007. The results for fiscal 2008 are for the five months ended November 2007.

No comparison between fiscal 2007 and 2008 has been presented as the results for fiscal 2008 are for the five months ended November 2007 and therefore not comparable.

PNG Operations and Exploration

Overview

Introduction: Fiscal 2009 was the first year of the Morobe Mining Joint Venture between Harmony Gold and Newcrest. The Morobe Mining Joint Venture is a 50:50 Joint Venture encompassing:

- 1. the Hidden Valley Operation;
- 2. the Wafi-Golpu Project; and
- 3. an Exploration Joint Venture on the surrounding tenement package.

Newcrest acquired a 50% interest in the Harmony’s Morobe Province assets in two stages:

Stage 1 — Purchase of 30.01% participating interest:

On July 16, 2008, the conditions precedent were finalized for the transaction with Newcrest, which included regulatory and statutory approvals by the PNG Government. Completion of Stage 1 was effected July 31, 2008. A total consideration for completion of Stage 1 of U.S.\$229 million was received.

Stage 2 — Farm-in to earn an additional 19.99% participating interest:

This stage was concluded on June 29, 2009 when Newcrest completed its agreed upon contributions of U.S.\$303 million.

Outside of the Morobe province Harmony has actively sought additional prospective ground for greenfields exploration. A single tenement application ELA1708 covering 863 square kilometers in the Sandaun Province was lodged with the MRA on January 6, 2009. However, grant notification had not been received by the end of fiscal 2009. Details of the Mount Hagen project acquisition are outlined under “*Recent Developments*”

Harmony PNG tenement locations. In terms of regional geological setting, Harmony’s tenement interests are all located within the New Guinea mobile belt. The mobile belt comprises tracts of metamorphosed Lower Jurassic and Cretaceous sediments and oceanic crust. These rocks have undergone deformation in the collision zone between the Australian and Pacific Plates and multiple intrusive events including Tertiary granodiorite and younger mineralized porphyries.

Exploration expenditure in PNG for fiscal 2009 was A\$32.6 million (U.S.\$24.4 million); however, A\$30.4 million (U.S.\$22.7 million) was solely funded by Newcrest as part of the Joint Venture farm-in terms in order to earn a 50% equity interest in the Morobe Joint Venture assets. Results from exploration work have been highly encouraging, as a number of targets with the potential for major stand-alone gold and copper/gold deposits have been identified and advanced to the drill testing phase.

Hidden Valley Operation

Introduction: The Hidden Valley operation falls within Mining License (“ML”) 151 and the Hidden Valley Joint Venture. The mine is located approximately 90 kilometers south-southwest of Lae.

The Hidden Valley Operation is an open pit gold-silver mine and processing plant — both currently under construction. Two separate open pits are planned and in process of being pre-stripped, being Hidden Valley-Kaveroi (“HVK”) pit, and Hamata pit. The HVK pit is the larger pit supplying the majority of the ore and is located some 6 kilometers from the processing plant.

The mill has been constructed to process a nominal 4.2 Mt. of ore per year from the two pits, with de-bottlenecking of the plant planned up to 4.7 Mtpa.

The mine is located in a highly prospective exploration lease area and it is envisaged that, as active exploration continues, the life of the process facility may be extended as it is fed from a number of sources.

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History: Alluvial gold was first discovered at Hidden Valley in 1928 but it was not until the early 1980’s that the area was investigated by CRA Exploration using modern exploration techniques that resulted in the discovery of the Hidden Valley and Kaveroi gold deposits on Exploration License (“**EL**”) 677. A number of feasibility studies have been prepared for the Hidden Valley Project by the various owners, including one by Abelle in 2003. Harmony extensively reviewed and updated the Abelle feasibility study during fiscal 2006 in order to: (a) reflect changes in the project’s ore body interpretation; (b) incorporate increases in capital and operating costs as a result of energy prices and scarce resources in the mining industry as well; and (c) resolve technical aspects that were outstanding from the previous study. The updated feasibility study was presented to the Board during June 2006 with subsequent approval given for construction of the project. In late 2007, Harmony began a search for a partner to partake in all of our PNG mining and exploration activities, culminating in the selection of Newcrest as a partner.

Project Overview: Once fully developed, the Hidden Valley Mine is expected to initially process 4.6 million tons of ore per annum from ore mined at two open-pits, the Hamata ore body in one small pit and the Hidden Valley and Kaveroi orebodies in a much larger pit. Currently planned de-bottlenecking is expected to increase the processing rate to 5.2 million tons of ore per annum by year three of operations.

Expected annual production will average 255,000 ounces of gold per annum and 4.4 million ounces of silver. Expected mine life is 10 years.

The resources will be mined in a sequence that sees the low silver, high gold Hamata ore mined first, with plant and infrastructure development for the project developed in close proximity to the Hamata deposit. The next ore mined will be the Hidden Valley/Kaveroi oxide/transition ores (high silver) followed by the Hidden Valley/Kaveroi primary ores.

Geology: The major gold-silver deposits of the Morobe Goldfield, and the Hidden Valley project are hosted in the Wau Graben. The Wau Graben developed as a back-arc rift basin in the southern extension of the New Guinea Mobile Belt (Owen Stanley Foreland Thrust Belt) covering an area of approximately 850 square kilometers in which the Morobe Goldfield, including the Hidden Valley and Hamata deposits are developed.

The Hidden Valley Deposit is interpreted as a low-sulphidation or adularia-sericite-type epithermal gold-silver system. The Hidden Valley deposit further forms part of the carbonate-base-metal-gold subgroup, with abundant carbonate vein-gangue. Other gold-silver deposits around the Pacific Rim in this sub-group are Kelian (Indonesia), Woodlark (PNG) and Gold Ridge (Solomon Islands).

Discrete zones of intense stockwork fracture and mineralized veining comprise individual lodes. At the Hidden Valley deposit, gold and silver are related to steeply dipping (Hidden Valley Zone, “**HVZ**”) and flat-lying (Kaveroi Creek Zone, “**KCZ**”) sheeted vein swarms associated with an underlying shallow thrust.

Reserves: The table below shows Harmony’s 50% equity portion of the proven and probable gold reserves for the Hidden Valley/Kaveroi/Hamata deposits, which are 2.096 million ounces at 0.034 ounces per ton. Silver proven and probable reserves at Hidden Valley/Kaveroi and Hamata amount to 22.5 million ounces at 1.08 ounces per ton.

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Pit	Reserve Category	Ore Tons	Grade		Gold MOz	Silver MOz
			Gold [oz/st Au]	Silver [oz/st Ag]		
Hidden Valley	Proven	1,543,234	0.068	1.14	0.105	1.8
	Probable	19,400,656	0.058	1.07	1.126	20.8
	Sub-Total	20,943,890	0.059	1.08	1.231	22.5
Hamata	Proven [†]	110,231	0.064	—	0.007	—
	Probable	2,094,389	0.078	—	0.164	—
	Sub-Total	2,204,620	0.078	—	0.171	—
Golpu	Proven [†]	—	—	—	—	—
	Probable	39,021,774	0.018	—	0.694	—
	Sub-Total	39,021,774	0.018	—	0.694	—
TOTAL	Proven	1,653,465	0.068	1.14	0.112	1.8
	Probable	60,516,819	0.033	1.07	1.984	20.8
	Total	62,170,284	0.034	1.08	2.096	22.5

[†] Stockpiled Tons

Site Access. The Hidden Valley site is located approximately 90 kilometers south-southwest of Lae, which is the nearest deepwater port for the project, and the Capital of Morobe Province. Access to the site from Lae uses an existing 110 kilometers sealed two-lane main road to the town of Bulolo, continuing to Hidden Valley via an all-weather two-lane gravel access road constructed by Harmony.

Engineering Procurement and Construction Management Contract. Following Board approval, a small owners team of experienced construction professionals was recruited, including several key individuals with extensive PNG experience, to ensure that project objectives, scope of work and all other project requirements are met. In July 2006 an agreement was reached with the engineering group Ausenco Limited to provide engineering procurement and construction management services for the project. At the end of fiscal 2009, the project was commencing the commissioning phase with construction around the plant complete.

Power Supply. The ability to obtain an alternate power supply from PNG’s national power supplier, PNG Power Limited (“PPL”), is of importance to the project. On May 14, 2007, we announced that we had signed an agreement with PPL to supply the Hidden Valley mine with electricity. PPL has committed to construct new transmission lines and infrastructure in order to supply hydro-electricity from the Yonki Dam. Contracts for this work have already been awarded, and supply is expected to commence by the middle of calendar 2010.

We acquired diesel generators and will install them for the purpose of providing 100% backup power supply to the project, if required, and will be powering the site until hydro-electricity is supplied.

Customs and Excise. In November 2006 the PNG National Executive Committee approved exemptions to customs and excise on a range of commodities that will be required for the construction of the project. This was gazetted, and customs officials at Lae port are already applying the exemptions, based on the draft gazettal notice.

Environment: The environmental investigation and completion of the Environmental Impact Statement (“EIS”), was undertaken by Enesar Consulting Pty Ltd. The investigation applied the data and knowledge gathered since 1987 and baseline studies undertaken as part of the 2004 Feasibility Study, to establish the environmental impacts of the revised development plan.

The EIS has been approved by the Minister for Environment and Conservation of the PNG Government and Environment (Waste Discharge) and Environment (Water Extraction) permits were granted in March 2005. The Hidden Valley Project is the first mining project in PNG to be completely permitted under the new Environment Act 2000.

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A condition of the Environmental Permit is the development and submission for approval of an Environmental Management Plan (“**EMP**”). The EMP was approved in April 2006. Other conditions of the Environmental Permit included the development of an Acid Mine Drainage (“**AMD**”) management strategy and a waste management strategy, which were submitted in 2007. Management of AMD and waste disposal remain a critical issue being tackled by the site.

Hidden Valley is the first major open pit mine in PNG to build a Tailings Storage Facility (“**TSF**”) to contain all tailings, followed by discharge of treated decant (involving cyanide detoxification).

Community affairs/landowner discussions. Through its subsidiary MCG, Harmony worked extensively with the landowners, local and national government to agree an appropriate sharing of the benefits of the Hidden Valley proposed mine. This culminated in the signing of a Memorandum of Agreement (“**MOA**”) between MCG and relevant affected parties on August 5, 2005. These parties were PNG National Government, the Morobe Provincial Government, the immediate area Local Level Government units and the local Landowner Association. This MOA clearly defines the roles and responsibilities of each signatory and in particular removes any of the “grey” area with regards to the distribution of proceeds from mineral royalties.

Community support and development of the mine in compliance with the MOA with landowner groups is critical to the success of the project. Meetings are held regularly with these groups and officials from the provincial and national government to monitor progress and ensure these objectives are met. A range of opportunities for the commercial participation of landowner groups in the development of the project have occurred, and community relations initiatives focused on positive outcomes for health, education and infrastructure are ongoing.

Mining and Mining Fleet. The mine is being developed by conventional open pit mining techniques. The primary mining fleet consists of three Komatsu PC-2000 hydraulic backhoe excavators, two Komatsu PC-800 hydraulic backhoe excavators, two Komatsu WA-900 front-end loaders and 20 Komatsu 785-7 rigid dump trucks (100 t class) with a further 5 of the same trucks ordered for delivery in November 2009. Drilling equipment comprises seven Atlas Copco ECM720 drill rigs, drilling 6.5 meter holes at 127 mm diameter. A range of ancillary equipment includes track dozers, graders, a fuel truck, and numerous light vehicles.

Ore will be delivered by truck to the Hamata and Hidden Valley crusher stations. Crushed Hamata ore will be delivered by conventional conveyor to the primary stockpile and Hidden Valley ore will be delivered via an overland pipe conveyor to the same stockpile.

Plant: Once operational the processing plant is expected to process ore at a rate of approximately 4.6 million tons (short) of ore per annum and has been designed with three distinct process routes that complement the metallurgical characteristics of the three ore types to be mined. The processing plant will commence as:

- (a) a primary crushing, grinding (with the incorporation of a gravity gold recovery circuit), CIL, Merrill-Crowe zinc precipitation, goldroom and tailings detox plant for the low silver Hamata ores, and
- (b) will revert to a primary and secondary crushing, grinding, flotation, concentrate regrind, counter-current decantation circuit with Merrill-Crowe zinc precipitation, flotation concentrate and tailing CIL, goldroom and tailings detox for the high silver oxide/transition ores, and
- (c) then a similar circuit without flotation tail CIL for high silver sulphide ores from Hidden valley/Kaveroi ores.

The gravity gold recovered will be processed through an intensive cyanide leach followed by electro-winning circuit to produce a high quality ore product.

All tailings will be stored in a tailings storage facility, and all water recovered will be subject to detoxification prior to being re-cycled or released to the environment. The processing plant and tailings storage facility will be built to meet or exceed the requirement of the International Cyanide Management Code. With construction of the plant being effectively complete and the commissioning phase underway continuous gold production is anticipated to commence in the December 2009 quarter.

Government royalty and other rights. The gold and silver production from the Hidden Valley Project will be subject to a 2% royalty, payable on the net return from refined production if refined in PNG or 2% royalty on the realized price if refined out of PNG.

The government of PNG also has a statutory right to acquire up to a 30% participatory interest in mining development projects, at sunk cost. However the memorandum of agreement signed between the government and ourselves reduced the participation right to 5%, should the government wish to exercise it. Once an interest is acquired by the government of PNG, it contributes to the further exploration and development costs on a pro rata basis.

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Third Party Royalties. On March 28, 2007, we announced that we had concluded negotiations with Rio Tinto pursuant to which we would purchase the Rio Tinto rights under a royalty agreement relating to Hidden Valley, which was entered into prior to our acquisition of the Hidden Valley and Kerimenge deposits in PNG. Under the royalty agreement, Rio Tinto had the right to receive a portion of between 2% and 3.5% of future ounces produced by the Hidden Valley mine in PNG. The consideration we paid to Rio Tinto totaled U.S.\$22.5 million, which was settled with our issue of ordinary shares valuing U.S.\$20 million, with the balance of U.S.\$2.5 million paid in cash.

The transaction will reduce the cash costs per ounce of gold produced at Hidden Valley, and all further extensions to the project, mine life and reserves will be free of this royalty.

Capital Expenditure: Capital expenditure on the project for fiscal 2009 was U.S.\$317 million (A\$397 million) compared to the U.S.\$162 million (A\$181 million) spent in fiscal 2008. Capital was mainly spent on completing earthworks within the mining lease, particularly the process plant platform, construction of the process plant, construction of the Hamata permanent camp and related infrastructure. Other areas of significant expenditure were for process equipment and management related costs. The total project capital cost is estimated to be U.S.\$614 million (A\$768 million), which represents a 27% increase in A\$ terms on the last reported budget. Increases in costs were primarily caused by market forces resulting from the high demand created by resource development projects in the region. There were no significant changes in the scope of work of the project. This value excludes U.S.\$37 million for mine fleet repayments post the construction phase which is not considered part of the construction capital.

Wafi-Golpu Project

Introduction: The Wafi-Golpu Project falls within EL440 and the Wafi-Golpu Joint Venture. The first exploration at Wafi dates back to a nationwide porphyry copper search by CRA Exploration Ltd in the late 1960's. Elders Resources farmed-in to the project from 1989-1991, and AGF subsequently farmed-in to the project for a short period in 1997 prior to going into administration in 1998. Aurora subsequently acquired the project from Rio Tinto (CRA) in 1999, with ownership passing to Abelle when it merged with Aurora in 2002. Harmony assumed control of the Wafi Project by way of its acquisition of Abelle in 2003 and in 2009 entered into the MMJV with Newcrest.

The Wafi-Golpu Project contains two main types of potentially economic mineralization within close proximity of each other. Gold mineralization (Wafi Gold Project) is hosted by sedimentary/volcanoclastic rocks of the Owen Stanley Formation which surrounds the intrusive Wafi Diatreme. The mineralization occurs in the form of extensive high-sulphidation epithermal alteration overprinting porphyry mineralization and epithermal style vein-hosted and replacement gold mineralization with associated wall-rock alteration. Copper / gold mineralization (Golpu and Nambonga North) has been discovered in diorite porphyry intrusives with typical zoned porphyry alteration halos.

Geography: The Wafi-Golpu Project is located near Mount Watut in the Morobe Province of PNG, approximately 60 kilometers southwest of Lae and about 60 kilometers northwest of Wau. The Wafi camp is located at an elevation of 400 meters above sea level in terrain that is mountainous and forested in most areas. The site is accessed by sealed road (Lae to Timini) and then a 38 kilometre dirt-base access track to the project which is accessible during dry weather conditions. The site is serviced by helicopter when the road access is cut due to wet weather. The Watut Valley is located immediately west of the project, and the foothills of Watut Valley are planned to be utilized for placement of ore processing and mine infrastructure.

Mining Reserves: A probable ore reserve has been declared. See *Item 4. "Reserves"*.

The Golpu Ore Reserve is derived from the Golpu Stand Alone Project Pre Feasibility Study (PFS). This study assumed a block cave underground mine with ore processed on site to produce a copper and gold concentrate for shipping to a smelter. Metallurgical studies indicate that recoveries of 88% for copper, 54% for gold and 36% for molybdenum could be expected. Metal prices were assumed at U.S.\$2.30/lb for copper, U.S.\$520/oz gold and U.S.\$20/lb for molybdenum.

In declaring the probable reserve, the following considerations were made:

1. The PFS was completed to industry accepted standards but the outcome of further more detailed studies may affect the reserve.
2. The location for a tailings storage facility has not been finalized, however two potential sites proximal to the project were identified.

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- 3. There are outstanding issues associated with traditional land owners that need to be resolved before the project is able to be constructed.
- 4. The Board has not yet committed to completing subsequent phases of study, or to project construction.

A reserve for the Wafi gold ore bodies has not been declared.

Government Royalty and Other Rights: Any metal production from the Wafi-Golpu Project Area will be subject to a 2% royalty payable on the net return from refined metal production if refined in PNG or a 2% royalty payable on the realized price if refined outside of PNG. The government royalty has been accounted for in project financial models. The PNG government also has a statutory right to acquire up to a 30% participatory interest in mining development projects at sunk cost. However the MOA signed between the government and ourselves reduced the participation right to 5%, should the government wish to exercise it. Once an interest is acquired by the government of PNG, it contributes to the further exploration and development costs on a pro rata basis. Previously, a third party royalty of 2% on gold production or a 2% NSR (net smelter return) from copper-gold concentrates was payable to Rio Tinto as a deferred acquisition cost. In December 2008 Harmony purchased this royalty from Rio Tinto.

Capital Expenditures: No capital expenditures were incurred during fiscal 2009 as all costs were expensed.

Pre-Feasibility Studies: Two pre-feasibility studies for the Wafi-Golpu Project have been completed:

The Golpu stand alone Pre-Feasibility Study (“**Golpu PFS**”), dated July 2007, which examined solely the development of Golpu copper gold resources;

The Wafi Pre-Feasibility Study (“**Wafi PFS**”), dated October 2007, which included the Wafi gold resources and examined the development of the following three scenarios:

- Golpu stand alone (an update of the Golpu PFS scenario);
- Golpu + Link Zone; and
- Golpu + Link Zone + NRG1;

The returns projected by the studies did not meet requirements and it was decided not to immediately move to the Feasibility stage. Additional exploration of the area has been committed to in order to identify additional resources that could provide the Wafi-Golpu Project Area with a critical mass to warrant further advanced feasibility studies.

Wafi Gold Projects

Introduction: The Wafi Gold resource is comprised of three main zones: Zone A, Zone B and the Link Zone (high grade lenses within Zone B). In addition to the Wafi Gold resource, several other areas are highly prospective for further gold mineralization.

Geology: The Wafi PFS focused on extraction of the high grade Link Zone material, and the shallower oxidized mineralization (NRG1), amenable to high gold recovery under standard cyanide leach conditions. Additional exploration activities have focused on the discovery of additional Link Zone style mineralization (such as the Western Zone) which may have the potential to improve Wafi gold project economics.

Metallurgy: Metallurgical test work for the Link Zone mineralization has demonstrated that whole ore pressure oxidation is a technically viable processing method, with gold recoveries of approximately 95% achieved.

Metallurgical test work for the Non-Refractory gold mineralization (“**NRG1**”) has shown that 95% recovery of gold in completely oxidized ores can be consistently achieved. Recovery in transitional material remains variable with indications that recoveries averaging 84% to 86% are able to be achieved.

Project Status: Geotechnical, mining, infrastructure, and environmental investigations were undertaken as part of the Link Zone and NRG1 studies. Synergies between the Wafi Gold projects and the Golpu Copper project were utilized during the studies to minimize cost as far as possible. Works are ongoing to further optimize this project including further exploration to expand known gold resources and discover new areas of mineralization.

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Porphyry Copper-Gold Projects

Introduction: The Golpu Copper-Gold Project is located approximately one kilometre northeast of the Wafi gold orebodies. During 2008, a second porphyry copper/gold body (Nambonga North Prospect) was identified two kilometers to the north of the Wafi gold orebodies. A copper/gold resource has been estimated for Nambonga North.

Geology: The Golpu alteration profile is a typical zoned porphyry copper alteration halo, grading from potassic to phyllic to advanced argillic upwards in the core. Outwards from the core, the alteration grades from the above to argillic potassic, to propylitic. The mineralized body is a porphyry copper-gold ‘pipe’ with approximately 200 meters by 200 meters plan dimensions, slightly north plunging and still displaying strong mineralization at grades similar to those in the rest of the potassic alteration zone at 1.2 kilometers depth (the maximum depth to which it has been drilled). Drilling and reinterpretation have shown that copper and gold mineralization extend some way into the metasediment host rock immediately adjacent to the porphyry body. The mineralized metasediment has potential to add to the volume of the porphyry stock if additional exploration defines the mineralization as part of the resource.

The surface expression of Golpu is oxidized and leached to about 150 meters vertical depth, resulting in a residual gold only mineralization from which the copper has been leached. At the oxidation interface, a strong 20 to 30 meters thick zone of supergene copper enrichment is developed which transitions at depth into lower grade covellite-enargite mineralization. Beneath this is a zone of more covellite rich mineralization that contains lesser enargite and consequently less arsenic. From approximately 300 meters below surface, the ore exists in a covellite-rich (arsenic-poor) form grading into a chalcopyrite-bornite rich zone from approximately 500 meters to its current known depth of approximately 1.2 kilometers. A reserve of 70.8 Mt. at 1.13% Cu, 0.61g/t gold and 121 ppm Molybdenum has been declared for Golpu.

Project Status: The Golpu PFS was undertaken as a standalone scenario and also in parallel with the Link Zone and NRG1 resources (Wafi PFS) but neither study indicated a return that met company requirements. The newly discovered Nambonga North porphyry is not yet considered sufficiently large to positively contribute to a scenario that could include this resource in a mine plan. However, excellent prospects remain in the immediate vicinity of the existing resource areas for porphyry copper/gold and related epithermal gold mineralization.

Morobe Mining Joint Venture Tenement Exploration

The Morobe Mining Joint Venture tenements comprises 3,276 square kilometers of tenure and contain the Hidden Valley Operation and the Wafi-Golpu Project. The Morobe Mining Joint Venture is divided into 3 separate Joint Venture entities:

1. Hidden Valley Joint Venture (ML151 and associated infrastructure tenure ME82 and LMP80);
2. Wafi-Golpu Joint Venture (EL440 and EL1105); and
3. Morobe Exploration Joint Venture (EL497, EL677, EL1193, EL1103, EL1316, EL1590, EL1612, EL1629, EL1630, EL1631, and EL1403).

Tenement boundaries are outlined below in figure 1.

The tenements are under-explored and remain highly prospective for large-scale porphyry Cu-Au deposits, low-grade bulk mineable epithermal Au-Ag deposits (similar to Hidden Valley) and for high-grade epithermal Au satellite resources. Focus of the exploration program on the Morobe Joint Venture tenements is four-fold:

- Major new stand alone discoveries;
- High-grade drivers to improve cash flows of the Hidden Valley Operation;
- Additional reserves to substantially increase mine life or production profile of the Hidden Valley Operation; and
- Additional resources to drive the development of the Wafi-Golpu Project.

Exploration programs undertaken during fiscal 2009 included those on the Hidden Valley Mining Lease and the area surrounding the Wafi-Golpu Project. However, in addition to these areas, project generation over the broader area of the Morobe Exploration Joint Venture continued, such as the capturing of historical data, a regional detailed airborne magnetic survey and other grassroots exploration activities (which include mapping, stream sediment sampling and integration of results with regional magnetic data).

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Hidden Valley Joint Venture (ML151)

Introduction: ML151 contains the Hidden Valley and Hamata gold deposits and consists of 41 square kilometers of tenure. Gold exploration on the lease falls under two categories:

1. Resource definition to test down plunge extensions of the known orebodies; and
2. Exploration drilling to test for new satellite resources.

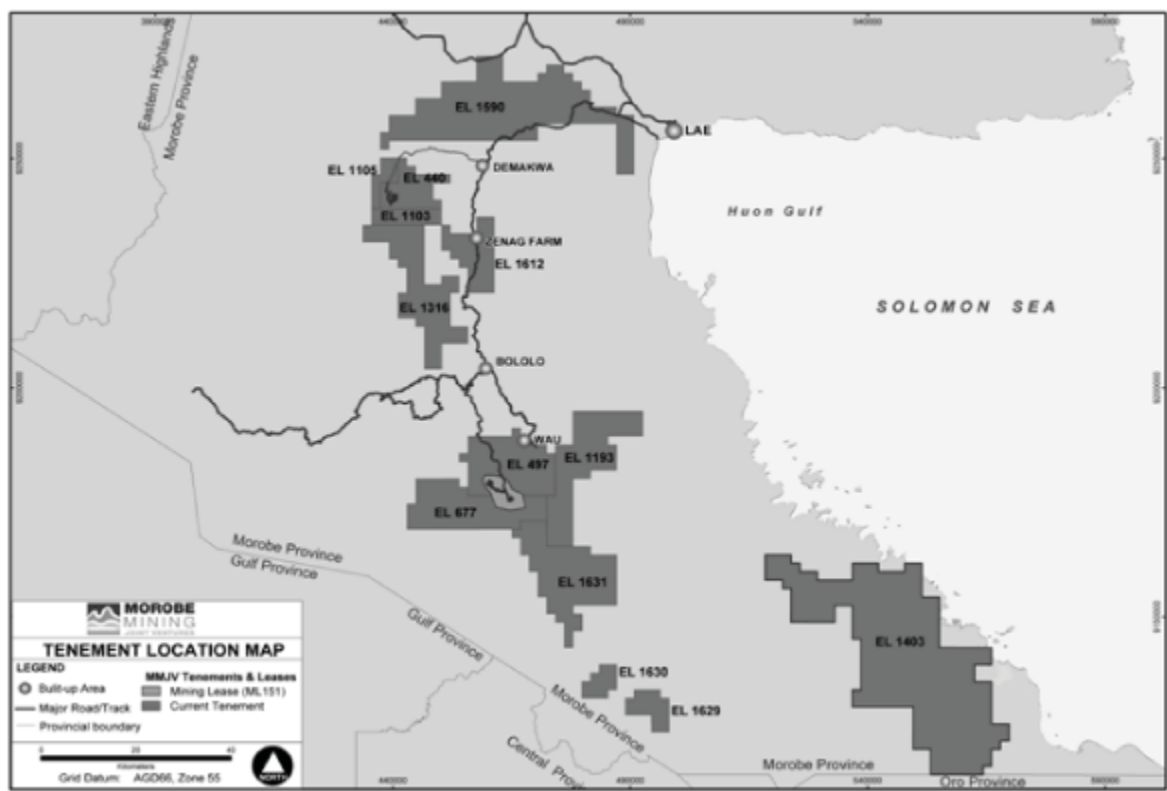
Resource definition drilling comprised 17 holes for 5398m and focused on Kaveroi. Resource definition drilling also included some minor sterilization drilling at Bulldog prospect for the planned Hidden Valley ROM pad. The program focused on the southern strike extension of the Kaveroi orebody but to date only sporadic intervals of gold mineralization have been intersected and no further work is planned for this target.

Exploration drilling during fiscal 2009 on the ML comprised 3910m of diamond drilling on four prospects, Apu Creek, Big Wau, Yafo, and Hidden Valley South.

Project Status: Work integrating the geological and geochemical datasets together with detailed helimagnetics is underway to provide a new solid geology interpretation and new tool for targeting and ranking prospects on the Hidden Valley Mining Lease.

Drilling to follow-up on high-grade gold intercepts at the Hidden Valley South prospect (previously known as Upper Bulolo prospect) intersected only narrow sporadic gold intercepts. Work to understand the geometry and continuity of mineralization is planned in fiscal 2010.

Apu creek drilling was undertaken to test a possible faulted extension of the Kaveroi mineralization. The drilling outlined zones of carbonate base-metal and epodite alteration, developed below the metasediment cap. Follow-up work to scope the geometry and alteration zonation is planned for the first half of fiscal 2010.



Wafi Joint Venture (EL440 & EL1105)

Introduction: Fiscal 2009 exploration in the brownfields region surrounding the Wafi and Golpu deposits focused on defining additional mineral resources to impact development of the project.

Exploration during the first half of fiscal 2009 was directed at scoping and delineating the Nambonga North porphyry resource. Subsequent reconnaissance drilling along strike to the northeast of the Golpu on the Wafi Transfer obtained significant anomalism at the Miapilli prospect. Compilation and interpretation of the historical Wafi-Golpu datasets was undertaken during the year to create a new, integrated 3D geological model. This work has highlighted the north and northeastern margins of the central diatreme intrusive as underexplored, and prioritized the area for follow-up work in fiscal 2010.

Nambonga North

Introduction: The Nambonga North prospect lies approximately 2 kilometers northwest of Golpu. The prospect was initially discovered in fiscal 2008 after initial drilling intersected a major zone of Au-Cu stock work mineralization associated with a separate porphyry intrusive. Systematic drilling completed during the first half of 2008 comprised 27 drillholes for 8380 metres.

Project Status: The prospect was progressed during the year from an advanced prospect into an inferred gold-copper porphyry resource of 39.8 Mt @ 0.8g/t Au and 0.2% Cu for 1.0M oz Au and 86Kt Cu. (50% attributable to Harmony). Importantly, this recent discovery represents the second mineralised Au-Cu porphyry in the region that does not outcrop at surface.

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Miapilli

Introduction: The Miapilli prospect is located approximately 800m northeast along strike of the Golpu deposit, on the Wafi Transfer structure. The prospect is characterised by a circular magnetic anomaly, interpreted to represent an alteration halo associated with intrusion of a porphyry body at depth.

Three initial drill holes for a total of 2060m were completed and magnetic bodies modelled from the regional magnetics.

Project Status: While the two northern holes drilled failed to intersect any indications of mineralization, the southernmost drill hole at major new stand alone discoveries. During fiscal 2009 over 12,000 line kilometers of detailed airborne magnetics data were collected to complete the magnetic coverage over the core tenement area of the Morobe Joint Venture. The base dataset has highlighted several previously unknown anomalies for prioritization and follow-up in fiscal 2010. These include intrusive complexes at Bakau located approximately 10 kilometers southeast of Biamena on EL1316, and at Garaina on EL1629.

Morobe Exploration Joint Venture (EL497, EL677, EL1193, EL1103, EL1316, EL1590, EL1612, EL1629, EL1630, EL1631, and EL1403)

Introduction: Exploration on the broader tenement package surrounding The Wafi Project and Hidden Valley Operations is aimed at major new stand alone discoveries. During fiscal 2009 over 12,000 line kilometers of detailed airborne magnetics data were collected to complete the magnetic coverage over the core tenement area of the Morobe Joint Venture. The base dataset has highlighted several previously unknown anomalies for prioritization and follow-up in fiscal 2010. These include intrusive complexes at Bakau located approximately 10 kilometers southeast of Biamena on EL1316, and at Garaina on EL1629.

Reconnaissance mapping and stream sediment sampling, and soil sampling resulted in some 3460 samples collected. Results highlighted the Wafi Transfer Structure with Kesiago and Miapilli (refer Wafi Joint Venture above) prospects advanced to drill testing and new targets including Pekumbe generated during fiscal 2009.

Further afield on the Morobe coast results have highlighted the Wiwo prospect with potential for major porphyry copper-gold and epithermal gold mineralization. Prospect development work at Giu was postponed temporarily as a detailed helimagnetic survey is planned for the prospect area during fiscal 2010. This base dataset will provide context in order to assess and prioritize surface soil anomalies for follow-up.

Kesiago

Introduction: The Kesiago prospect covers an area of approximately 3 square kilometers, located on the Wafi transfer structure approximately 4 kilometers southwest of Golpu. This prospect has the potential for both epithermal gold and porphyry copper-gold deposits similar to Wafi-Golpu.

4 holes for 3650m were drilled at the prospect, primarily targeting a high-order Au-Cu surface geochemical anomaly associated with a bulls-eye magnetic target.

Status: Results from the initial drilling obtained several highly anomalous gold intercepts for follow-up work. Recent surface work extending the soil geochemical coverage has outlined a significant Au-As-Pb-Ag anomaly immediately northwest of the existing drill target. First pass drill testing of this zone is also planned for the first half of fiscal 2010.

Biamena

Introduction: Biamena prospect lies approximately 12 kilometers south of the Golpu deposit on EL1316. The prospect area was prioritized for follow-up work based on highly anomalous Cu-Au stream sediment geochemistry coincident with an intrusive unit evident in the magnetics.

Project Status: Work during fiscal 2009 comprised diamond drilling totaling 8 holes (4733m). Although some anomalous intercepts were obtained from the drilling program, integration and interpretation of this data is currently underway to determine if additional follow-up work is warranted.

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Pekumbe

Introduction: The Pekumbe target is located approximately 1.5 kilometers south west of Kesiago, within EL1103. This target is characterized by a subtle circular magnetic feature, coinciding with linear structural breaks. Field reconnaissance has returned highly encouraging rock chip results.

Status: A work program comprising grid based soil sampling has commenced in the fourth quarter of fiscal 2009. Drill testing of any delineated anomalies planned to be undertaken early in fiscal 2010.

Wiwo

Introduction: Wiwo prospect is located approximately 15 kilometers south-southwest of the Morobe townsite on the east coast of PNG. Results from reconnaissance sampling have been highly encouraging with visible gold evident in a large number of pan concentrate samples.

Rock chip sample assays undertaken in conjunction with the stream sediment sampling exercise have returned encouraging assays. Mineralization was observed in veins and shears, and together with the base metal association suggests potential for a buried porphyry copper system.

Status: Ridge and spur soil sampling is currently in progress. A detailed helicopter borne magnetic survey is planned for fiscal 2010 to provide additional data for prospect development.

REGULATION

Mineral Rights

South Africa

South African law no longer provides for the separate ownership of surface and mineral rights. Prior to the promulgation of the MPRDA on May 1, 2004, it was therefore possible for one person to own the surface of a property, another to own rights to precious metals, and yet another to own rights to base minerals. In terms of the MPRDA, all mineral rights in South Africa are now vested in the South African State. The principal objectives of the Act are:

- to recognize the internationally accepted right of the state of South Africa to exercise full and permanent sovereignty over all the mineral and petroleum resources within South Africa;
- to give effect to the principle of South Africa’s custodianship of its mineral and petroleum resources;
- to promote equitable access to South Africa’s mineral and petroleum resources to all the people of South Africa;
- to substantially and meaningfully expand opportunities for HDSAs including women, to enter the mineral and petroleum industry and to benefit from the exploitation of South Africa’s mineral and petroleum resources;
- to promote economic growth and mineral and petroleum resources development in South Africa;
- to promote employment and advance the social and economic welfare of all South Africans;
- to provide security of tenure in respect of prospecting, exploration, mining and production operations;
- to give effect to Section 24 of the South African Constitution by ensuring that South Africa’s mineral and petroleum resources are developed in an orderly and ecologically sustainable manner while promoting justifiable social and economic development; and
- to ensure that holders of mining and production rights contribute towards socio-economic development of the areas in which they are operating.

Under the MPRDA, tenure over established mining operations is secured for up to 30 years (and renewable for periods not exceeding 30 years each thereafter), provided that mining companies apply for new order mining rights over existing operations within five years of May 1, 2004, or before the existing right expires, whichever is the earlier date and fulfill requirements specified in the MPRDA, its Regulations and the Mining Charter.

The Mining Charter was signed by government and stakeholders in October 2002 and contains principles relating to the transfer, over a ten-year period, of 26% of South Africa’s mining assets (as equity or attributable units of production) to HDSAs, as defined in the Mining Charter. An interim target of 15% HDSA participation over five years has also been set and to this end, the South African mining industry has committed to securing financing to fund participation of HDSAs in an amount of R100.0 billion within the first five years of the Mining Charter’s tenure. The Mining Charter provides for the review of the participation process after five years to determine what further steps, if any, are needed to achieve the 26% target participation. In order to measure progress in meeting the requirements of the Mining Charter, companies are required to complete a “Scorecard”, in which the levels of compliance with the Mining Charter can be ticked-off after five and ten years respectively. The Mining Charter and Scorecard require programs for black economic empowerment and the promotion of value-added production (mineral beneficiation), such as jewelry-making and other gold fabrication, in South Africa. In particular, targets are set out for broad-based black economic empowerment in the areas of human resource and skills development; employment equity; procurement beneficiation and direct ownership. In addition, the Mining Charter addresses socio-economic issues such as migrant labor, mine community and rural development, and housing and living conditions.

We actively carry out mining and exploration activities in all of our material mineral rights areas. Accordingly, the MPRDA has not had a significant impact on these mining and exploration activities because we applied for and were granted the conversion of all of our old order mining rights into mining rights in terms of the MPRDA. We now have to comply with the required annual and bi-annual reporting to the Department of Mineral Resources (“DMR”) on the Social and Labour Plans, Environmental Management

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Programmes, and Progress Reports on our prospecting rights.

We have already complied with the requirements of the Mining Charter, with an equivalent of 36% of production ounces qualifying as empowerment credit ounces. We have been working on our program of licensing since 2004, which involved the compilation of a mineral assets register and the identification of all of our economic, mineral and mining rights. We have secured all “old mining rights” and validated existing mining authorizations. Our strategy has been to secure all strategic mining rights on a region-by-region basis. The first application for conversion from “old order” to “new order” mining rights was for the Evander Operations and was lodged on May 21, 2004. The Evander mining license was the first conversion application in the region and in October 2004 we became the first senior company to convert “old order” to “new order” mining rights for our Evander and Randfontein operations. We have worked closely with the DMR to help ensure, to the extent we are able, that the licenses are granted as swiftly as possible. The conversion of licenses for all our remaining operations were granted during November 2007 and Doornkop was executed in October 2008. All of our mining areas are therefore secured/supported by new order mining rights.

The MPRDA as well as the Codes of Good Practice for the Minerals Industry are under review. We are taking an active role in these deliberations. We are committed to engaging with all stakeholders to ensure that the South African mining industry remains a globally competitive and attractive destination for foreign and domestic investment.

The Mineral and Petroleum Royalty Act 28 of 2008 and the Mineral and Petroleum Royalty Administration Act 29 of 2008 were assented to on November 21, 2008 with the commencement date set as May 1, 2009. However on February 11, 2009, South Africa’s Finance Minister proposed in his budget speech that government delay the implementation of the mineral and mining royalties until March 2010. The proposal was mainly to assist the mining industry in minimizing job losses as the South African Mining Sector had been set back by electricity supply failures, shutdowns related to mine safety, retreating commodity prices and weakening international demand. Royalties will be payable to the government according to formula based on earnings before interest and tax. This rate is then applied to revenue to calculate the royalty amount due, with a minimum of 0.5% and a maximum of 5% for gold. It is estimated that the formula could translate to a royalty rate of more than 2% of gross sales in terms of current pricing assumptions.

- The MPRDA intends to, among other things:
- give effect to the Minister’s stated intention to promote investment in the South African mining industry;
 - establish objective criteria for compliance with the MPRDA’s socio- economic objectives;
 - remove the technical deficiencies of the MPRDA;
 - align the MPRDA with the Promotion of Administrative Justice Act, 2000; and
 - coordinate the environmental requirements between the MPRDA and the National Environmental Management Act.

PNG

The Mining Act of 1992 (PNG) is based on Australian legislation. Accordingly, mineral rights in PNG also belong to the government of PNG and they have a statutory right to obtain up to a 30% participating interest in mining development projects. The government then issues and administers mining tenements under the relevant mining legislation, and mining companies must pay royalties to the government based on production.

The key difference in PNG is that citizens have the right to carry out non-mechanized mining of alluvial minerals on land owned by them. These customary rights do not extend over a mining lease, unless an alluvial mining lease is obtained.

Almost all land in PNG is owned by a person or group of persons, and is not generally overlaid by landowner title issues. There is, however, considerable difficulty in identifying landowners of a particular area of land because land ownership may arise from both contract and inheritance, and because of the absence of a formal written registration system.

Prior to commencing exploration, compensation for loss or damage must be agreed with the landowners. Prior to commencing mining, a written agreement must be entered into with landowners dealing with compensation and other matters.

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In PNG, Morobe Consolidated Goldfields Limited and Newcrest PNG 1 Limited hold a mining lease and various exploration licenses granted by the Department of Mineralogy and Geohazards Management for the Hidden Valley Project. Both parties have obligations under a memorandum of agreement with the state, local government and the landowners.

Wafi Mining Limited and Newcrest PNG 2 Limited hold various exploration licenses granted by the Department of Mineralogy and Geohazards Management for the Wafi-Golpu Project, and has entered into a compensation agreement with landowners on one of its exploration licenses.

In PNG there are no applicable exchange control restrictions but the PNG central bank does have to be informed of all transactions and has to approve lending facilities and interests rates charged.

Environmental Matters

South Africa

We are committed to conducting our business in an ethically, morally, socially and environmentally responsible manner that will protect human health, natural resources and the environment in which we live. We aim to balance our economic, social and environmental goals and responsibilities to achieve sustainable, profitable growth in our business and, more importantly, to work with communities and regulatory agencies to implement sound management practices which will ensure that our mining is conducted in an environmentally-safe manner. In addition, with regard to legacy mining impacts, we remain committed to identifying and implementing coordinated remediation plans that are acceptable to all relevant parties.

In support of the above commitment, our environmental policy stipulates that:

- **Compliance**
We will strive to comply with all applicable municipal, provincial and national laws and regulations, as well as the other requirements to which the company subscribes that are relevant to the environmental aspects of our activities.
- **Continual Improvement**
We will evaluate and continually improve the effectiveness of our Environmental Management System (“**EMS**”) through periodic audits and management reviews, and we will review our environmental policy on an annual basis.
- **Pollution Prevention**
We will actively design our operations and undertake our mining activities so as to prevent pollution. We will strive towards the continual reduction of adverse environmental effects and support the principle of sustainable development.
- **Awareness**
We will communicate our environmental policies to our employees, contractors and suppliers, and will provide appropriate training to all employees to ensure their continuing awareness of our environmental responsibilities.

To address and minimize the impact of the company’s operations on the environment, taking into account regulatory requirements, the board has approved a number of five year targets relating to emissions to air, water consumption and usage, energy consumption, recycling and land use based on fiscal 2008, namely:

Emissions to air

- to reduce electricity usage by 15% in line with DME 2005 Energy Accord;
- to reduce fuel usage (diesel and petrol) by 15%;
- to reduce all dust emissions (from tailings dams) by 15%;
- to reduce methane emissions by 30%; and
- to reduce domestic coal usage by 50%.

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Water

- to reduce water usage by 10%; and
- to reduce metals/salt discharge by 70% to surface water, and by 20% to groundwater.

Recycling

- all steel, plastic and timber waste to be handled through designated areas, to improve levels of recycling, and 50% of all oil and grease to be recycled.

Land use

- a 10% reduction in the company’s land use footprint will be effected through rehabilitation.

Environmental performance

ISO14001 implementation

An ISO14001 EMS is being introduced progressively across our operations, and it is planned that the implementation programme at the longer-life operations will be completed in 2012. Formal certification will be sought progressively. By the end of June 2009, the implementation status at the various operations (where 100% means certification) was estimated as follows:

- Doornkop— shaft — 90% and plant — started. Stage 2 certification audit scheduled for October 2009;
- Target — 12%. Certification audit planned for March 2011;
- Elandsrand — 20%. Certification audit planned for March 2011;
- Phakisa — 20%. Certification audit planned for November 2010;
- Evander — 10%. Certification audit planned for March 2011; and
- Kalgold — 12%. Certification audit planned for December 2010.

The EMS forms the basis for the implementation of the environmental policy and monitoring compliance, while the Environmental Management Programme Report (“**EMPR**”) developed in line with legislative requirements, contain specific as well as general principles governing environmental management during the life of the mine. The EMPRs identify individual impacts, mitigation measures and rehabilitation requirements.

Generic closure objectives are set and high-level closure plans formulated within the EMPR, including investigation of the potential for re-use of existing infrastructure, preparation of a rehabilitation plan, rehabilitation and vegetation of the affected area and post-closure monitoring. These EMPRs are legally binding and forms part of the Group’s submission for, and receipt, of mining rights conversions. Revised EMPRs (aligned with new minerals legislation) were developed for Doornkop, Kalgold, Joel, St Helena, Target, Evander, the Virginia operations and Elandsrand in fiscal 2009, and submitted to the regulatory authorities for approval. As part of this process, public participation meetings have been held with interested and affected parties.

A number of annual compliance audits were undertaken during the year, most notably by the DMR. Areas of non-compliance identified by the audits have been and are being addressed.

Significant environmental incidents

Significant incidents are defined as those that have an impact outside the Group’s boundaries, which may cause irreparable harm or which require significant expenditure to remedy. In fiscal 2009, four significant environmental incidents were reported. These related primarily to:

- water seepage from slimes dams (one incident);
- unexpected water discharged, particularly as a result of electricity interruptions and equipment failure (two incidents); and

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- the failure of a clay-lined return water dam that resulted in the flooding of an agricultural area (one incident). Incidents involving water are reported using a specific water related incident reporting system, as required in terms of Regulation 704 of the National Water Act.

Financial provision

In accordance with legislation, Harmony has constituted independent environmental rehabilitation trust funds to make adequate financial provision for the expected cost of environmental rehabilitation at mine closure and for the discharge of its obligations and contingent liabilities. Each operation reviews and updates the financial provision for its expected environmental closure liability annually in consultation with a consultant. This estimate is then used to calculate the contributions to be made to the rehabilitation trust funds, and, if necessary, adjustments are made to the trust fund provisions.

The accumulated amount in the various South African rehabilitation trust funds was R1,597 million (U.S.\$207 million) at the end of June 2009 (compared with fiscal 2008, which was R1,603 million (U.S.\$206 million)), while the total rehabilitation liability was estimated at R1,918 million (U.S.\$248 million) (compared with fiscal 2008, which was R2,102 million (U.S.\$269 million).)

The assets of each mine within each fund are ring-fenced and may not be used directly to cross-subsidise one another. Contributions to the various funds will continue to be made over the operation’s life-of-mine and each fund is expected to be fully cash funded at the time of closure. Until such time as the trust funds are fully-funded, bank guarantees are issued for the short-fall.

Australia

Our Western Australian operations are subject to applicable environmental legislation including site specific tenement conditions imposed by the Department of Mines and Petroleum (“**DMP**”), operating licenses issued by the Department of Environment and Conservation (“**DEC**”), and water abstraction licenses issued by the Department of Water.

In Western Australia, rehabilitation obligations under the Mining Act are covered by environmental securities issued by us, or by performance bonds issued by our bankers and cash-backed by us. These bonds cannot be relinquished or cancelled without the approval of the DMP. The requirement to lodge an environmental bond is a condition applied to the tenement following assessment and approval of any mining proposal and is necessary prior to commencement of operations. Environmental rehabilitation costs are amortized over the operating life of a mine and the bond amount reviewed on an annual basis following a site audit by the regional inspector and/or our issuance of an Annual Environmental Report. As areas are successfully rehabilitated, the bond requirement is reduced until complete bond relinquishment is achieved.

While we believe that our current provision for compliance with such requirements is reasonable, any future changes and development in Australian environmental laws and regulations may adversely affect the Australian operations. The total Australian rehabilitation liability was A\$23.3 million (U.S.\$18.8 million) at the end of fiscal 2009.

During operation of the mine site, bi-annual audits are conducted by DEC to determine compliance with the relevant operating license(s). However, DEC tend not to audit when sites are on care and maintenance. There are currently no outstanding material non-compliance issues against our licenses.

At the Mount Magnet operation an appointed person dedicated to environmental matters is responsible for implementing the environmental management programs, monitoring the impact of mining on the environment and responding to impacts that require specific attention outside of the normal program of environmental activities.

The primary environmental focus at most of our operations is water management and rehabilitation. The major objective is to ensure that water is of a quality fit for use by downstream users.

PNG

Our PNG operations are in various phases of activity including exploration, pre-feasibility study and project construction. We are subject to applicable environmental legislation including specific site conditions attached to the mining tenements imposed by the PNG Government Department of Environment and Conservation (“**DEC**”), the terms and conditions of operating licenses issued by the Department of Mines and DEC, and the Environment Permits for water extraction and waste discharge issued by DEC.

Some non-compliances with these requirements have been identified at the Hidden Valley Mine and remedial actions have been implemented in consultation with DEC. All other operations in PNG are compliant with their respective statutory requirements.

All PNG operations have departments and personnel dedicated to environmental matters who are responsible for implementing the company environmental management programs, monitoring the impact of mining on the environment and responding to impacts that require specific attention outside of the normal program of environmental activities.

A framework for a Sustainable Business Management System (“**SBMS**”) has been completed which complies with relevant Australian and international standards and principles for safety, environment, quality and sustainable development (including AS/NZS ISO14001:Environmental Management Systems, Equator Principles, and the Cyanide Code). This system will be implemented at all PNG and Australian operations over the next two years.

Health and Safety Matters

South Africa

The Mine Health and Safety Act

For many years, the safety of persons working in South African mines and quarries was controlled by the Mines and Works Act of 1956 and then by the Minerals Act of 1991 which was replaced by the Mine Health and Safety Act. The Minerals Act of 1991 has subsequently been repealed and the MPRDA promulgated. The Mine Health and Safety Act has since been amended by Act 74 of 2008. The objectives of the Mine Health and Safety Act are:

- to protect the health and safety of employees and other persons at mines;
- to promote a culture of health and safety;
- to require employers and employees to identify hazards and eliminate, control and minimize the risks relating to health and safety at mines;
- to give effect to the public international law obligations of South Africa that concern health and safety at mines;
- to provide for employee participation in matters of health and safety through health and safety representatives and health and safety committees at mines;
- to provide for the effective monitoring of health and safety conditions at mines;
- to provide for the enforcement of health and safety measures at mines; and
- to foster and promote co-operation and consultation on health and safety between the DMR, employers, employees and their representatives.

The Mine Health and Safety Act prescribes general and specific duties for employers and others, determines penalties and a system of administrative fines, and provides for employee participation by requiring the appointment of health and safety representatives and the establishment of health and safety committees. It also entrenches the right of employees to refuse to work in dangerous conditions. Key amendments to this Act are the following:

- Training records to be kept
- Employer investigations
- Permanent committees of the MHSC
- Health and Safety Management system
- Administrative fines increased from R200,000 to R1 million
- Offences — applicable to the Employer

Government, through the DMR, ordered the institution of audit teams to conduct legal compliance and systems and explosives control audits on mines across all commodities.

It is anticipated that mining companies will incur additional expenditure in order to comply with the prescribed legislative requirements. Management anticipates that such additional expenditure will not have a material adverse effect upon our operational results or financial condition.

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Criminal mining

Security issues with regard to criminal mining came to the fore during fiscal 2009. In June 2009, criminal mining resulted in the deaths of criminal miners. Harmony continues to address the issue of criminal mining on a daily basis with enhanced security, together with the South African Police Services, the Department of Justice, the National Prosecuting Authority and other affected mining companies, and by doing everything reasonably practicable to ensure that the unauthorized miners do not get access to barred areas.

HIV & AIDS Policy

We are actively pursuing holistic HIV & AIDS awareness campaigns with our South African workforce and are also providing medical assistance and anti-retroviral treatment. Employees who decide to leave their place of work and return home for care are cared for at their homes through the TEBA home based care system, to which we contribute. See *Item 3. “Key Information — Risk Factors — Risks Relating to Our Business and Our Industry — HIV & AIDS poses risks to Harmony in terms of productivity and costs”* and *Item 3. “Key Information — Risk Factors — Risks Relating to Our Business and Our Industry — The cost of occupational healthcare services may increase in the future”*.

In South Africa, we have an agreement with the relevant stakeholders concerning the management of HIV & AIDS in the workplace. This agreement, originally signed in 2002 with the National Union of Mine Workers (“NUM”) and the United Association of South Africa (“UASA”) has been subsequently amended, the latest in August 2006. While many aspects of the policy have remained unaltered, the most fundamental change is the inclusion in the policy of a broad spectrum of chronic manageable diseases other than HIV & AIDS such as diabetes, asthma and hypertension. This was done in order to minimize the stigma surrounding stand alone HIV & AIDS treatment centers and also to emphasize our view that HIV & AIDS should no longer be viewed as a death sentence, but rather a chronic, manageable disease. The agreement also serves to reassure our employees of our commitment to the respect of all human rights and commitment to non-discriminatory practices and zero tolerance to discrimination of any of our employees. During the early stages of the implementation of the HIV & AIDS program, the agreement was also used as a marketing tool to encourage employee participation in the Harmony HIV & AIDS Program.

Management of HIV & AIDS & Tuberculosis (TB)

The HIV & AIDS pandemic continues to have a significant impact on the company (through absenteeism, reduced performance, loss of skills) and employees and their families. At Harmony HIV & AIDS is managed at three levels.

- At a clinical level, the symptoms of the illness are managed by the Group’s health care services.
- Company-wide and mine-specific initiatives are conducted. Shaft-based HIV & AIDS committees form an integral part of the Health and Safety Committees, which meet on a monthly basis.
- Group policy and practice is overseen by a specialist health care professional.

A revised integrated clinical strategy, developed as part of the new strategy to address TB and HIV & AIDS was developed during the year. This strategy was developed through a workshopping process that was led by academics and experts drawn from the Universities of Cape Town, Pretoria and Witwatersand, and with the participation of the 19 Harmony health care staff, ranging from medical doctors, to occupational health practitioners, nursing sisters and others.

A number of key issues have been highlighted in this new strategy that integrate and consolidate the traditional HIV/AIDS and TB approaches. These include:

- Concerted efforts will be made to enhance and sustain the group’s Voluntary Counselling and Testing (“VCT”) programs, and to implement a pre-employment testing program.
- Enhanced education and counselling will be provided to employees who are HIV-negative.
- Anti-retroviral therapy (“ART”) will be introduced at an earlier stage, which is expected to have a significant impact on reducing TB incidence rates.

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- In addition, efforts will be made to intensify case findings, introduce isoniazid (“**INH**”) preventative treatment and improve infection control with further infection control measures such as the use of masks, ultra-violet lights, etc.

HIV & AIDS performance

It is currently estimated (based on estimates within the gold mining industry) that around 30% of Harmony’s employees are HIV positive. It is possible, however, that actual prevalence rates are higher than this as a result of the current treatment campaigns (including ART). A follow-up financial impact analysis will be undertaken in fiscal 2010, and will include updated actuarial analysis of these figures. Our focus is on early detection and treatment to increase the likelihood of extended, healthy lives for infected employees. New electronic data collation systems were implemented in fiscal 2009 and will improve the monitoring and evaluation of the programme outcomes.

The group’s performance is focused on the following four areas:

- Prevention
- VCT
- Treatment, care and support
- Community-based interventions

HIV & AIDS expenditure decreased to R16 million (U.S.\$1.7 million) in fiscal 2009, compared to R19 million (U.S.\$2.6 million) in fiscal 2008, the decrease was mainly due to vacancies not being filled and we also saw a slight drop in drug prices as more generic drugs were registered and introduced into the market. It is understood that 633 employees with AIDS were separated from the company during the year, and 185 employees died in service as a result of AIDS, compared to 523 and 396 in fiscal 2008, respectively.

Australia

Australia has a well-regulated system of occupational health and safety, comprised of legislation and regulations in each of its states. Several of these specifically apply to the mining industry, including extensive codes of practice and guidelines. There is also a well-developed certification and licensing system for employees and the usage of certain items of equipment. The legislation and regulations governing this area include the Australian Standards 4804, the Safety Management Systems and the Western Australian Mining Regulation Act 1994, the Occupational Safety and Health Act 1984 (WA), the Occupational Safety and Health Regulations 1996, the Mines Safety and Inspection Act 1994 (WA) and the Mines Safety and Inspection Regulations 1995. In the event of injury while at work, employees are protected by a compulsory workers compensation scheme. We currently believe that the prevalence of HIV & AIDS-related diseases among our Australian workforce is not material to our Australian operations.

PNG

PNG has a significant mining industry, and a developing system of occupational health and safety. The Mining (Safety) Act of 1977 (PNG) is the principal legislation that addresses a range of issues such as working hours, minimum safety and reporting requirements. Other legislation and regulations also apply.

Although reliable statistics with regard to infection rates are not readily available, preliminary results indicate that PNG is in the early stages of an AIDS pandemic. As part of the development of the Hidden Valley project, and other exploration activities carried out by us in PNG, we have rolled out a health care strategy focused on prevention and VCT campaigns for our employees to increase AIDS awareness. See *Item 3. “Key Information — Risk Factors — Risks Relating to Our Business and Our Industry — HIV/AIDS poses risks to Harmony in terms of productivity and costs”* and *Item 3. “Key Information — Risk Factors — Risks Relating to Our Business and Our Industry — The cost of occupational healthcare services may increase in the future”*.

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Item 4A. UNRESOLVED STAFF COMMENTS

Not applicable.

Item 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS

You should read the following discussion and analysis together with the consolidated financial statements, including the related notes, appearing elsewhere in this annual report.

Overview

We conduct underground and surface gold mining and related activities, including exploration, processing, smelting and beneficiation. Our operations have grown significantly since 1995, largely through acquisitions. Since 1995, we have expanded from a lease-bound mining operation into an independent world-class gold producer. We are currently the third largest producer of gold in South Africa, producing some 23% of the country’s gold output, and are among the world’s top ten gold producers. Our gold sales have increased from 650,312 ounces of gold in fiscal 1995 to approximately 1.5 million ounces of gold in fiscal 2009. As at June 30, 2009, our mining operations reported total proven and probable reserves of approximately 48.2 million ounces and in fiscal 2009, we processed approximately 21.1 million tons of ore.

For segment purposes, management distinguishes between “Underground” and “Surface”, with each shaft or group of shafts managed by a team (headed by a single general manager) being considered to be an operating segment.

Our reportable segments are as follows:

- Tshepong, Phakisa, Bambanani, Doornkop, Elandsrand, Target, Evander, Masimong, Virginia, Cooke operations (sold in November 2008 and classified as discontinued operations) and PNG; and
- all other shafts and surface operations, including those that treat historic sand dumps, rock dumps and tailings dams, are grouped together under “Other — Underground” or “Other — Surface”.

Critical Accounting Policies and Estimates

The preparation of our financial statements in accordance with IFRS as issued by the IASB requires management to make estimates and assumptions that affect the reported results of our operations. Actual results may differ from those estimates. We have identified the most critical accounting policies upon which our financial results depend. Some of our accounting policies require the application of significant judgment and estimates by management in selecting the appropriate assumptions for calculating financial estimates. By their nature, these judgments are subject to an inherent degree of uncertainty and are based on our historical experience, terms of existing contracts, management’s view on trends in the gold mining industry and information from outside sources.

Our significant accounting policies are described in more detail in note 2 to the consolidated financial statements. This discussion and analysis should be read in conjunction with the consolidated financial statements and related notes included in *Item 18. “Financial Statements”*. Management has identified the following as critical accounting policies because estimates used in applying these policies are subject to material risks and uncertainties. Management believes the following critical accounting policies, together with the other significant accounting policies discussed in the notes to the consolidated financial statements, affect its more significant judgments and estimates used in the preparation of the consolidated financial statements and could potentially impact our financial results and future financial performance.

Gold mineral reserves

Gold mineral reserves are estimates of the amount of ounces that can be economically and legally extracted from the Group’s properties. In order to calculate the gold mineral reserves, estimates and assumptions are required about a range of geological, technical and economic factors, including quantities, grades, production techniques, recovery rates, production costs, commodity prices and exchange rates.

Estimating the quantities and/or grade of the reserves requires the size, shape and depth of the orebodies to be determined by analyzing geological data such as the logging and assaying of drill samples. This process may require complex and difficult geological

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judgments and calculations to interpret the data. These reserves are determined in accordance with SAMREC, JORC and SEC Industry Guide 7.

Because the economic assumptions used to estimate the gold mineral reserves change from year to year, and because additional geological data is generated during the course of operations, estimates of the mineral reserves may change from year to year. Changes in the proven and probable reserves may affect the Group's financial results and financial position in a number of ways, including depreciation and amortization charged in the income statement may change as they are calculated on the units-of-production method.

The estimate of the total expected future lives of our mines could be materially different from the actual amount of gold mined in the future. See *Item 3. "Key Information — Risk Factors — Harmony's gold reserve figures are estimated based on a number of assumptions, including assumptions as to mining and recovery factors, future cash costs of production and the price of gold and may yield less gold under actual production conditions than currently estimated."*

Impairment of Property, Plant and Equipment

We review and evaluate our mining assets for impairment when events or changes in circumstances indicate the related carrying amounts may not be recoverable. An impairment loss is recognized for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash flows (cash generating units). Each operating shaft, along with allocated common assets such as plants and administrative offices, is considered to be a cash generating unit as each shaft is largely independent of the cash flows of other shafts and assets.

Future cash flows are estimated based on estimated quantities of recoverable minerals, expected gold prices (considering current and historical prices, price trends and related factors), production levels and cash costs of production, capital and reclamation costs, all based on detailed life-of-mine plans. The significant assumptions in determining the future cash flows for each individual operating mine at June 30, 2009, apart from production cost and capitalized expenditure assumptions unique to each operation, included a long-term gold price of U.S.\$750 per ounce and South African and Australian dollar exchange rates of U.S.\$1 = R9.33 and A\$1 = U.S.\$0.75, respectively. The term "recoverable minerals" refers to the estimated amount of gold that will be obtained from proven and probable reserves and related exploration stage mineral interests, except for other mine-related exploration potential and greenfields exploration potential discussed separately below, after taking into account losses during ore processing and treatment. Estimates of recoverable minerals from such exploration stage mineral interests are risk adjusted based on management's relative confidence in such materials. With the exception of other mine-related exploration potential and Greenfields exploration potential, estimates of future undiscounted cash flows are included on an area of interest basis, which generally represents an individual operating mine, even if the mines are included in a larger mine complex. In the case of mineral interests associated with other mine-related exploration potential and Greenfields exploration potential, cash flows and fair values are individually evaluated based primarily on recent exploration results and recent transactions involving sales of similar properties.

As discussed above under "Gold mineral reserves", various factors could impact our ability to achieve our forecasted production schedules from proven and probable reserves. Additionally, gold prices, capital expenditure requirements and reclamation costs could differ from the assumptions used in the cash flow models used to assess impairment. The ability to achieve the estimated quantities of recoverable minerals from exploration stage mineral interests involves further risks in addition to those factors applicable to mineral interests where proven and probable reserves have been identified, due to the lower level of confidence that the identified mineralized material can ultimately be mined economically. Assets classified as other mine-related exploration potential and Greenfields exploration potential have the highest level of risk that the carrying value of the asset can be ultimately realized, due to the still lower level of geological confidence and economic modeling.

During fiscal 2009, 2008 and 2007, we recorded impairments of U.S.\$61 million, U.S.\$22 million and U.S.\$37 million, respectively, on property, plant and equipment, all from continuing operations. Material changes to any of these factors or assumptions discussed above could result in future impairment charges.

Carrying Value of Goodwill

We evaluate, on at least an annual basis, the carrying amount of goodwill to determine whether current events and circumstances indicate that such carrying amount may no longer be recoverable. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash flows (cash generating units). Each operating shaft, along with allocated common assets such as plants and administrative offices, is considered to be a cash generating unit as each shaft is largely independent

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of the cash flows of other shafts and assets. To accomplish this, we compare the recoverable amounts of our cash generating units to their carrying amounts. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. If the carrying value of a cash generating unit were to exceed its recoverable amount at the time of the evaluation, we would compare the implied fair value of the cash generating unit's goodwill to its carrying amount and any shortfall would be charged to consolidated income statements. Assumptions underlying fair value estimates are subject to risks and uncertainties. If these assumptions change in future, we may need to record impairment charges on goodwill not previously recorded.

During fiscal 2008, we recorded an impairment of U.S.\$13 million on goodwill. No impairment was recorded during fiscal 2009.

Provision for environmental rehabilitation

Our mining and exploration activities are subject to various laws and regulations governing the protection of the environment. Estimated long term environmental obligations, comprising pollution control, rehabilitation and mine closure, are based on the Group's environmental management plans. Annual changes in the provision consist of finance costs relating to the change in the present value of the provision and inflationary increases in the provision estimate, as well as changes in estimates. The present value of environmental disturbances created is capitalized to mining assets against an increase in the rehabilitation provision. The rehabilitation asset is depreciated as discussed above. Rehabilitation projects undertaken, included in the estimates are charged to the provision as incurred. The cost of ongoing current programs to prevent and control pollution is charged against income as incurred.

Deferred Tax Asset

We do not recognize a deferred tax asset when it is more likely than not that the asset will not be utilized. Assessing recoverability of deferred tax assets requires management to make significant estimates related to expectation of future taxable income. Estimates of future taxable income are based on forecasted cash flows from operations, reversals of deferred tax liabilities and the application of existing tax laws in each jurisdiction. To the extent that future taxable income differs significantly from estimates, our ability to realize the net deferred tax assets recorded at the balance date could be impacted. Additionally, future changes in tax laws in the jurisdictions in which we operate could limit our ability to obtain the future tax benefits represented by deferred tax assets recorded at the balance date.

Revenue

Substantially all of our revenues are derived from the sale of gold. As a result, our operating results are directly related to the price of gold. Historically, the price of gold has fluctuated widely. The gold price is affected by numerous factors over which we do not have control. See *Item 3. "Key Information — Risk Factors — The profitability of Harmony's operations, and the cash flows generated by those operations, are affected by changes in the market price for gold, which in the past has fluctuated widely"*.

As a general rule, we sell our gold produced at market prices to obtain the maximum benefit from increases in the prevailing gold price and do not enter into hedging arrangements such as forward sales or derivatives that establish a price in advance for the sale of our future gold production.

A substantial proportion of the production at each of New Hampton and Hill 50 in Australia was already hedged when we acquired them. Since fiscal 2002, in line with our strategy of being generally unhedged, we evaluated the hedge agreements as well as market conditions and closed out the hedge contracts at the time that provided the most benefits. The last of the contracts were closed out during fiscal 2007, which resulted in our being unhedged in line with our stated company policy to give shareholders full exposure to the gold price. Our costs of closing out certain operations hedge positions in fiscal year 2007 were approximately U.S.\$60 million, before taxes.

Significant changes in the price of gold over a sustained period of time may lead us to increase or decrease our production in the near-term.

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Harmony’s Realized Gold Price

The average gold price in U.S. dollars received by us has generally increased since January 1, 2002. In fiscal 2009, the average gold price in U.S. dollars received by us for continuing operations was U.S.\$867 per ounce. The market price for gold (and, accordingly, the price received by us) is affected by numerous factors over which we have no control. See *Item 3. “Key Information — Risk Factors — The profitability of Harmony’s operations, and the cash flows generated by those operations, are affected by changes in the market price for gold, which in the past has fluctuated widely”*.

The following table sets out the average, the high and the low London Bullion Market price of gold and our average U.S. dollar sales price during the past three fiscal years:

	Fiscal Year Ended June 30,		
	2009	2008 (\$/oz)	2007
Average	874	821	638
High	989	1,011	692
Low	713	649	561
Harmony’s average sales price — continuing operations ⁽¹⁾	867	813	638

⁽¹⁾ Our average sales price differs from the average gold price due to the timing of our sales of gold within each year.

Costs

Our cash costs and expenses typically make up over 80% of our total costs. The remainder of our total costs consists primarily of exploration costs, employment termination costs, corporate and sundry expenditure, and depreciation and amortization. Our cash costs consist primarily of production costs exclusive of depreciation and amortization. Production costs are incurred on labor, stores and utilities. Labor costs are the largest component and typically comprise approximately 58% of our production costs.

Our cash costs for continuing operations has increased from U.S.\$487 per ounce in fiscal 2007 to U.S.\$583 per ounce in fiscal 2009, mainly as a result of lower production volumes, the impact of increased labor and energy costs as well as inflationary pressures on supply contracts. In U.S. dollar terms, these increases were offset by the depreciation of the Rand-U.S. dollar exchange rate.

Our U.S. translated costs are very sensitive to the exchange rate of the Rand and other non-U.S. currencies to the U.S. dollar. See *Item 5. “Operating and Financial Review and Prospects — Exchange Rates”*. Appreciation of the Rand and other non-U.S. currencies against the U.S. dollar increases working costs at our operations when those costs are translated into U.S. dollars. See *Item 3. “Key Information — Risk Factors — Because most of Harmony’s production costs are in Rand and other non-U.S. currencies, while gold is generally sold in U.S. dollars, Harmony’s financial condition could be materially harmed by an appreciation in the value of the Rand and other non-U.S. currencies”*.

The average rate of the South African Rand depreciated approximately 24% against the U.S. dollar in fiscal 2009 compared to fiscal 2008. In the case of our International operations, the Australian dollar depreciated approximately 16%, while the Kina appreciated approximately 5%, against the U.S. dollar in fiscal 2009 compared to fiscal 2008.

Reconciliation of Non-GAAP Measures

Total cash costs and total cash costs per ounce are non-GAAP measures.

Our cash costs consist primarily of production costs and are expensed as incurred. The cash costs are incurred to access ore to produce current mined reserves. Cash costs do not include capital development costs, which are incurred to allow access to the ore body for future mining operations and are capitalized and amortized when the relevant reserves are mined.

We have previously calculated total cash costs and total cash costs per ounce by dividing total cash costs, as determined using the guidance provided by the Gold Institute, by gold ounces sold. Total cash costs, as defined in the guidance provided by the Gold Institute, include mine production costs, transport and refinery costs, applicable general and administrative costs, costs associated with movements in production inventories and ore stockpiles, ongoing environmental rehabilitation costs, as well as transfers to and from deferred stripping and costs associated with royalties. Ongoing employee termination cost is included, however, employee termination costs associated with major restructuring and shaft closures are excluded. Management has recalculated these measures to exclude the

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costs associated with movements in production inventories, and in line with this change, now use gold ounces produced as the denominator. The measures have been re-presented for all comparative periods shown.

Changes in cash costs per ounce are affected by operational performance, as well as changes in the currency exchange rate between the Rand and the U.S. dollar and, in the case of the International operations, the Australian dollar and Kina. Total cash costs and total cash costs per ounce are non-GAAP measures. Total cash costs and total cash costs per ounce should not be considered by investors in isolation or as an alternative to production costs, cost of sales, or any other measure of financial performance calculated in accordance with IFRS as issued by the IASB. In addition, while the Gold Institute has provided guidance for the calculation of total cash costs and total cash costs per ounce, the calculation of total cash costs and total cash costs per ounce may vary from company to company and may not be comparable to other similarly titled measures of other companies. However, we believe that cash costs per ounce is a useful indicator to investors and management of a mining company's performance as it provides (1) an indication of the cash generating capacities of our mining operations, (2) the trends in cash costs as the company's operations mature, (3) a measure of a company's performance, by comparison of cash costs per ounce to the spot price of gold and (4) an internal benchmark of performance to allow for comparison against other companies.

Continuing operations

The following is a reconciliation of total cash costs from continuing operations, as a non-GAAP measure, to the nearest comparable GAAP measure, cost of sale from continuing operations:

	Fiscal year ended June 30,		
	2009	2008	2007
	(in \$ millions, except per ounce amounts)		
Total cost of sales from continuing operations — under IFRS	1,104	1,162	1,084
Depreciation and amortization expense	(167)	(117)	(134)
(Provision)/reversal of provision for rehabilitation costs	(3)	(2)	6
Care and maintenance costs of restructured shafts	(6)	(10)	(8)
Employment termination and restructuring costs	(4)	(32)	—
Share-based payments	(13)	(6)	(6)
Impairment of assets	(61)	(35)	(37)
Provision for post retirement benefits	—	(1)	2
Gold inventory movement	2	(2)	10
Total cash costs from continuing operations — using Gold Institute guidance	852	957	917
Per ounce calculation:			
Ounces produced	1,460,831	1,599,854	1,881,908
Total cash cost per ounce from continuing operations — using Gold Institute guidance	583	598	487

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Discontinued operations

The following is a reconciliation of total cash costs from discontinued operations, as a non-GAAP measure, to the nearest comparable GAAP measure, cost of sales from discontinued operations:

	Fiscal year ended June 30,		
	2009	2008	2007
	(in \$ millions, except per ounce amounts)		
Total cost of sales from discontinued operations — under IFRS	50	196	263
Depreciation and amortization expense	—	(7)	(29)
Provision for rehabilitation costs	—	(1)	(6)
Care and maintenance costs of restructured shafts	—	—	(1)
Employment termination and restructuring costs	—	(1)	—
Share-based payments	—	—	(1)
Gold inventory movement	2	6	—
Total cash costs from discontinued operations — using Gold Institute guidance	52	193	226
Per ounce calculation:			
Ounces produced	80,377	310,603	451,492
Total cash cost per ounce from discontinued operations — using Gold Institute guidance	644	621	499

Total Harmony — Continuing and discontinued operations

The following is a reconciliation of total cash costs from the total operations, as a non-GAAP measure, to the nearest comparable GAAP measure, cost of sales from the total operations:

	Fiscal year ended June 30,		
	2009	2008	2007
	(in \$ millions, except per ounce amounts)		
Total production costs — under IFRS	1,154	1,358	1,347
Depreciation and amortization expense	(167)	(124)	(163)
(Provision)/reversal of provision for rehabilitation costs	(3)	(3)	—
Care and maintenance costs of restructured shafts	(6)	(10)	(9)
Employment termination and restructuring costs	(4)	(33)	—
Share-based payments	(13)	(6)	(7)
(Impairment)/reversal of impairment of assets	(61)	(35)	(37)
Provision for post retirement benefits	—	(1)	2
Gold inventory movement	4	4	10
Total cash costs — using Gold Institute guidance	904	1,150	1,143
Per ounce calculation:			
Ounces produced	1,541,208	1,910,457	2,333,400
Total cash cost per ounce — using Gold Institute guidance	586	602	489

Within this disclosure document, our discussion and analysis is focused on the total cash costs measure as defined by the Gold Institute, as modified to exclude the effects of changes in production inventory.

While recognizing the importance of reducing cash costs, our chief focus is on controlling and, where possible, reducing total costs, including overhead costs. We aim to control total unit costs per ounce produced by maintaining our low total cost structure at our existing operations. We have been able to reduce total costs by implementing a management structure and philosophy that is focused on reducing management and administrative costs, implementing an ore reserve management system that allows for greater grade control and acquiring higher grade reserves. See *Item 4. “Information on the Company — Business — Strategy”*.

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Exchange Rates

Our revenues are very sensitive to the exchange rate of the Rand and other non-U.S. currencies to the U.S. dollar.

Currently, the majority of our earnings are generated in South Africa and, as a result, most of our costs are incurred in Rand. Since gold is generally sold in U.S. dollars, most of our revenues are received in U.S. dollars. The average gold price received by us during fiscal 2009 increased by U.S.\$54 per ounce to U.S.\$867 per ounce from U.S.\$813 per ounce during fiscal 2008. Appreciation of the Rand against the U.S. dollar increases our U.S. dollar working costs at our South African operations when those costs are translated into U.S. dollars, which serves to reduce operating margins and net income from our South African operations. Depreciation of the Rand against the U.S. dollar reduces these costs when they are translated into U.S. dollars, which serves to increase operating margins and net income from our South African operations. Accordingly, strength in the Rand generally results in poorer earnings for us if there is not a similar increase in the gold price.

The exchange rates obtained when converting U.S. dollars to Rand are determined by foreign exchange markets, over which we have no control. The conversion rate for balance sheet items as at June 30, 2009 is R7.72 per U.S.\$1.00, except for specific items within equity that are converted at the exchange rate prevailing on the date the transaction was entered into. This compares with a conversion rate of R7.80 per U.S.\$1.00 as at June 30, 2008, reflecting an appreciation of 1% of the Rand against the U.S. dollar when compared with June 30, 2008. Income statement items were converted at the average exchange rate for the fiscal 2009 (R9.00 per U.S.\$1.00), reflecting a depreciation of 24% of the Rand against the U.S. dollar when compared with fiscal 2008. The majority of our working costs are incurred in Rands and as a result this depreciation of the Rand against the U.S. dollar would reduce our working costs when translated into U.S. dollars. This effect was however negated by increases in our labor costs as well as inflationary pressures on our consumable stores and energy cost, which served to decrease operating margins and net income reflected in our consolidated income statement for fiscal 2009. Depreciation of the Rand against the U.S. dollar would cause a decrease in our costs in U.S. dollar terms. Similarly, at our International operations, depreciation of the Australia dollar or Kina against the U.S. dollar would cause a decrease in our costs in U.S. dollar terms. See *Item 3. “Key Information — Risk Factors — Because most of Harmony’s production costs are in Rand and other non-U.S. currencies, while gold is generally sold in U.S. dollars, Harmony’s financial condition could be materially harmed by an appreciation in the value of the Rand and other non-U.S. currencies”*.

Inflation

Our operations have been materially affected by inflation. Inflation in South Africa has fluctuated widely in recent years, reaching 11.6% at the end of fiscal 2008 before it decreased significantly to 6.9% at the end of fiscal 2009. This decrease was due to inflation targeting by the SARB, a task that it will continue in fiscal 2010. However, working costs, and wages especially, have increased considerably over the past three years resulting in significant cost pressures for the mining industry. Our profits and financial condition could also be affected adversely in the absence of a concurrent devaluation of the Rand and an increase in the price of gold.

South African Socio-Economic Environment

We are a South African company and the majority of our operations are in South Africa. As a result, we are subject to various economic, fiscal, monetary and political policies and factors that affect South African companies generally. See *Item 3. “Key Information — Risk Factors — Socio-economic instability in South Africa or regionally may have an adverse effect on Harmony’s operations and profits”*.

South African companies are subject to significant exchange control limitations. While exchange controls have been relaxed in recent years, South African companies remain subject to significant restrictions on their ability to deploy capital outside of the Southern African Common Monetary Area. See *Item 10. “Additional Information — Exchange Controls”*.

Social and Labor Plans, or SLPs, have been developed for each of our South African operations. These SLPs are prepared in line with legislation governing the participation of HDSAs in mining assets.

We have been granted all of our mining licenses under the MPRDA. We have therefore already started to incur expenses relating to HDSA participation. We believe the biggest challenge will lie in maintaining these licenses, as we will have a responsibility in respect of human resource development, procurement and local economic development. We are unable, however, to provide a specific amount of what the estimated cost of compliance will be but we will continue to monitor these costs on an ongoing basis.

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Royalties

The MPRDA makes reference to royalties payable to the South African state in terms of the Mineral and Petroleum Resources Royalty Act (Act 28 of 2008). The Act provides for the payment of a royalty according to a formula based on earnings before interest, tax and depreciation, after the deduction of capital expenditure. This rate is then applied to revenue to calculate the royalty amount due, with a minimum of 0.5% and a maximum of 5% for gold mining companies. It is estimated that the formula could translate to a royalty rate of more than 2% of gross sales in terms of current pricing assumptions. The final legislation results in a large increase from the 1.5% rate proposed in the draft in 2006. The royalty is to become effective on March 1, 2010. The introduction of the Mining and Petroleum Royalty Act will have an adverse impact on the profits generated by our operations in South Africa.

Costs

As part of our Back-to-Basics strategy, we reinstated the focus on monthly reviews to ensure that stringent cost control measures are in place and enforced. This will assist us in monitoring and reducing consumable costs.

Due to the fact that the new mines are expected to start producing high volumes of ore, with better economies of scale, at higher grades, we expect that cash operating costs in dollar per ounce terms will be reduced. This will be dependent on our achieving our operational plans. An increase is expected in revenue due to the increase in the gold price, as per our long term view on the various factors influencing the Rand gold price.

We reassessed our labor force and implemented several measures to reduce labor costs. These measures included terminating some contractors and offering voluntary severance packages to employees.

Conops

For some years, mining companies have been trying to implement the concept of Conops on the basis that it is, in theory, a better practice to utilize the company’s capital intensive, fixed assets for every day (excluding public holidays) of the year rather than for 80% of the year. It was estimated that Conops should result in increased production of around 25%, with a cost increase in the region of 18%, which would lead to increased profitability. We have been one of the few companies that had actually been able to implement Conops, with some degree of success and with the cooperation of the labor unions.

However, as part of our complete review of the operations in fiscal 2008, our Executive Committee took a long and hard look at the real benefits of Conops. In essence, we undertook a due diligence as if we were evaluating it for the first time.

As a result of these assessments, Conops was stopped at all operations by the end of fiscal 2008, with the exception of Evander 8 and Target. During 2009, Conops continued at both these shafts.

Productivity

The decline in productivity has been one of the challenges facing the South African gold industry for a number of years. This decline in our productivity mainly came as a result of an aging workforce, the health of the workforce that has been negatively impacted by HIV and AIDS, increased working distances from shafts and aging infrastructure. We reacted to these challenges through various initiatives including the “Healthy workforce” drive, the VCT campaign upgrade of rail bound equipment and track work and other improvement projects.

Electricity Supply

Historically, South Africa has enjoyed both low-cost electrical energy provision, and a stable supply. In early 2008, however, the national power utility Eskom experienced a major capacity shortage resulting in country-wide blackouts and reduced energy supply. The mining industry was severely affected for a period of five days in January 2008, and thereafter imposed limitations which continued to have an impact. We have devised new strategies so as to optimize our usage of 90% of our previous electricity supply allowed in terms of the Energy Conservation Scheme (“**ECS**”) and interim rules imposed by Eskom. All operations were allocated an ECS allocation in line with the Eskom allocation and equipment and management structures were put in place to monitor and manage real-time consumption.

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Applications submitted to Eskom for additional energy allocation to the four future growth projects were approved, enabling us to proceed with the projects and to ramp-up to full capacity utilizing Eskom power. We also submitted applications for additional power allocation for four future projects in the Free State, which were also approved by Eskom. Annual re-submissions for the verification of the fiscal 2009/2010 allocations, including additional allocation for all approved projects, and Nominated Maximum Demand (“**NMD**”) to secure adequate network capacity were made to Eskom as required by the interim ECS and new NMD rules. We are a voluntary participant in the ECS until such time that the national ECS becomes compulsory and Eskom relationships are maintained on this basis.

The Eskom supply constraint renewed South African industry’s interest in renewable energy and various companies have obtained access to internationally-proven technology that was previously not readily available or affordable in South Africa. Investigations into solar heating and solar electricity generation initiatives are currently underway to identify viable projects that could potentially contribute towards our energy efficiency improvement and carbon footprint reduction.

The challenge for us is to improve production to the required levels without compromising the saving initiatives achieved during fiscal 2008 and 2009.

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Results of Operations

Years Ended June 30, 2009 and 2008

Continuing Operations

Revenues

Revenue decreased U.S.\$48 million, or 4%, from U.S.\$1,325 million in fiscal 2008 to U.S.\$1,277 million in fiscal 2009. This decrease can primarily be attributed to the decrease in ounces sold. This was offset was by the higher average price of gold received by us, U.S.\$867 per ounce in 2009 compared to U.S.\$813 per ounce in 2008.

Our gold sales decreased 154,062 ounces, or 9%, from 1,627,624 in fiscal 2008 to 1,473,562 in fiscal 2009. The grade recovered was lower, at 0.07 ounces per ton in fiscal 2009 compared to 0.08 ounces per ton in fiscal 2008, negatively impacting on the ounces produced. The lower recovery grade was as a result of the increase in tons treated from surface tailings dams at a lower recovery grade.

At Tshepong ounces sold decreased by 17%, from 273,119 in fiscal 2008 to 227,113 in fiscal 2009. This was due to a lower recovery grade of 0.152 ounces per ton compared with 0.161 ounces per ton in fiscal 2008.

At Phakisa ounces sold increased from 4,212 in fiscal 2008 to 21,477 in fiscal 2009. This was due to an increase in production volumes as the various sections moved into production, building up to full production in the next two to three years.

At Bambanani ounces sold decreased by 25%, from 158,985 in fiscal 2008 to 119,665 in fiscal 2009. This was due to a lower production as a result of the restructuring due to power constraints. This was offset by a better recovery grade which increased from 0.170 ounces per ton in fiscal 2008 to 0.213 in fiscal 2009.

At Doornkop ounces sold decreased from 44,143 in fiscal 2008 to 43,211 in fiscal 2009. This is due to the lower recovery grade, which deteriorated to 0.070 in fiscal 2009, compared with 0.089 in fiscal 2008.

At Elandsrand ounces increased from 158,631 in fiscal 2008 to 183,676 in fiscal 2009. This was due to an increase in the production volumes.

At Masimong ounces sold increased by 31%, or 37,006 ounces, from 117,575 in fiscal 2008 to 154,581 in fiscal 2009. This was due to an increase in production volumes from 892,000 tons to 981,000 tons in fiscal 2009 and a higher recovery grade of 0.157 ounces per ton due to a higher face grade being mined.

At Evander ounces sold decreased by 18%, from 240,037 in fiscal 2008 to 195,668 in fiscal 2009. This was due to a decrease in production volumes as a result of the closure of the pillars in the old mine and poor environment conditions in the decline area which affected mining.

The ounces sold at Kalgold decreased by 28% from 93,172 in fiscal 2008 to 66,841 in fiscal 2009. This was due to a 31% decrease in recovery grade from 0.055 ounces per ton in fiscal 2008 to 0.038 ounces per ton in fiscal 2009. This was due to the depletion of the D-zone.

Ounces sold at Mount Magnet decreased from 77,097 in fiscal 2008 to nil in fiscal 2009. This was due to the operation being put on care and maintenance in December 2007 in anticipation of its sale.

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Cost of sales

Cost of sales includes production costs, depreciation and amortization, impairment of assets and employment termination and restructuring costs.

a) Production costs

The following table sets out our total ounces produced and weighted average cash costs per ounce for fiscal 2009 and fiscal 2008:

	Year Ended June 30, 2009		Year Ended June 30, 2008		Percentage (Increase)/decrease in Cash Costs per ounce
	(oz)	(\$/oz)	(oz)	(\$/oz)	
SOUTH AFRICA					
Tshepong	230,778	483	265,914	455	(6.2)
Phakisa	22,216	555	4,024	497	(11.7)
Bambanani	121,530	611	154,879	639	4.4
Doornkop	42,150	804	44,038	749	(7.3)
Elandsrand	174,321	660	164,215	652	(1.2)
Target	87,225	645	79,602	716	9.9
Masimong	154,034	476	116,424	756	37.0
Evander	190,075	572	231,799	526	(8.7)
Virginia	258,170	638	247,820	726	12.1
Other — underground	65,684	636	67,862	752	15.4
Other — surface	114,648	521	147,980	378	(37.8)
INTERNATIONAL					
PNG	—	—	—	—	—
Other	—	—	75,297	545	100
Total continuing operations	1,460,831		1,599,854		
Weighted average		583		598	2.5

Our average cash costs from continuing operations decreased by U.S.\$15 per ounce, or 2.5%, from U.S.\$598 per ounce in fiscal 2008 to U.S.\$583 per ounce in fiscal 2009. Cash costs per ounce vary with the working costs per ton (which is, in turn, affected by the number of tons processed) and grade of ore processed. Cash costs expressed in U.S. dollars per ounce also vary with fluctuations in the Rand-U.S. dollar exchange rate, because most of our working costs are incurred in Rand. The decrease in cash cost expressed in U.S. dollars per ounce in fiscal 2009 was attributable primarily to the depreciation of the South African Rand against the U.S. dollar. This was offset by an increase in operating cost as well as the decrease in ounces produced when compared to fiscal 2008. Annual increases in labor cost as well as inflationary pressures on our consumable stores and energy costs were the main contributors towards a higher operating cost.

At Tshepong, the cash costs per ounce increased from U.S.\$455 in fiscal 2008 to U.S.\$483, or 6%, in fiscal 2009. This was due to the decrease in ounces produced in fiscal 2009 as well as increases in labor and electricity costs.

At Phakisa, the cash costs per ounce increased from U.S.\$497 in fiscal 2008 to U.S.\$555, or 12%, in fiscal 2009. This was due to the increase in tons mined as a result of the planned ramp-up in production.

At Doornkop, the cash costs per ounce increased by 7%, from U.S.\$749 in fiscal 2008 to U.S.\$804 in fiscal 2009, primarily due to labor, consumables and services cost increases.

At Target, the cash costs per ounce decreased from U.S.\$716 in fiscal 2008 to U.S.\$645 in fiscal 2009, or by 10%. This reduction was due to higher gold production.

At Masimong, the cash costs per ounce decreased by 37% from U.S.\$756 in fiscal 2008 to U.S.\$476 in fiscal 2009, primarily due to the restructuring and cessation of Conops, as well as an increase in ounces produced.

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At Evander, the cash costs per ounce increased by 9%, from U.S.\$526 in fiscal 2008 to U.S.\$572 in fiscal 2009, primarily due to a decrease in ounces produced.

Under Other — Surface, the cash costs per ounce at Kalgold increased by 26% from U.S.\$401 in fiscal 2008 to U.S.\$506 in fiscal 2009, primarily due to the decrease in ounces produced. Also contributing was an increase of 40% at Phoenix, from U.S.\$381 to U.S.\$534, as a result of a decrease in grade.

b) Depreciation and amortization

Depreciation and amortization increased to U.S.\$167 million in fiscal 2009 from U.S.\$117 million in fiscal 2008. This increase relates primarily to the charge for the Mount Magnet operation when it ceased to be classified as held-for-sale and depreciation amounting to U.S.\$28 million for the period from April 2007 to June 2009 was recorded. Also contributing to the increase is the commencement of depreciation at Tshepong’s Sub 66 Decline. Depreciation was accelerated at Evander and Bambanani as a result of the decrease in the reserves used as a denominator in the calculation.

c) Employment termination and restructuring costs

The charge for employment termination and restructuring costs decreased from U.S.\$32 million in fiscal 2008 to U.S.\$4 million in fiscal 2009. The charges relate to the voluntary retrenchment process that was initiated in December 2007 when management decided to decentralize certain of the central services departments and the cessation of Conops at several of the operations.

d) Impairment of assets

The impairment charge increased from U.S.\$35 million in fiscal 2008 to U.S.\$61 million in fiscal 2009. The charge in fiscal 2009 relates to impairments at the Virginia, Evander and Target operations amounting to U.S.\$71 million. These impairments resulted primarily from a decrease in the expected life of mine of these operations, as well as an increase in the costs to operate the shafts. At Target and Evander, additional capital expenditure has been included in the revised life-of-mine plans in order to access reserve ounces in areas where geological anomalies have been discovered. These changes resulted in the carrying amount exceeding the recoverable amount. This was offset by a reversal of the impairment at Mount Magnet when this operation was no longer classified as held-for-sale and the carrying amount was re-measured in terms of IFRS 5, *Non-current Assets Held For Sale and Discontinued Operations*. The charge in fiscal 2008 relates to impairments at the Evander and other underground operations as well as surface operations (Kalgold). Included in the amount is U.S.\$13 million for goodwill related to certain shafts that were included under “Other — Underground”. These impairments resulted primarily from a decrease in the expected life of mine of these operations, as well as an increase in the costs to operate the shafts. These changes resulted in the carrying amount exceeding the recoverable amount.

e) Share based compensation

The charge for share based compensation increased from U.S.\$6 million in fiscal 2008 to U.S.\$13 million in fiscal 2009. This increase is primarily attributable to the higher grant-date fair value of share options granted to eligible employees in December 2008. Also included in the charge for 2009 is the acceleration of the cost relating to unvested shares attributable to the employees at the Cooke operations who were transferred to Rand Uranium.

Corporate, administration and other expenditure

The charge increase from U.S.\$33 million in fiscal 2008 to U.S.\$40 million in fiscal 2009, primarily as a result of the allocation of certain central service departments and employees to the corporate budget, which is not included in production costs.

Profit on sale of property, plant and equipment

The profit increased from U.S.\$18 million in fiscal 2008 to U.S.\$116 million in fiscal 2009, primarily as a result of the sale of 50% of our interest in the PNG gold and copper assets to Newcrest.

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Other expenses — net

The charge for other expenses decreased to U.S.\$3 million, compared with a charge of U.S.\$13 million in fiscal 2008. Included in the total for fiscal 2009 is a charge of U.S.\$22 million recognized in the income statement for the foreign exchange movements after the de-designation of loans previously designated as forming part of the net investment in foreign operations. The amount in fiscal 2008 was a credit of U.S.\$15 million. Also included in the total for fiscal 2009 is an amount of U.S.\$53 million relating to the reclassification to the income statement, following the partial repayment of the loans, of a portion of the accumulated gains recorded in equity that arose while these loans were considered to form part of the net investment in the foreign operations. During fiscal 2009, bad debts amounting to U.S.\$3 million were written off. A provision for bad debts of U.S.\$11 million was also raised in fiscal 2009, a decrease from fiscal 2008 of U.S.\$2 million.

Profit/(loss) from associates

The profit from associates was U.S.\$1 million in fiscal 2009, compared to the loss of U.S.\$11 million in fiscal 2008. The increase relates primarily to inclusion of profits from Rand Uranium since acquisition on November 21, 2008. This was offset by the losses from Pamodzi of U.S.\$4 million in fiscal 2009. The loss in fiscal 2008 relates to losses from Pamodzi recognized from the date of acquisition.

Impairment of investment in associate

The charges in fiscal 2009 and 2008 for the impairment of investment in associate relates primarily to the impairment of the investment in Pamodzi. When Pamodzi was placed into liquidation and the trading of its shares on the JSE suspended during fiscal 2009, the investment was fully impaired. At June 30, 2008, management determined that the recoverable amount of the investment was U.S.\$19 million, which represented the market value of the listed shares on that date.

Fair value movement of financial instruments

The loss in fiscal 2009 relates primarily to the impairment of the investment in Dioro of U.S.\$11 million reclassified from other reserves to the income statement when the investment was considered to be permanently impaired at December 31, 2008. This was offset by the subsequent gain recognized in the income statement on the disposal of the investment in April 2009. The gain in fiscal 2008 relates to the investment in ARM held by the ARM Empowerment Trust, where the increase in the share value of the ARM shares above R29 (U.S.\$4.62) per share was limited to the interest capitalized on the Nedbank loan.

Loss on sale of listed investments

The loss on sale of listed investments of U.S.\$63 million in fiscal 2008 relates to the sale of the remainder of the investment in Gold Fields.

Investment income

Investment income increased from U.S.\$39 million in fiscal 2008 to U.S.\$49 million in fiscal 2009, primarily due to the increase in interest received on cash balances, which were higher throughout the year, as well as on held-to-maturity investments held by our environmental trust funds.

Finance costs

Finance costs decreased from U.S.\$71 million in fiscal 2008 to U.S.\$24 million in fiscal 2009. This was due primarily to the decrease in interest rates as well as the decrease in the balance of the outstanding debt. Also contributing to the decrease in finance cost expensed was the increase in interest capitalized to qualifying assets, from U.S.\$22 million in fiscal 2008 to U.S.\$31 million in fiscal 2009.

Income and Mining Taxes

South Africa. We pay taxes on mining income and non-mining income. The amount of our South African mining income tax is calculated on the basis of a formula that takes into account our total revenue and profits from, and capital expenditures for, mining operations in South Africa. 5% of total mining revenue is exempt from taxation in South Africa as a result of the application of the

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applicable gold mine formula. The amount of revenue subject to taxation is calculated by deducting qualifying capital expenditures from taxable mining income. The amount by which the taxable mining income exceeds 5% of mining revenue constitutes taxable mining income. We and our subsidiaries each make our own calculation of taxable income.

The tax rate applicable to the mining and non-mining income of a gold mining company depends on whether the company has elected to be exempt from the Secondary Tax on Companies (“**STC**”). STC is a tax on dividends declared and, at present, the STC tax rate is equal to 10% (previously 12.5%). To the extent we receive dividends, such dividends received are offset against the amount of dividends paid for purposes of calculating the amount subject to STC. In 1993, all existing South African gold mining companies had the option to elect to be exempt from STC. If the election was made, a higher tax rate would apply for both mining and non-mining taxable income. In 2009 and 2008, the tax rates for companies that elected the STC exemption were 43% for mining income and 35% for non-mining income, compared with 34% for mining income and 28% for non-mining income if the STC exemption election was not made. In 1993, the Harmony Company elected to pay the STC tax. All of our South African subsidiaries, excluding Avgold, elected the STC exemption.

Income and Mining Tax	2009	2008
Effective tax rate expense	(10%)	680%

The effective tax rate for fiscal 2009 was lower than the statutory tax rate of 43% for us and our subsidiaries as a whole. The most significant reasons for the decrease relates to differences between the SA mining statutory tax rate and the rate used to provide deferred tax, and other tax dispensations granted on certain mining assets. Offsetting this is non-deductible expenses and prior year adjustments. Included in the non-deductible expenses is non-deductible interest of U.S.\$17 million, impairments of U.S.\$20 million, as well U.S.\$24 million relating to transfer pricing.

Australia. Generally, Australia imposes tax on the worldwide income (including capital gains) of all of our Australian incorporated and tax resident entities. The current income tax rate for companies is 30%. Ongoing business, mining, exploration and rehabilitation costs incurred each year are fully deductible. The cost of plant and capital mining expenditure may be depreciated and deducted over its effective life.

The Australian legislature has introduced a Tax Consolidations Regime, under which from July 1, 2003, Harmony Gold Australia Proprietary Limited and its wholly owned Australian subsidiary companies are recognized and taxed as a single entity. Under the consolidations rules all of the Australian subsidiary companies are treated as divisions of the Head Company, Harmony Gold Australia. As a result all inter company transactions between group members are ignored for tax purposes. This allows the group to transfer assets between group members without any tax consequences, and deems all tax losses to have been incurred by the Head Company of the group.

Mining operations in Western Australia are also subject to a 2.5% gold royalty because the mineral rights are owned by the State Government. All gold production from the Mount Magnet operations is subject to this royalty.

Withholding tax is payable on dividends, interest and royalties paid by Australian residents to non-residents, which would include any dividends on the shares of our Australian subsidiaries that are paid to us. In the case of dividend payments to non-residents, a 30% withholding tax applies. However, where the recipient of the dividend is a resident of a country with which Australia has concluded a double taxation agreement, the rate of withholding tax is generally limited to 15% (or in the case of South Africa 5% where the dividend is paid to a company which controls at least 10% of the Australian dividend paying company). Where dividends are fully franked, no withholding tax applies as an effective credit is allowed against any withholding tax otherwise payable, regardless of whether a double taxation agreement is in place.

PNG. The Hidden Valley Project in PNG is expected to commence operations in fiscal 2010. We are also reviewing other potential projects and carrying out extensive exploration.

PNG mining projects are taxed on a project basis. Therefore each project is taxed as a separate entity, even though it may be one of a number of projects carried on by the same company. In certain circumstances there is an ability to transfer the tax benefit obtained through exploration expenditure between projects and wholly owned companies. Tax losses are generally quarantined and cannot be transferred between projects.

PNG mining companies are taxed at a rate of tax of 30%.

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Capital development and exploration expenditure incurred in PNG is capitalized for tax purposes and can be generally deducted at 25% per annum on a diminishing value basis against project income.

PNG imposes dividend withholding tax of 10% on dividends paid by PNG mining operations to non residents. Although PNG also imposes interest withholding tax on interest paid off-shore, the PNG Tax Act exempts interest paid to non resident lenders from withholding tax where the PNG company is engaged in mining operations in PNG.

Discontinued Operations

Revenues

Revenues decreased from U.S.\$253 million in fiscal 2008 to U.S.\$69 million in fiscal 2009, due to the fact that the Cooke operation was sold in November 2008.

Costs

Costs decreased from U.S.\$199 million in fiscal 2008 to U.S.\$51 million in fiscal 2009. This was due to the sale of the Cooke operation in November 2008.

Profit/(loss) on sale of property, plant and equipment

The profit on property, plant and equipment in fiscal 2009 relates to the sale of the Cooke operations in November 2008. The loss on sale of property, plant and equipment for fiscal 2008 of U.S.\$4 million relates to the loss of U.S.\$13 million on the sale of South Kalgoorlie as well as the profit of U.S.\$9 million on the sale of Orkney.

Income and Mining Taxes

South Africa. We pay taxes on mining income and non-mining income. For details, refer to the discussion under “*Income and Mining Taxes*” in the *Continuing Operations* section.

In 2009 and 2008, the tax rates for companies that elected the STC exemption were 43% for mining income and 35% for non-mining income, compared with 34% for mining income and 28% for non-mining income if the STC exemption election was not made.

Australia. We pay taxes on mining income and non-mining income. For details, refer to the discussion under “Income and Mining Taxes” in the Continuing Operations section. In fiscal 2009 and 2008, the income tax rate for companies was 30%.

Continuing and discontinued operations

Net profit/(loss)

The net profit/(loss) increased from a net loss of U.S.\$30 million in fiscal 2008 to a net profit of U.S.\$311 million. This is due to the factors discussed above.

Years Ended June 30, 2008 and 2007

Continuing Operations

Revenues

Revenue increased U.S.\$123 million, or 10%, from U.S.\$1,202 million in fiscal 2007 to U.S.\$1,325 million in fiscal 2008. This increase is attributable primarily to the higher average price of gold received by us, U.S.\$813 per ounce in 2008 compared to U.S.\$638 per ounce in 2007. This increase was partially offset by a decrease in ounces sold.

Our gold sales decreased 255,862 ounces, or 14%, from 1,883,486 in fiscal 2007 to 1,627,624 in fiscal 2008. The grade recovered was lower, at 0.08 ounces per ton in fiscal 2008 compared to 0.10 ounces per ton in fiscal 2007, negatively impacting on the ounces

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produced. The lower recovery grade was as a result of the increase in tons treated from surface tailings dams at a lower recovery grade.

At Bambanani ounces sold decreased by 19%, from 197,060 in fiscal 2007 to 158,985 in fiscal 2008. This was due to the restructuring of the shaft as a result of power constraints. This was offset by a better recovery grade which increased from 0.154 ounces per ton in fiscal 2007 to 0.174 ounces per ton in fiscal 2008.

At Doornkop ounces sold decreased from 57,364 in fiscal 2007 to 44,143 in fiscal 2008. Production volumes decreased by 103,000 tons, or 17%, primarily due to an 18 day production stoppage to facilitate shaft work related to the South Reef project as well as three days lost due to Eskom’s power management process.

At Elandsrand ounces sold decreased from 194,710 in fiscal 2007 to 158,631. This was due to a decrease in volumes mainly as a result of days lost due to the accident in October 2007, as well as a decrease in grade.

At Target ounces sold decreased by 40% from 142,433 in fiscal 2007 to 85,006 in fiscal 2008. Production volumes decreased by 24% mainly due to issues relating to the massive stopes, which also impacted on the grade.

At Masimong ounces sold decreased by 21%, or 30,383 ounces, from 147,958 in fiscal 2007 to 117,575 in fiscal 2008. This was due to a decrease in production volumes from 1,0740,000 tons to 892,000 tons as a result of the restructuring process at the shaft.

The ounces sold at Kalgold increased by 66% from 56,135 in fiscal 2007 to 93,172 in fiscal 2008. This was due to a 67% increase in recovery grade from 0.032 ounces per ton in fiscal 2007 to 0.055 ounces per ton in fiscal 2008. This was due to the higher grade mined in the D-zone pit.

Cost of sales

Cost of sales includes production costs, depreciation and amortization, employment termination and restructuring costs and impairment of assets.

a) Production costs

The following table sets out our total ounces produced and weighted average cash costs per ounce for fiscal 2008 and fiscal 2007:

	Year Ended June 30, 2008		Year Ended June 30, 2007		Percentage (Increase)/decrease in Cash Costs per ounce
	(oz)	(\$/oz)	(oz)	(\$/oz)	
SOUTH AFRICA					
Tshepong	265,914	455	319,192	360	(26)
Phakisa	4,024	497	—	—	(100)
Bambanani	154,879	639	197,084	599	(7)
Doornkop	44,038	749	56,810	438	(71)
Elandsrand	164,215	652	195,412	535	(22)
Target	79,602	716	142,653	403	(78)
Masimong	116,424	756	146,575	543	(39)
Evander	231,799	526	235,857	495	(6)
Virginia	247,820	726	264,890	528	(38)
Other — underground	67,862	752	104,553	504	(49)
Other — surface	147,980	378	82,467	443	15
INTERNATIONAL					
PNG	—	—	—	—	—
Other	75,297	545	136,415	517	(5)
Total continuing operations	1,599,854		1,881,908		
Weighted average		598		487	(23)

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Our average cash costs from continuing operations increased by U.S.\$111 per ounce, or 23%, from U.S.\$487 per ounce in fiscal 2007 to U.S.\$598 per ounce in fiscal 2008. Cash costs per ounce vary with the working costs per ton (which is, in turn, affected by the number of tons processed) and grade of ore processed. Cash costs expressed in U.S. dollars per ounce also vary with fluctuations in the Rand-U.S. dollar exchange rate, because most of our working costs are incurred in Rand. The increase in cash cost expressed in U.S. dollars per ounce in fiscal 2008 was attributable primarily to an increase in operating cost as well as the decrease in ounces produced when compared to fiscal 2007. Annual increases in labor cost as well as inflationary pressures on our consumable stores and energy costs were the main contributors towards a higher operating cost.

At Tshepong, the cash costs per ounce increased from U.S.\$360 per ounce in fiscal 2007 to U.S.\$455, or 26%, in fiscal 2008. This was due to the decrease in ounces produced in fiscal 2008 as well an increase of 11% related to increases in labor and supply costs.

At Doornkop, the cash costs per ounce increased by 71%, from U.S.\$438 in fiscal 2007 to U.S.\$749 in fiscal 2008, primarily due to lower production volumes and industry-wide cost increases.

At Target, the cash costs per ounce increased from U.S.\$403 in fiscal 2007 to U.S.\$716 in fiscal 2008, or by 78%, primarily due to lower recovery grades and volumes resulting from issues experienced during fiscal 2008.

At Masimong, the cash costs per ounce increased by 39% from U.S.\$543 in fiscal 2007 to U.S.\$756 in fiscal 2008, primarily due to the restructuring and cessation of Conops, as well as a decrease in ounces produced.

Under Other — Underground, the cash costs at Joel increased from U.S.\$428 in fiscal 2007 to U.S.\$638 in fiscal 2008, or 49%. This was due to the decrease in tonnage after re-equipping resulted in the shaft not being fully operational for the first six months of fiscal 2008. Costs were also 17% higher in fiscal 2008. Also, at St. Helena, cash costs increased by 82% from U.S.\$860 per ounce in fiscal 2007 to U.S.\$1,565 per ounce in fiscal 2008. This was due to the fact that the shaft was closed during fiscal 2008.

Under Other — Surface, the cash costs at Kalgold decreased by 21% from U.S.\$506 in fiscal 2007 to U.S.\$401 in fiscal 2008, primarily due to the increase in ounces produced. This was offset by an increase of 30% at Phoenix, from U.S.\$293 to U.S.\$381, as a result of a decrease in grade and an increase in volumes and transport costs

b) Depreciation and amortization

Depreciation and amortization decreased to U.S.\$117 million in fiscal 2008, from U.S.\$134 million in fiscal 2007. This decrease relates primarily to the decrease in production. This decrease was offset by increases relating to the increase in depreciation on non-mining assets (U.S.\$4 million) and borrowings’ issue costs (U.S.\$3 million). Also contributing was the commencement of depreciation on the two completed levels at Elandsrand during July 2007 resulted in a depreciation charge of U.S.\$2 million.

c) Employment termination and restructuring costs

The charge for employment termination and restructuring costs increased from U.S.\$nil in fiscal 2007 to U.S.\$32 million in fiscal 2008. The charge in fiscal 2008 relates to the voluntary retrenchment process that was initiated in December 2007 when management decided to decentralize central services and the cessation of Conops at several of the operations.

d) Impairment of assets

The impairment charge decreased from U.S.\$37 million in fiscal 2007 to U.S.\$35 million in fiscal 2008. The charge in fiscal 2008 relates to impairments at the Evander and other underground operations as well as surface operations (Kalgold). Included in the amount is U.S.\$13 million for goodwill related to certain shafts that were included under “Other — Underground”. These impairments resulted primarily from a decrease in the expected life of mine of these operations, as well as an increase in the costs to operate the shafts. These changes resulted in the carrying amount exceeding the recoverable amount. The charge in fiscal 2007 relates primarily to an impairment on the Mount Magnet operation of U.S.\$56 million and U.S.\$2 million relating to the cessation of operations at the Refinery in the Free State. This was offset by reversals at surface operations (Kalgold) and other underground operations.

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Profit on sale of property, plant and equipment

The profit decreased from U.S.\$25 million in fiscal 2007 to U.S.\$18 million in fiscal 2008. Included in the total for fiscal 2008 was a profit of U.S.\$11 million relating to the sale of tenements in Australia. In fiscal 2007, the disposal of the Randfontein 4 shaft and the Deelkraal surface assets netted profits of U.S.\$10 million and U.S.\$14 million, respectively.

Other expenses — net

The total for other expenses increased to U.S.\$13 million, compared with a credit of U.S.\$ nil in fiscal 2007. This was primarily due to the increase in provision for bad debts from U.S.\$1 million in fiscal 2007 to U.S.\$13 million in fiscal 2008. This provision relates to trade and loans receivables that have exceeded their payment terms, and where we believe that recoverability is doubtful.

These charges were offset by the increase of U.S.\$15 million in foreign exchange gains related to the loans to the International operations. These loans, which was previously designated as net investments of the Group’s International operations, were de-designated in fiscal 2008, mainly as a result of the expected proceeds from the PNG Partnership Agreement. Accumulated exchange gains/(losses) that arose while the loans were considered to form part of the Group’s net investment in its International operations are reclassified to the consolidated income statement as and when the loans are repaid.

Loss from associates

The loss from associates increased from U.S.\$3 million in fiscal 2007 to U.S.\$11 million in fiscal 2008. The increase relates primarily to inclusion of losses from Pamodzi since acquisition on February 27, 2008.

Profit on sale of investment in associate

The profit on sale of investment in associate decreased to U.S.\$nil in fiscal 2008 from U.S.\$33 million in fiscal 2007. The amount in 2007 was as a result of the disposal of our interest in Western Areas in exchange for Gold Fields shares.

Impairment of investment in associate

The charge relating the impairment of investment in associate increased from U.S.\$nil in fiscal 2007 to U.S.\$12 million in fiscal 2008. The amount in fiscal 2008 relates primarily to the impairment of the investment in Pamodzi. The recoverable amount was determined with reference to the market value of the listed shares, which would be the amount we would receive on disposal of the shares. As the carrying value exceeded the recoverable amount, the investment was impaired down to this amount.

Fair value movement of financial instruments

The gains in fiscal years 2007 and 2008 are related to the investment in ARM held by the ARM Empowerment Trust, where the increase in the share value of the ARM shares above R29 (U.S.\$4.62) per share was limited to the interest capitalized on the Nedbank loan.

Loss on sale of listed investments

The loss on sale of listed investments increased from U.S.\$5 million in fiscal 2007 to U.S.\$63 million in fiscal 2008. The amount in 2008 relates to the sale of the remainder of the investment in Gold Fields. The loss in fiscal 2007 arose when we disposed of a portion of our interest in Gold Fields through various transactions.

Investment income

Investment income increased from U.S.\$27 million in fiscal 2007 to U.S.\$39 million in fiscal 2008, primarily to the increase in interest received on loans (U.S.\$4 million) and held-to-maturity investments, held by our environmental trust funds (U.S.\$4 million). Also contributing was an increase in dividends received from U.S.\$3 million in fiscal 2007 to U.S.\$5 million in fiscal 2008, which related to the Gold Fields shares.

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Finance costs

Finance costs increased from U.S.\$66 million in fiscal 2007 to U.S.\$71 million in fiscal 2008. This was due primarily to the increase in interest rates as well as the increase in the balance of the outstanding debt. This was offset by the increase in interest capitalized to qualifying assets, from U.S.\$10 million in fiscal 2007 to U.S.\$22 million in fiscal 2008.

Income and Mining Taxes

South Africa. We pay taxes on mining income and non-mining income. The amount of our South African mining income tax is calculated on the basis of a formula that takes into account our total revenue and profits from, and capital expenditures for, mining operations in South Africa. 5% of total mining revenue is exempt from taxation in South Africa as a result of the application of the applicable gold mine formula. The amount of revenue subject to taxation is calculated by deducting qualifying capital expenditures from taxable mining income. The amount by which the taxable mining income exceeds 5% of mining revenue constitutes taxable mining income. We and our subsidiaries each make our own calculation of taxable income.

The tax rate applicable to the mining and non-mining income of a gold mining company depends on whether the company has elected to be exempt from the STC. The STC is a tax on dividends declared and, at present, the STC tax rate is equal to 10% (previously 12,5%). To the extent we receive dividends, such dividends received are offset against the amount of dividends paid for purposes of calculating the amount subject to STC. In 1993, all existing South African gold mining companies had the option to elect to be exempt from STC. If the election was made, a higher tax rate would apply for both mining and non-mining taxable income. In 2008, the tax rates for companies that elected the STC exemption were 43% for mining income and 35% for non-mining income, compared with 34% for mining income and 28% for non-mining income if the STC exemption election was not made. In 2007, the tax rates for companies that elected the STC exemption were 45% for mining income and 37% for non-mining income, compared with 35% for mining income and 29% for non-mining income if the STC exemption election was not made. In 1993, we elected to pay the STC tax. All of our South African subsidiaries, excluding Avgold, elected the STC exemption.

Income and Mining Tax	2008	2007
Effective tax rate expense	680%	(1%)

The effective tax rate for fiscal 2008 was higher than the statutory tax rate of 43% for us and our subsidiaries as a whole. The most significant reasons for the increase in the effective tax rate in fiscal 2008 relates to non-deductible expenses and prior year adjustments. Offsetting this is the difference between the SA mining statutory tax rate and the rate used to provide deferred tax and other tax dispensations granted on certain mining assets. Included in the non-deductible expenses is the impairment on investment in associate (U.S.\$11 million) and loss on sale of investments (U.S.\$63 million).

Australia. Generally, Australia imposes tax on the worldwide income (including capital gains) of all of our Australian incorporated and tax resident entities. The current income tax rate for companies is 30%. Ongoing business, mining, exploration and rehabilitation costs incurred each year are fully deductible. The cost of plant and capital mining expenditure may be depreciated and deducted over its effective life.

The Australian legislature has introduced a Tax Consolidations Regime, under which from July 1, 2003, Harmony Gold Australia Proprietary Limited and its wholly owned Australian subsidiary companies are recognized and taxed as a single entity. Under the consolidations rules all of the Australian subsidiary companies are treated as divisions of the Head Company, Harmony Gold Australia. As a result all inter company transactions between group members are ignored for tax purposes. This allows the group to transfer assets between group members without any tax consequences, and deems all tax losses to have been incurred by the Head Company of the group.

Mining operations in Western Australia are also subject to a 2.5% gold royalty because the mineral rights are owned by the State Government. All gold production from the Mount Magnet operations is subject to this royalty. Most of the production from the South Kalgoorlie operations is from freehold land and is, accordingly, exempt from this royalty.

Withholding tax is payable on dividends, interest and royalties paid by Australian residents to non-residents, which would include any dividends on the shares of our Australian subsidiaries that are paid to us. In the case of dividend payments to non-residents, a 30% withholding tax applies. However, where the recipient of the dividend is a resident of a country with which Australia has concluded a double taxation agreement, the rate of withholding tax is generally limited to 15 (or in the case of South Africa 5% where the dividend is paid to a company which controls at least 10% of the Australian dividend paying company). Where dividends are fully franked, no

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withholding tax applies as an effective credit is allowed against any withholding tax otherwise payable, regardless of whether a double taxation agreement is in place.

PNG. We are in the process of developing the Hidden Valley Project in PNG. We are also reviewing other potential projects and carrying out extensive exploration.

PNG mining projects are taxed on a project basis. Therefore each project is taxed as a separate entity, even though it may be one of a number of projects carried on by the same company. In certain circumstances there is an ability to transfer the tax benefit obtained through exploration expenditure between projects and wholly owned companies. Tax losses are generally quarantined and cannot be transferred between projects.

PNG mining companies are taxed at a rate of tax of 30%.

Capital development and exploration expenditure incurred in PNG is capitalized for tax purposes and can be generally deducted at 25% per annum on a diminishing value basis against project income.

PNG imposes dividend withholding tax of 10% on dividends paid by PNG mining operations to non residents. Although PNG also imposes interest withholding tax on interest paid off-shore, the PNG Tax Act exempts interest paid to non resident lenders from withholding tax where the PNG company is engaged in mining operations in PNG.

Discontinued Operations

Revenues

Revenues decreased from U.S.\$287 million in fiscal 2007 to U.S.\$253 million in fiscal 2008, due to the fact that South Kalgoorlie and Orkney operations were sold in December 2007 and February 2008, respectively. Also contributing is lower ounces produced at the Cooke operations. These decreases were offset by an increase in the average gold price received.

Costs

Costs decreased from U.S.\$271 million in fiscal 2007 to U.S.\$199 million in fiscal 2008. This was due to the sale of South Kalgoorlie and Orkney operations during fiscal 2008. Also contributing is the decrease in the depreciation and amortization charge from U.S.\$29 million in fiscal 2007 to U.S.\$7 million in fiscal 2008. This was due to the cessation of charging depreciation on assets classified as held-for-sale.

Loss on sale of property, plant and equipment

The loss on sale of property, plant and equipment for fiscal 2008 was U.S.\$4 million, compared with U.S.\$nil in fiscal 2007. Included in the total is the loss on the sale of South Kalgoorlie of U.S.\$13 million as well as the profit on the sale of Orkney of U.S.\$9 million.

Income and Mining Taxes

South Africa. We pay taxes on mining income and non-mining income. For details, refer to the discussion under “*Income and Mining Taxes*” in the *Continuing Operations* section.

In 2008, the tax rates for companies that elected the STC exemption were 43% for mining income and 35% for non-mining income, compared with 34% for mining income and 28% for non-mining income if the STC exemption election was not made. In 2007, the tax rates for companies that elected the STC exemption were 45% for mining income and 37% for non-mining income, compared with 35% for mining income and 29% for non-mining income if the STC exemption election was not made.

Australia. We pay taxes on mining income and non-mining income. For details, refer to the discussion under “*Income and Mining Taxes*” in the *Continuing Operations* section. In fiscal 2008 and 2007, the income tax rate for companies was 30%.

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Continuing and discontinued operations

Net (loss)/profit

The net (loss)/profit decreased from a net profit of U.S.\$51 million in fiscal 2007 to a net loss of U.S.\$30 million. This is due to the factors discussed above.

Recent Accounting Pronouncements

In April 2009, the IASB issued Improvements to IFRS for 2008. This is a collection of amendments to IFRSs under the IASB’s annual improvements process which is intended to deal with non-urgent but necessary amendments to Standards. The amendments focus on areas of inconsistency in Standards or where clarification of wording is required. The improvements include 12 separate amendments which impact 8 different Standards. Unless otherwise specified, the amendments are effective for annual periods beginning on or after 1 January 2010. The effect of the amendments will be recorded in future periods when such transactions are entered into.

In March 2009, the IASB issued IFRS 7 (Amended) — Financial Instruments disclosures: Improving Disclosures about Financial Instruments. The amendment increases the disclosure requirements about fair value measurement and reinforces existing principles for disclosure about liquidity risk. The amendment introduces a three-level hierarchy for fair value measurement disclosure and requires some specific quantitative disclosures for financial instruments in the lowest level in the hierarchy. In addition, the amendment clarifies and enhances existing requirements for the disclosure of liquidity risk primarily requiring a separate liquidity risk analysis for derivative and non-derivative financial liabilities. The standard becomes effective for annual periods commencing on or after 1 January 2009; early adoption is permitted. The standard will affect the disclosure of financial instruments in the financial statements.

In January 2009, the International Financial Reporting Interpretation Committee (“**IFRIC**”) issued interpretation no. 18 — Transfers of assets from customers. The interpretation clarifies the accounting treatment for transfers of property, plant and equipment received from customers. This interpretation applies to agreements with customers in which the entity receives cash from a customer when that amount of cash must be used only to construct or acquire an item of property, plant and equipment and the entity must then use the item of property, plant and equipment either to connect the customer to a network or to provide the customer with ongoing access to a supply of goods and services, or to do both. The provisions of the interpretation become effective for annual periods commencing on or after July 1, 2009. We currently do not expect this interpretation to have any effect on the financial statements.

In November 2008, IFRIC issued interpretation no.17 — Distributions of Non-cash Assets to Owners. IFRIC 17 applies to the accounting for distributions of non-cash assets (commonly referred to as *dividends in specie*) to the owners of the entity. The interpretation clarifies that: a dividend payable should be recognized when the dividend is appropriately authorized and is no longer at the discretion of the entity; an entity should measure the dividend payable at the fair value of the net assets to be distributed; and an entity should recognize the difference between the dividend paid and the carrying amount of the net assets distributed in profit or loss. The provisions of the interpretation become effective for annual periods commencing on or after July 1, 2009. The effect of the interpretation will be recorded in future periods when such transactions are entered into.

In August 2008, the IASB issued Improvements to IFRS for 2007. This is a collection of amendments to 20 IFRSs under the IASB’s annual improvements process which is intended to deal with non-urgent but necessary amendments to Standards. The amendments focus on areas of inconsistency in Standards or where clarification of wording is required. The effective date for most amendments is annual periods beginning on or after 1 January 2009. The improvements are of two broad types: Amendments that result in accounting changes in presentation, recognition, or measurement; and terminology or editorial changes that have no or minimal effect on accounting. The effect of the amendments will be recorded in future periods when such transactions are entered into.

In July 2008, the IASB issued IAS 39 (Amended) — IAS 39 Financial Instruments: Recognition and Measurement Exposures Qualifying for Hedge Accounting. The amendment makes two significant changes. It prohibits designating inflation as a hedgeable component of a fixed rate debt. It also prohibits including time value in the one-sided hedged risk when designating options as hedges. The standard becomes effective for annual periods commencing on or after January 1, 2009; early adoption is permitted. We currently do not anticipate the change to affect our financial statements as we do not have hedges.

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In May 2008 the IASB issued IFRS 1 (Amended) — First-time Adoption of International Financial Reporting Standards and IAS 27 (Amended) — Consolidated and Separate Financial Statement — Cost of an investment in Subsidiary, Jointly Controlled Entity or Associate. The amendments to IFRS 1 allow first-time adopters, in their separate financial statements, to use a deemed cost option for determining the cost (in terms of IAS 27, paragraph 38(a)) of an investment in subsidiary, jointly controlled entity or associate. The deemed cost of such an investment shall be: (a) Fair value (determined in accordance with IAS 39 — Financial Instruments: Recognition and Measurement) at the entity’s date of transition to IFRS’s; or (b) previous GAAP carrying amount at that date. The amendments to IAS 27 remove the definition of the ‘cost method’ from paragraph 4 of the standard. In addition, when an entity reorganizes the structure of its group by establishing a new entity as its parent (subject to certain criteria), the amendments require the new parent to measure cost as the carrying amount of its share of the equity items shown in the separate financial statements of the original parent at the date of the reorganization. The standard becomes effective for annual periods commencing on or after January 1, 2009; early adoption is permitted. The effect of the amended IFRS 1 and IAS 27 will be recorded in future periods when such transactions are entered into.

In May 2008, IFRIC issued interpretation No.16, Hedges of a Net Investment in a Foreign Operation (IFRIC 16), which provides guidance on: (a) identifying the foreign currency risks that qualify as a hedged risk in the hedge of a net investment in a foreign operation; (b) where, within a group, hedging instruments that are hedges of a net investment in foreign operation can be held to qualify for hedge accounting; (c) and how an entity should determine the amounts to be reclassified from equity to profit or loss for both the hedging instrument and the hedged item. IFRIC 16 applies to entities that hedges on foreign currency risk arising from net investments in foreign operations and where the related hedge qualify for hedge accounting in accordance with IAS 39, Financial Instruments: Recognition and Measurement. The provisions of IFRIC 16 are effective for annual periods commencing on or after October 1, 2008, the effect of the change will be accounted for prospectively in future periods. We currently do not anticipate the change affecting our financial statements as we do not have hedges on our net investments in foreign operations.

In February 2008, the IASB issued amendments to IAS 32- Financial Instruments: Presentation and IAS 1 — Presentation of Financial Statements, the amendment aims to improve the accounting for particular types of financial instruments that have characteristics similar to ordinary shares but are at present classified as financial liabilities. IAS 32 requires a financial instrument to be classified as a liability if the holder of that instrument can require the issuer to redeem it for cash; currently these financial instruments are considered liabilities, rather than equity. The amendments to IAS 32 addresses this issue and require entities to classify the following types of financial instruments as equity, provided they have particular features and meet specific conditions: (a) puttable financial instruments; (b) instruments, or components of instruments, that impose on the entity an obligation to deliver to another party a pro rata share of the net assets of the entity only on liquidation. The amendments become effective for annual periods commencing on or after January 1, 2009; early application is permitted. We do not expect the adoption of these amendments to have an impact on our consolidated financial statements.

In January 2008, the IASB issued IAS 23 (Revised) — Borrowing Costs. The statement eliminates the choice regarding capitalization of borrowing costs. Where an asset is acquired, constructed or produced as a qualifying asset, it has to capitalize the borrowing costs relating to the asset against the cost price of the asset. All other borrowing costs are expensed. Excluded from the amended statement are inventories that are manufactured, or otherwise produced in large quantities on a repetitive basis; and qualifying asset measured at fair value. The statement comes into effect for annual periods commencing on or after January 1, 2009. We have early adopted the revised IAS 23 for year ended June 30, 2008.

In December 2007, the IASB issued IFRS 2 (Amended) — Share Based Payment on vesting conditions and cancellations. The amendment deals with two matters: (a) it clarifies that vesting conditions are service conditions and performance conditions only; (b) It specifies all cancellations, whether by the entity or by other parties, should receive the same accounting treatment. IFRS 2 becomes effective for annual periods commencing on or after January 1, 2009, early adoption is permitted. The effect of the amended IFRS 2 will be recorded in future periods when such transactions affecting vesting conditions and cancellations on share based payment occurs.

In November 2007, the IASB issued IFRS 8 — Operating Segments. The statement was issued with the aim to achieve convergence in accounting standards around the world. The IASB and the FASB after review of the FASB statement 131 Disclosures about Segments of an Enterprise and Related Information and IAS 14 Segment reporting collaborated and issued the new IFRS 8 Operating Segment. IFRS 8 requires that an entity report on the financial and descriptive information about its reportable segments. IFRS 8 requires that a measure of the operating profit or loss, the segment assets and liabilities be reported. A reconciliation of total segments’ reportable revenues, total profit or loss, total assets, liabilities and other amounts disclosed for reportable segments to corresponding amounts in the entity’s annual financial statements should be reported. IFRS 8 also requires entities to report on information about revenues derived from its products or services, about countries in which they earn revenues and hold assets and the

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major customers. In addition, a description of how each segment was determined, the products and services provided per segment and any differences in determining the segment's information. Although IFRS 8 is effective for annual periods commencing on or after January 1, 2009, we decided to early adopt the standard from the year ending June 30, 2008.

In September 2007, the IASB issued IAS 1 (Revised) — Presentation of Financial Statements. The statement was issued with the aim to aggregate information in the financial statements on a basis of common characteristics, which resulted in the changes in equity to be presented separately between those changes resulting from transactions with equity participants (owners), in their capacity as owners, and those other non-owner equity transactions. The revised standard allows for a statement of other comprehensive income, with the net income recognized directly in equity now being moved to the statement of other comprehensive income, with the statement of changes in equity reflecting a line item, total comprehensive income. The change is effective for annual periods commencing on or after January 1, 2009. We early adopted the disclosure requirements of IAS 1, effective for the year ending June 30, 2008.

In July 2007, IFRIC issued interpretation no.15 — Agreements for the Construction of Real Estate. IFRIC 15 standardises accounting practice across jurisdictions for the recognition of revenue by real estate developers for sales of units, such as apartments or houses, 'off plan' — that is, before construction is complete. The fundamental issue is whether the developer is selling a product (goods) — the completed apartment or house — or is selling a service — a construction service as a contractor engaged by the buyer. Revenue from selling products is normally recognised at delivery. Revenue from selling services is normally recognised on a percentage-of-completion basis as construction progresses. The provisions of the interpretation become effective for annual periods commencing on or after January 1, 2009. The effect of the interpretation will be recorded in future periods when such transactions are entered into.

In June 2007, IFRIC issued interpretation 14 — IAS 19, The Limit on a Defined Asset Minimum Funding Requirements and their Interaction. IFRIC 14 addresses three issues: (a) how to determine the limit placed by IAS 19 Employee Benefits on the amount of a surplus in a pension plan they can recognize an asset; (b) how a minimum funding requirement affects that limit; (c) and when the minimum funding requirement creates an onerous obligation that should be recognized as a liability in addition to that otherwise recognized under IAS 19. IFRIC 14 requires that an asset be recognized in relation to the surplus on a consistent basis; and where there is both a strong minimum funding requirement and restrictions over the amount, an entity can recover from the plan, either as refunds or a reduction in contribution; entities have to recognize an additional liability. The interpretation is effective for annual periods commencing on or after January 1, 2008. IFRIC 14 will not affect our annual report as we only have defined contributions pension plans.

In June 2007, IFRIC issued interpretation 12 — Service Concession Arrangements. A service concession arrangement is an arrangement whereby a government or other public sector body contracts with a private operator to develop (or upgrade), operate and maintain the grantor's infrastructure assets such as roads, bridges, tunnels, airports, energy distribution networks, prisons or hospitals. The grantor controls or regulates what services the operator must provide using the assets, to whom, and at what price, and also controls any significant residual interest in the assets at the end of the term of the arrangement. The objective of IFRIS 12 is to clarify how certain aspects of existing IASB literature are to be applied to service concession arrangements. The interpretation is effective for annual periods commencing on or after January 1, 2008. IFRIC 12 will not affect our annual report as we have no service concession arrangements.

In June 2007, the IFRIC issued interpretation 13 — Customer Loyalty Programmes. IFRIC 13 addresses accounting by entities that grant loyalty award credits (such as 'points' or travel miles) to customers who buy other goods or services. Specifically, it explains how such entities should account for their obligations to provide free or discounted goods or services ('awards') to customers who redeem award credits. The interpretation is effective for annual periods commencing on or after July 1, 2008. IFRIC 13 will not affect our annual report as we have no customer loyalty programmes.

In April 2007, the IASB issued IFRS 3 (Revised) — Business Combinations and IAS 27 (Amended) — Consolidated and Separate Financial Statements, effective for the annual periods commencing after July 1, 2009. The changes made to IFRS 3 and IAS 27 have the following effects: (a) Partial acquisitions on non-controlling interest are measured either as their proportionate interest in the net identifiable assets or at fair value; (b) Goodwill is measured as the difference at acquisition date between the fair value of any investment in the business held before the acquisition, the consideration transferred and the net assets acquired for step acquisitions; (c) Acquisition-related costs are generally recognized as expenses instead of included in goodwill; (d) Contingent consideration must be recognized and measured at fair value at the acquisition date. Subsequent changes in fair value are recognized in accordance with other IFRSs, usually in profit and loss, rather than adjusting goodwill; (e) for transactions with non-controlling interests, the changes

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in a parent's ownership in a subsidiary that do not result in the loss of control are accounted for as equity transactions. The effect of the revised IFRS 3 and amended IAS 27 will be recorded in future periods when such transactions are entered into.

Liquidity and Capital Resources

We centrally manage our funding and treasury policies. There are no legal or economic restrictions on the ability of our subsidiaries to transfer funds to us. We have generally funded our operations and our short-term and long-term liquidity requirements from (i) cash generated from operations, (ii) credit facilities and other borrowings and (iii) sales of equity securities.

Cash Resources

	Fiscal year ended June 30,		
	2009	2008	2007
		(\$ in millions)	
Continuing operations			
Operating cash flows	234	169	176
Investing cash flows	(105)	(310)	(318)
Financing cash flows	(234)	78	132
Foreign exchange differences	16	4	6
Total cash flows from continuing operations	(88)	(59)	(4)
Discontinued operations			
Operating cash flows	20	67	(17)
Investing cash flows	199	(19)	—
Financing cash flows	—	—	—
Foreign exchange differences	69	(6)	—
Total cash flows from discontinued operations	288	42	(17)

Operations

Net cash provided by operations is primarily affected by the quantities of gold sold, the gold price, the Rand-U.S. dollar exchange rate, cash costs per ounce and, in the case of the International operations, the Australian dollar and Kina versus U.S. dollar exchange rate. A significant adverse change in one or more of these parameters could materially reduce cash provided by operations as a source of liquidity.

Net cash generated by operations was U.S.\$254 million in fiscal 2009, as compared with U.S.\$236 million in fiscal 2008. This improvement is attributable primarily to the higher gold price received during the year as well as the increase in interest received of U.S.\$13 million to U.S.\$51 million. Also contributing to the improvement is the decrease of interest paid of U.S.\$26 million to U.S.\$31 million as a result of a decrease in the outstanding debt balances. Negating the effect of the improvement was the increase in taxation paid of U.S.\$67 million to U.S.\$85 million.

Net cash generated by operations was U.S.\$236 million in fiscal 2008, as compared with U.S.\$159 million in fiscal 2007. This improvement is attributable primarily to the higher gold price received during the year as well as the increase in interest received of U.S.\$13 million. Negating the effect of the improvement was the increase in interest paid of U.S.\$26 million and taxation paid of U.S.\$16 million. An increase in the production costs of U.S.\$82 million due to inflationary pressures relating to labor, materials and energy supplies also negatively affected the increase.

Investing

Net cash generated by investing activities was U.S.\$94 million, as compared with net cash utilized of U.S.\$329 million in fiscal 2008. This increase was mainly due to the decrease in capital expenditure during fiscal 2009 from U.S.\$552 million to U.S.\$339 million. Also contributing was an increase in proceeds on disposal of mining assets, relating to the disposal of the PNG assets to Newcrest and the Rand Uranium transaction (U.S.\$444 million). Offsetting this was an increase in the restricted cash balance (U.S.\$9 million).

Net cash utilized by investing activities was U.S.\$329 million in fiscal 2008, as compared with U.S.\$318 million in fiscal 2007. This increase was mainly due to the increase in capital expenditure during fiscal 2008 by U.S.\$169 million to U.S.\$552 million. An increase of U.S.\$129 million in fiscal 2008 from proceeds on disposal of listed investments offset the increase in cash utilized during

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fiscal 2008. Also offsetting the amounts was an increase in proceeds on disposal of mining assets, including the disposal of South Kalgoorlie (U.S.\$9 million) and a increase in the restricted cash balance (U.S.\$32 million).

Financing

Net cash utilized by financing activities was U.S.\$233 million in fiscal 2009, as compared with net cash generated of U.S.\$78 million in fiscal 2008. This decrease was mainly due to the repayment of the convertible bond and the Nedbank loan during the year. This decrease was partially offset by the cash raised by the two share issues during the year, raising U.S.\$188 million, net of transaction costs.

Net cash generated by financing activities was U.S.\$78 million in fiscal 2008, as compared with U.S.\$132 million in fiscal 2007. This decrease was mainly due to the fact that we raised less borrowings during the year.

Outstanding Credit Facilities and Other Borrowings

On July 30, 2003, Africa Vanguard Resources (Doornkop) (Proprietary) Limited (“**AVRD**”) entered into a term loan facility of R140 million (U.S.\$19 million) with Nedbank Limited (“**Nedbank**”) for the purpose of partially funding AVR’s purchase of an undivided 26% share of the Mining titles, to be contributed to the Doornkop South Reef Project with Randfontein. Interest at a fixed rate equal to Johannesburg Interbank Agreed Rate (“**JIBAR**”) plus 2%, compounded monthly, and any stamp duties and holding costs. The terms of the loan were extended from the original maturity of July 30, 2008, to September 30, 2009, at which date all loan amounts and any interest accrued are to be paid. The loan is jointly and severally guaranteed by the Company and several of its subsidiaries. The facility from Nedbank to AVRD is guaranteed by us and certain of our subsidiaries. Interest capitalized during the fiscal 2009 was U.S.\$3.7 million compared to U.S.\$4.1 million in fiscal 2008 (fiscal 2007 was U.S.\$2.2 million). During fiscal 2005, AVRD borrowed an additional R18 million (U.S.\$2.8 million) from its holding company Africa Vanguard Resources to service working capital commitments. The loan is uncollateralized and interest free. As there are no fixed repayment terms, the loan has no fixed maturity date.

During July 2007, Morobe Consolidated Goldfields entered into a finance lease agreement with Westpac Bank for the purchase of mining fleet to be used on the Hidden Valley project amounting to U.S.\$37 million. Interest is charged at U.S. — LIBOR plus 1.25% per annum. Interest is accrued monthly and lease instalments are repayable quarterly terminating June 30, 2013. The mining fleet financed is used as collateral for these loans. The balance at June 30, 2009 was U.S.\$14 million.

Recently Retired Credit Facilities and Other Borrowings

On May 21, 2004, we issued R1.7 billion (U.S.\$252.0 million) in international unsecured fixed-rate convertible bonds in order to refinance our domestic Rand debt. Interest was calculated on the convertible bonds at a rate of 4.875% per annum, payable semi-annually in arrears on May 21 and November 21 of each year. The bonds were convertible at the option of the bondholders into fully paid up ordinary shares at any time on or after July 1, 2004 and up to, and including, May 15, 2009, unless they had been previously redeemed, converted or purchased and cancelled by us. The trust deed for the convertible bonds contained clauses that restricted certain of our activities, including a negative pledge, according to which we were not permitted to create or permit any mortgage, charge, lien, pledge or other form of encumbrance of security interest with respect to any part of our undertaking or assets, present or future, to secure any relevant debt, guarantee or indemnity. In addition, the trust deed contained covenants that required us to, among other things, maintain the listing of the bonds with the UK Listing Authority and do all things necessary, in the opinion of the trustee, to give effect to the trust deed. Included in the amortization charge as per the income statement is U.S.\$0.9 million compared to U.S.\$1.2 million in fiscal 2008 and U.S.\$1.2 million in 2007 for amortization of the bond issue costs. On May 20, 2009, we repaid the convertible bond.

On September 28, 2007, we entered into a term loan facility of R2 billion (U.S.\$283.9 million) with Nedbank Limited, for the purpose of partially funding capital expenditure in respect of projects, as well as to repay the short term bridging loan amounting to R500 million (U.S.\$68.6 million). Interest accrued on a day to day basis over the term of the loan at a variable interest rate, which is fixed for three month periods, equal to the JIBAR plus 2.75% plus banking costs. The interest is repayable every quarter commencing on September 28, 2007. During fiscal 2009, the loan was repaid in tranches, with the last tranche of R750 million (U.S.\$83.6 million) being repaid on April 21, 2009.

On April 15, 2005 the ARM Empowerment Trust entered into a term loan facility of R474 million (U.S.\$75.4 million) with Nedbank Limited for the purpose of funding the balance of the ARM Empowerment Trust’s acquisition of the ARM shares held by us.

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The loan bore interest, compounded monthly, at a rate of JIBAR plus of 1.5%. We guaranteed this loan, subject to a maximum guaranteed amount of R367.4 million (U.S.\$50.4 million) plus interest. In addition, if the ARM Empowerment Trust chose to dispose of 8,175,640 of its ARM Limited shares at cost, the maximum guaranteed amount would be reduced to R214.9 million (U.S.\$29.5 million) plus interest. We also entered into an indemnity agreement with ARM Limited, pursuant to which ARM Limited indemnified us against 50% of all claims under the guarantee, subject to a maximum of R107.4 million (U.S.\$14.7 million) plus interest thereon at the applicable rate from May 26, 2006. Interest capitalized during the year ended 2008 amounted to U.S.\$2.5 million, compared to U.S.\$8.5 million for fiscal 2007. On September 28, 2007, the guarantee was cancelled by Nedbank and, consequently, we have no further obligation to Nedbank in this regard.

On April 15, 2005, the ARM Empowerment Trust entered into a second term loan facility of R356 million (U.S.\$56.7 million) with Nedbank Limited for the purpose of funding the ARM Empowerment Trust's partial acquisition of the ARM shares held by us. The loan bore interest, compounded monthly, at a rate of JIBAR plus 1.5%. Interest capitalized during the year ended 2008 amounted to U.S.\$2.1 million, compared to U.S.\$6.7 million for fiscal 2007. On September 28, 2007, the guarantee was cancelled by Nedbank and consequently we have no further obligation to Nedbank in this regard.

On March 20, 2007, we arranged financing from RMB, collateralized by 5,747,000 shares in Gold Fields, resulting in total cash proceeds of R750.3 million (U.S.\$103.4 million). Of these proceeds, R599.8 million (U.S.\$82.3 million) were applied towards partial repayment of the R1.0 billion term loan facility with RMB. See below in this section. Interest was payable at a rate equal to the SAFEX Financial Derivatives overnight deposit rate (the "**Safex Overnight Rate**") plus 35 basis points. On August 24, 2007, we repaid the loan.

On March 20, 2007, Randfontein (our wholly-owned subsidiary) entered into a preference share subscription agreement with RMB. According to the terms of the agreement, following the satisfaction of certain conditions, Randfontein issued R550.0 million (U.S.\$75.4 million) principal amount of preference shares to RMB on April 5, 2007. Dividends on the preference shares were payable semi-annually on the principal amount and were calculated at 35% of the South African Prime Interest Rate from the issue date until August 31, 2007, 50% of the South African Prime Interest Rate from September 1, 2007 to February 29, 2008 and 83% of the South African Prime Interest Rate thereafter. The preference shares were guaranteed by us, Evander Gold Mines Limited, ARMgold/Harmony Freegold Joint Venture Company (Pty) Limited, Avgold Limited and ARMgold/Harmony Joint Investment Company (Pty) Limited ("**AHJIC**"), as well as certain future material subsidiaries.

In the subscription agreement for the preference shares, AHJIC also granted a security interest over 6,196,863 Gold Fields shares held by it to secure its obligations under the subscription agreement for the preference shares. In the subscription agreement for the preference shares, AHJIC also undertook that, if the cover ratio of the value of the Gold Fields shares to the redemption amount falls below 1.25, it would deposit additional Gold Fields shares or cash to bring this ratio to 1.5. On or after March 1, 2008, if this ratio falls below 2.0, AHJIC will be required to deposit cash equal to 75% of the redemption amount.

The preference shares were redeemable at the option of the holders on the final redemption date, which is three years and one day after the issue date, and upon the occurrence of certain events, including a failure by AHJIC to meet its obligations under the subscription agreement, a delisting of the Gold Fields shares from the Johannesburg Stock Exchange, cross-defaults or other events that are customary events of default for financing agreements. The preference shares were also redeemable by Randfontein at any time. On August 24, 2007, the preference shares were redeemed.

On June 29, 2007, we entered into a senior bridge loan facility for R500.0 million (U.S.\$68.6 million) with RMB for the purpose of funding our capital expenditure requirements in respect to the Hidden Valley mine project. The loan bore interest, compounded monthly at a rate equal to the Safex Overnight Rate plus 2.4% until July 31, 2007, the maturity date. In the event that we elected to extend the loan facility until September 30, 2007, the loan would bear interest at a rate equal to the Safex Overnight Rate plus 3.6% during the extension period. On September 29, 2007, the loan was settled in full.

On June 27, 2007, we entered into a draw down facility agreement with Westpac Bank for the PNG operations. The limit was K3 million and interest was payable at 9.45%. During July 2007, the facility was repaid and then cancelled.

On March 9, 2006, we entered into a term loan facility of R1.0 billion (U.S.\$159.7 million) with RMB, for the purpose of partially funding the acquisition of the 29.2% stake in Western Areas. Interest is compounded at a rate equal to three-month JIBAR plus 1.5%. This facility was partially repaid on March 27, 2007 from the net proceeds of a sale of Gold Fields shares, and the balance was repaid on April 4, 2007 from the net proceeds from the issuance of certain preference shares by our subsidiary Randfontein.

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Contractual Obligations and Commercial Commitments

Our contractual obligations and commercial commitments consist primarily of credit facilities, post-retirement healthcare and environmental obligations.

Contractual Obligations on the Balance Sheet

The following table summarizes our contractual obligations as of June 30, 2009:

	Payments Due by Period				
		Less Than 12 Months July 1, 2009 to June 30, 2010 (\$'million)	12-36 Months July 1, 2010 to June 30, 2012 (\$'million)	36-60 Months July 1, 2012 To June 30, 2014 (\$'million)	After 60 Months Subsequent June 30, 2014 (\$'million)
	Total (\$'million)				
Africa Vanguard Resources ⁽¹⁾	4	4	—	—	—
Nedbank — AVR ⁽¹⁾	29	29	—	—	—
Westpac Bank ⁽¹⁾	14	4	5	5	—
Post retirement health care ⁽²⁾	20	—	—	—	20
Environmental obligations ⁽³⁾	198	—	—	—	198
Total contractual obligations	265	37	5	5	218

- (1)

See Item 5. “Operating and Financial Review and Prospects — Liquidity and Capital Resources — Credit Facilities and Other Borrowings — Outstanding Credit Facilities and Other Borrowings”.
- (2)

This liability relates to post-retirement medical benefits of former employees who retired prior to December 31, 1996 and is based on actuarial valuations conducted during fiscal 2009.
- (3)

We make provision for environmental rehabilitation costs and related liabilities based on management’s interpretations of current environmental and regulatory requirements. See Item 5. “Operating and Financial Review and Prospects — Critical Accounting Policies”.

Contractual Obligations off the Balance Sheet

Our obligation with regards to operating leases is U.S.\$6 million for the next year and relates to the International office in Brisbane as well as expenditure on mining tenements. Of this amount, U.S.\$5 million is due within 12 months.

Capital Expenditure

The following table sets forth our authorized capital expenditure as of June 30, 2009:

	\$'million
Authorized and contracted for ⁽¹⁾	62
Authorized but not yet contracted for	95
Total	157

- (1)

Including our share of the PNG joint venture’s capital expenditure of U.S.\$30 million.

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Commercial Commitments

The following table provides details regarding our commercial commitments as of June 30, 2009:

	Amount of Commitments Expiring by Period				
	Total	Less Than 12 Months	12-36 Months	36-60 Months	After 60 Months
	(\$'million)	July 1, 2009 to June 30, 2010 (\$'million)	July 1, 2010 to June 30, 2013 (\$'million)	July 1, 2012 to June 30, 2014 (\$'million)	Subsequent to June 30, 2014 (\$'million)
Guarantees ⁽¹⁾	42	—	—	—	42
Capital commitments ⁽²⁾	32	32	—	—	—
Total commitments expiring by period	74	32	—	—	42

- (1) Amount of Commitments Expiring by Period.
- (2) Capital commitments consist only of amounts committed to external suppliers, although a total of U.S.\$127 million has been approved by the Board for capital expenditures.

Trend Information

Information on recent trends in our operations is discussed in *Item 4. “Information on the Company — Business — Strategy”* and “— Results of Operations” above.

Working Capital and Anticipated Financing Needs

The Board believes that our working capital resources, by way of cash generated from operations and existing cash on hand, are sufficient to meet our present working capital needs. Several of the Growth projects will require a great deal of capital expenditure over the next two to three years, and given the current cash position, we are re-evaluating the planned capital expenditure, together with project timelines. Should a decision be taken to reduce or cease capital expenditure on one or more of the projects, the effect would be to delay the start of production, and therefore the associated revenue stream. This could have an impact on available cash resources. For more information on our planned capital expenditures, see “— Capital Expenditures” above and *Item 4. “Information on the Company — Business — Harmony’s Mining Operations”*. We may, in the future, explore debt and/or equity financing in connection with our acquisition strategy and/or major capital projects. See *Item 3. “Key Information — Risk Factors — Harmony’s strategy depends on its ability to make additional acquisitions”*. Our Board believes that we will have access to adequate financing on reasonable terms given our cash-based operations and modest leverage. Our ability to generate cash from operations could, however, be materially adversely affected by increases in cash costs, decreases in production, decreases in the price of gold and appreciation of the Rand against the U.S. dollar. Future financing arrangements would also be subject to the limits on the Board’s borrowing powers described in *Item 10. “Additional information — Memorandum and Articles of Association — Directors — Borrowing Powers”*. In addition, South African companies are subject to significant exchange control limitations, which may impair our ability to fund overseas operations or guarantee credit facilities entered into by overseas subsidiaries. See *Item 10. “Additional Information — Exchange Controls”*.

Other Financial Information

Export Sales

In fiscal years 2007, 2008 and 2009, 100% of our gold produced in South Africa was refined by Rand Refinery, which is owned by a consortium of the major gold producers in South Africa. All of our gold produced in Australia in those periods was sold to AGR Matthey, a Perth-based refinery.

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Item 6. DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES

Directors and Senior Management

The members of the Board, their principal past affiliations, information on their business experiences and principal outside activities and selected other information are set forth below:

Board of directors

Name	Date of appointment
Patrice Motsepe ⁽¹⁾	September 23, 2003
Frank Abbott	October 1, 1994
Graham Briggs	August 6, 2007
Joaquim Chissano ^{(1) (2)}	April 20, 2005
Fikile De Buck ^{(1) (2)}	March 30, 2006
Ken Dicks ^{(1) (2)}	February 13, 2008
Cheick Diarra ^{(1) (2)}	March 5, 2008
Dr Simo Lushaba ^{(1) (2)}	October 18, 2002
Cathie Markus ^{(1) (2)}	May 1, 2007
Modise Motloba ^{(1) (2)}	July 30, 2004
Cedric Savage ^{(1) (2)}	September 23, 2003
André Wilkens ⁽¹⁾	August 6, 2007

- ⁽¹⁾ *Non-executive directors*
- ⁽²⁾ *Independent*

Non-Executive Chairman

Patrice Motsepe (47) BA (Legal), LLB. Patrice was appointed to the board in 2003. Patrice was a partner in one of the largest law firms in South Africa, Bowman Gilfillan Inc. He was a visiting attorney in the USA with the law firm, McGuire Woods Battle and Boothe. In 1994 he founded Future Mining, which grew rapidly to become a successful contract mining company. He then formed ARMgold in 1997, which listed on the JSE in 2002. ARMgold merged with Harmony in 2003 and this ultimately led to the takeover of Anglovaal Mining (“**Avmin**”) by African Rainbow Minerals Limited (“**ARM**”). In 2002 he was voted South Africa’s Business Leader of the Year by the CEOs of the top 100 companies in South Africa. In the same year, he was winner of the Ernst & Young Best Entrepreneur of the Year Award. He is also the Executive Chairman of ARM and the Deputy Chairman of Sanlam. His various business responsibilities included being President of Business Unity South Africa (“**BUSA**”) from January 2004 to May 2008, which is the voice of organized business in South Africa. He is also President of Mamelodi Sundowns Football Club.

Executive Directors

Graham Briggs (56), BSc (Hons) (Geology), PrSciNat, Chief Executive Officer. Graham was appointed as chief executive officer in January 2008, after his appointment to the board in 2007. Having joined Harmony as new business manager in 1995, Graham’s previous positions include that of chief executive of Harmony Australia and regional manager for Australasia. A geologist by training, Graham has more than 35 years’ experience in the field and in an operational capacity at a number of South African gold mines, including a stint as ore reserve manager at Beatrix. Graham serves as a director on Harmony’s subsidiary companies and was recently appointed to the board of Virtual Metals Group in the United Kingdom.

Frank Abbott (54), BComm, CA (SA), MBL, Interim Financial Director. Frank was appointed executive interim financial director in August 2007. Frank initially joined the Harmony board as a non-executive director in 1997. In 2004 Frank was appointed financial director of ARM, while remaining on the Harmony board as non-executive director. In August 2007, Frank was seconded to Harmony as interim financial director. Frank serves as a director of Harmony’s subsidiaries and is a non-executive director of ARM. Frank is going on early retirement at the end of December 2009. Frank will remain on the Harmony board as non-executive director from January 1, 2010.

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Non-Executive Directors

Joaquim Chissano (69), Independent Non-Executive Director. Joaquim was appointed to the board in April 2005. Formerly President of Mozambique (1986 — 2004), Joaquim also served as chairman of the African Union for 2003-4. On leaving the presidency, he established the Joaquim Chissano Foundation for Peace Development and Culture, and has led various international peace initiatives on behalf of the United Nations, African Union and the Southern African Development Community to Guinea Bissau, the Democratic Republic of the Congo, Uganda and Madagascar. In 2006 he was awarded the annual Chatham House Prize for significant contributions to improving international relations and was the recipient of the inaugural Mo Ibrahim Prize for Achievement in African Leadership in 2007. He is also a non-executive director of ARM Limited and TEAL.

Fikile De Buck (48), BA (Economics), FCCA (UK), Independent Non-Executive Director. Fikile joined the board on 1 April 2006. A certified chartered accountant, she is a fellow of the Association of Chartered Certified Accountants (ACCA) (UK) and a member. From fiscal 2000 to fiscal 2008, Fikile worked in various capacities at the Council for Medical Schemes in South Africa, including that of chief financial officer and chief operations officer. Prior to that she was treasurer at the Botswana Development Corporation. Fikile is also a non-executive director and chairman of the Audit Committee of Rand Uranium (Pty) Ltd and of Anooraq Resources Corporation.

Dr Cheick Diarra (57), PhD (Mechanical and Aerospace Engineering), Independent Non-Executive Director. Dr Cheick Diarra joined the board in March 2008. He is also the chairman for Africa at Microsoft. Dr Diarra graduated from the Pierre and Marie Curie University in Paris, France, and obtained his PhD in mechanical and aerospace engineering from Howard University, Washington DC, USA. After six years as an Assistant Professor at Howard, he joined the National Aeronautic and Space Association (NASA) Jet Propulsion Laboratory. Dr Diarra has served as a UNESCO goodwill ambassador and, in 2002 and 2003, he was chief executive officer of the African Virtual University based in Kenya. He is a member of several international and African scientific organisations, and was awarded an African Lifetime Achievement Award for Outstanding Contributions to Science.

Ken Dicks (70), Mine Managers Certificates (Metalliferous and Fiery Coal Mines), Management Development Diploma and Management Diploma, Independent Non-Executive Director. Ken joined the board in February 2008. He has 39 years' experience in the mining industry, mainly in the Anglo American group. He has served on the boards of mining companies such as Freegold, Western Deep Levels and Elandsrand. He is also a non-executive director of Gold One International, following a reverse takeover by Aflase Gold Limited.

Dr Simo Lushaba (43), BSc (Hon), MBA and DBA, Independent Non-Executive Director. Simo joined the Harmony board in October 2002. An entrepreneur and an executive business coach, he previously held senior management positions at Spoornet and Lonmin plc and was chief executive of Rand Water. Simo is a member of the board of the Nepad Business Foundation (SA), chairman of Spescom Limited and a board member of Gidani, Numsa Investment Services and Doves Funeral Services

Cathie Markus (52), BA LLB, Independent Non-Executive Director. Cathie joined the board in May 2007. Cathie spent 16 years at Impala Platinum Holdings Limited (Implats), initially as legal advisor and latterly, from 1998 to 2007, as executive director with responsibility for legal compliance and public affairs. Having graduated from the University of the Witwatersrand, Cathie served articles at Bell Dewar & Hall. On qualifying as an attorney, notary and conveyancer, she joined the legal department of Dorbyl Limited. She is currently a trustee of the Impala Bafokeng Trust.

Modise Motloba (43), BSc, Diploma in Strategic Management, Independent Non-executive Director. Modise joined the board in July 2004. Currently the chief executive of Quartile Capital (Pty) Ltd, Modise is also a director of Rand Merchant Bank Structured Insurance, Deutsche Bank Securities SA (Pty) Ltd, the Land Bank and the Small Enterprise Foundation. Modise's 17 years' experience in investment banking, treasury and fund management includes appointments at Rand Merchant Bank, African Harvest Fund Managers and Goldman Sachs. Modise is a former President of the Association of Black Securities and Investment Professionals (ABSIP) where he was instrumental in formulating and negotiating the historic Financial Services Charter in October 2003.

Cedric Savage (70), BSc (Eng), MBA, ISMP (Harvard), Independent Non-executive Director. Cedric joined the board in September 2003. He retired as the chairman of the Tongaat Hulett Group in May 2009 but remains a trustee of the Tongaat Hulett Group Pension Fund. He started his career in the United Kingdom in 1960 as a graduate engineer with Fairey Aviation. He returned to South Africa in 1963 and worked in the oil (Mobil), textile (Felt & Textiles) and chicken (Rainbow Chickens Limited) industries. He was President of the South African Chamber of Business from 1993 to 1994. He has also served as Chairman of the Board of Governors of the University of KwaZulu-Natal's Development Foundation and as a Member of Council of that university. He joined the Tongaat-Hulett Group Ltd in 1977 as Managing Director of Tongaat Foods and progressed to Executive Chairman of the Building

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Materials Division; he became Chief Executive Officer of the group in 1991. In May 2000, he assumed the dual roles of Chief Executive Officer and Executive Chairman. He currently serves on the board of Denel (Proprietary) Limited. He also served on the Nedbank board from 2002 until May 2008 when he retired as Non-Executive Director and the board of Datatec Limited from 2001 and Datatec International from 2004, after which he retired from both boards in August 2009.

André Wilkens (60), Mine Manager’s Certificate of Competency, MDPA, RMIIA, Non-Executive Director. André joined the board in August 2007. He is currently the chief executive officer of ARM Limited and previously held the same position at ARM Platinum. Prior to this, he was the chief operating officer at Harmony, following the merger of Harmony with ARMgold in 2003. Andre has a wealth of experience in the mining industry, having joined Anglo American in 1969 and moved up the ranks to mine manager of Vaal Reefs’ south mine.

Management

The members of our management, their principal past affiliations, information on their business experiences and principal outside activities and selected other information are set forth below:

Bob Atkinson (57), NHD (Metalliferous Mining), Executive: New Business and Projects. Bob joined Harmony as a Section Manager in 1986 and served as Operations Director on the Executive Committee from June 2001 to May 2003. He was appointed Chief Operating Officer at Harmony Gold Australia and was appointed as Executive: Sustainable Development (Safety and Occupational Health) at Harmony in South Africa in July 2004. He has more than 32 years’ experience in the mining industry.

Jaco Boshoff (40), BSc (Hons), MSc (Geology), MBA, PrSciNat, Executive: Reserves and Resources. Jaco joined Harmony in April 1996. He has served as the Executive: Reserves and Resources and Competent Person since March 2004. Prior to this, he was an Ore Reserve Manager from 1998 to 2004 and before that was a geologist at Harmony and at Gengold. Jaco is registered as a professional geological scientist with the South African Council for Natural Scientific Professions and has worked in the mining industry for more than 12 years.

Matthews Pheello Dikane (43), LLB, LLM (Labour Law), Postgraduate Diploma In Management Practice, Executive: Legal and Compliance. Matthews joined Harmony in 2009. He has 20 years’ experience in the mining industry, working his way up through the ranks from learner official to production mine overseer at AngloGold Ashanti Ltd. During this time, he studied for his law degree and served his articles at Perrott Van Niekerk Woodhouse Incorporated. He also completed his Master’s degree in Labour Law and a Postgraduate Diploma in Management Practice. He returned to AngloGold Ashanti’s corporate office as a Legal Counsel, later joining Brink Cohen Le Roux as a senior associate where he was made a director.

Leon le Roux (53), NHD (Mechanical and Electrical Engineering), Executive: Risk Management and Engineering. Leon joined Harmony on its merger with ARMgold in 2003. Having begun his mining career as a learner official in 1979 and obtaining his GCC (Mines and Works), he worked as an engineer on several AngloGold operations. He joined ARMgold on its formation in 1999 where he held a number of positions in the management team and was later seconded to ARMplatinum. He was appointed to the Harmony executive team in June 2009.

Mashego Mashego (45), BA Ed, BA (Hons), GEDP, JMDP, Executive: Human Resources. Mashego joined Harmony in July 2005 as Group Human Resources Development Manager. Mashego, who has more than 20 years’ experience in human resources, began his career as Human Resources Manager at Eskom. He then progressed in the field at JCI, Atlantis Diesel Engines and Foskor Ltd. He was promoted to General Manager at Harmony’s Evander Operations in November 2005 and was appointed Executive: Human Resources in August 2007.

Jackie Mathebula (39), B Admin Honours, MBA, Master of Management (MM, HR), Executive: Corporate Affairs. Jackie joined Harmony in September 2002 as Employee and Industrial Relations Executive. In 2005, his portfolio became Training, Human Resource Development and Occupational Health, and in 2005 he was appointed Executive: Corporate Affairs. Prior to joining Harmony, he worked at Gensec Bank, Gold Fields Limited and then Iscor group (now ArcelorMittal South Africa). He also worked for the South African government in the Gazankulu Public Service Commission.

Hannes Meyer (39), CA (SA), BCom (Hons), Financial Director Designate. Hannes joined Harmony in August 2009. During his 13-year career in the mining industry, he gained extensive mining and financial experience at Randgold and Exploration Ltd, Randgold Resources Ltd, AngloGold Ashanti Ltd and TEAL Exploration & Mining Inc (“**TEAL**”). His exposure extended to gaining

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knowledge of mines in Africa, corporate finance and business development. Before joining Harmony Hannes served as chief financial officer of TEAL and served as acting chief executive officer of TEAL since May 2008.

Melanie Naidoo-Vermaak (35), MSc (Sustainable Development), Executive: Environment. Melanie joined Harmony in 2009. She is an experienced environmental specialist who has worked for both the private sector in the mining industry, as well as the public sector in the Departments of Water Affairs and Forestry and Minerals and Energy. She has spent 10 years in this discipline and has international environmental management exposure gained in Australia, Papua New Guinea, Fiji as well as Africa. She has held various positions at some of the leading mining companies, including BHP Billiton, Anglo American PLC and De Beers Consolidated Mines Limited.

Alwyn Pretorius (38), BSc Mining Engineering, BSc Industrial Engineering, Chief Operating Officer: North Region. Alwyn joined Harmony on its merger with ARMgold in 2003. He began his career at Vaal Reefs mine as a mining graduate in training in 1993 and was appointed shift boss in 1995, gaining experience in remnant mining. Alwyn obtained his BSc in Industrial Engineering in 1998 and joined ARMgold in 1999 at its Orkney operations progressing to become mine manager in 2003. Alwyn was appointed Executive, South African Operations at Harmony in March 2007, and is the Chief Operating Officer: North Region.

Tom Smith (53), NHD (Mine Surveying and Metalliferous Mining), Chief Operating Officer: South Region. Tom joined Harmony in 2002. Tom began his career in the mining industry in 1975 as a sampler at Vaal Reefs mine, becoming chief surveyor in 1988. He made a career change in 1991 to mining and worked as a section manager on Great Noligwa, Elandsrand and Mponeng mines. He was also involved in projects at Tau Lekoa and Moab Khotsoeng, acquiring experience in conventional, trackless, pillar and deep-level mining. Tom was promoted to Production Manager at Mponeng in 1998. He was appointed General Manager of Tshepong in 2000. Following the merger with ARMgold he was involved in the restructuring of the Free State operations. He joined the executive team in September 2007 and is the Chief Operating Officer: South Region.

Marian van der Walt (36), BCom (Law), LLB, Higher Diploma in Tax, Diploma in Corporate Governance, Diploma in Insolvency Law, Certificate in Business Leadership; Executive: Corporate and Investor Relations. Marian has 12 years of legal experience and was appointed Company Secretary on 3 February 2003. She completed her articles at Routledges Modise Attorneys and was admitted as an attorney and conveyancer in 1998. She then joined Deloitte and Touche as an insolvency practitioner/administrator. She held legal and management positions at the Standard Bank of South Africa Limited in the Commercial Properties Division prior to joining Harmony in 2003. Marian was appointed to the Executive Committee in October 2005 with responsibility for legal, compliance and risk management. Internal audit and Sarbanes-Oxley compliance were added to her portfolio in September 2007. In October 2008, she was appointed Executive: Corporate and Investor Relations.

Johannes van Heerden (37), BCompt (Hons), CA(SA), Chief Executive Officer: South East Asia. Johannes joined Harmony in 1998 as Financial Manager of the Free State operations. Here he obtained broad financial management experience at an operational level. He was subsequently appointed Group Financial Manager in 2001, before being relocated to Harmony Australasia as Chief Financial Officer in 2003. Johannes presently holds the position of Chief Financial Officer: South East Asia.

Abre van Vuuren (49), BComm, MDP, DPLR, Executive: Services. Abre joined Harmony in 1997 when the Group acquired Grootvlei Gold Mine (“**Grootvlei**”). Abre’s career in the mining industry started in 1982 where he joined the Finance department at the Blyvooruitzicht Gold Mine. At the end of 1982, Abre switched profiles from Finance at Blyvooruitzicht, to Human Resources at Harmony. He continued to progress through the ranks at various gold mines and collieries in the Rand Mines Group, including Grootvlei. Abre was an integral part of the management team when Harmony acquired Grootvlei in 1997. As Harmony progressed on its acquisition trail, Abre held various Services Management and Human Resource Management portfolios. He was promoted to the Executive Committee in 2000 when he became the Industrial Relations Executive. In this time and through to 2005, he too held various portfolios in Services and Human Resources, until he consolidated the Human Resources function into one. In 2007, when the Chief Executive at the time embarked on strengthening the Executive Management, Abre was appointed to his current portfolio of Executive: Services.

Board Practices

Our Articles of Association provide that the Board must consist of no less than four and no more than twenty directors at any time. The Board currently consists of twelve directors.

Our Articles of Association provide that the longest serving one-third of directors retire from office at each annual general meeting. Retiring directors normally make themselves available for re-election and are re-elected at the annual general meeting at which they retire. Members of our senior management who are also directors retire as directors in terms of the Articles of Association, but their service as officers is regulated by standard industry employment agreements. According to the Articles of Association, the Board meets not less than quarterly.

Details of directors’ service contracts are described under “— Compensation of Directors and Senior Management” and “— Directors’ Terms of Employment,” below. We also describe significant ways in which our corporate governance practices differ from practices followed by U.S. companies listed on the NYSE on our website under “Corporate Governance.”

In order to ensure good corporate governance, the Board has formed an Audit Committee, a Remuneration Committee, a Nomination Committee, an Investment Committee, an Empowerment Committee, Sustainable Development Committee and a Technical Committee. All of the Board committees are comprised of a majority of independent, non-executive directors.

Executive Management Committee

Our Executive Committee comprises our executive directors and selected senior officers, each with his or her own area of responsibility. The Executive Committee consists of 15 executives who meet on a weekly basis and more often if required.

The composition of the Executive Management Committee (with areas of responsibility indicated) is as follows:

Graham Briggs	Chief Executive Officer
Frank Abbott	Interim Chief Financial Officer
Bob Atkinson	New Business and Projects
Jaco Boshoff	Ore Reserves
Mashego Mashego	Human Resources
Jackie Mathebula	Corporate Affairs
Alwyn Petorius	North Operations South Africa
Tom Smith	South Operations South Africa
Marian van der Walt	Corporate and Investor Relations
Johannes van Heerden	Chief Executive Officer: South East Asia
Abre van Vuuren	Services
Leon le Roux	Risk Management and Engineering
Melanie Naidoo- Vermaak	Environmental Management
Hannes Meyer	Financial Director Designate
Matthews Dikane	Legal and Compliance

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Audit Committee

Members

In terms of its charter this committee must comprise at least three members.

As at June 30, 2009, the members of this committee were:

Cedric Savage	Chairman; appointed to the committee on January 26, 2004 and chairman as from August 5, 2005
Fikile De Buck	Appointed to the committee on March 30, 2006
Dr. Simo Lushaba	Appointed to the committee on January 24, 2003
Modise Motloba	Appointed to the committee on July 30, 2004

The internal and external auditors, the chief executive officer, the financial director and executive managers are all invited to the Audit Committee meeting.

Frequency of meetings

The Audit committee is, in terms of its charter, required to meet at least four times a year, or more frequently as circumstances dictate. During the financial year, the committee met on five occasions.

Purpose and function

The Audit Committee was established to assist the board in discharging its duties relating to the safeguarding of assets; the operation of adequate system and internal controls and control processes; the preparation of accurate financial reporting and statements in compliance with all applicable legal requirements, corporate governance and accounting standards. It also provides support to the board on the risk profile and risk management of the group.

The Audit Committee reports and makes recommendations to the board, and the board retains responsibility for implementing such recommendations.

Independence/compliance

All members of the Audit Committee are independent, non-executive directors.

Currently, we do not have an individual audit committee financial expert as defined by the rules of the SEC. It is our contention that the audit committee members, through their collective experience, do meet the majority of the definitions of the SEC for an audit committee financial expert in both the public and private sectors. The members have served as directors and officers of numerous public companies and have over the years developed a strong knowledge and understanding of IFRS, overseeing the preparation, audit and evaluation of financial statements. We believe that the combined knowledge, skills and experience of the Audit committee, and their authority to engage outside experts to provide them with advice on matters relating to their responsibilities as they deem appropriate, enables them as a group to act effectively in the fulfillment of tasks and responsibilities required under U.S. Sarbanes Oxley Act of 2002.

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Empowerment Committee

Members

The Empowerment Committee must comprise of at least three members.

As at June 30, 2009, the members of this committee were as follows:

Joaquim Chissano	Chairman; Appointed as chairman with effect from May 3, 2006
Modise Motloba	Appointed to the committee on May 3, 2006
Cathie Markus	Appointed to the committee on October 29, 2007

The chief executive officer and several executive managers are invited to attend the Empowerment Committee meetings.

Frequency of meetings

The Empowerment Committee met on four occasions.

Purpose and function

The Empowerment Committee was established by the board to ensure that the company meets not only regulations stipulated in the Employment Equity Act, the Labour Relations Act and the Mineral and Petroleum Resources Development Act’s Mining Charter Scorecard, but also in fulfilment of our own empowerment imperatives.

The responsibilities of the Empowerment Committee include ensuring that a sustainable organizational culture, structures and processes are in place to support the development of empowerment in the company in line with the company’s needs and requirements; to monitor the development and progress of empowerment within the company; to address inequalities that may exist in staff profiles and organizational practices; and to review and monitor whether appropriate support is given to previously disadvantaged staff in order to equip them for successful careers in the company.

Independence/compliance

The committee is chaired by an independent non-executive director and comprises independent non-executive directors.

Investment Committee

Members

The Investment Committee must comprise of at least three members.

As at June 30, 2009, the members were:

Dr. Simo Lushaba	Chairman; Appointed to the committee on January 26, 2004 and as Chairman with effect from August 5, 2005)
Fikile De Buck	Appointed to the committee on May 3, 2006
Cedric Savage	Appointed to the committee on January 26, 2004
André Wilkens	Appointed to the committee on August 7, 2007
Cathie Markus	Appointed to the committee on October 29, 2007
Ken Dicks	Appointed to the committee on February 13, 2008

The chief executive officer, the financial director and executive managers are invited to attend the meetings.

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Frequency of meetings

The committee should meet at least four times a year, but may, at its discretion, meet more often depending on the circumstances. The committee met on six occasions in fiscal 2009.

Purpose and function

The Investment Committee’s purpose was reviewed, following the implementation of the Technical Committee in February 2008. The primary purpose of the Investment Committee is to consider projects, acquisitions and the disposal of assets in line with the Group’s overall strategy. This includes performing such other investment related functions as may be designated by the Board from time to time, considering the viability of the capital project and/or acquisition and/or disposal and the effect it may have on the Group’s cash flow, as well as whether these will fit the Group’s overall strategy. This committee’s remit includes ensuring that due diligence procedures are followed when acquiring or disposing of assets.

Independence/compliance

The Investment Committee consists of six non-executive members. Of the six non-executive members, five are independent. The chairman is an independent, non-executive director.

Nomination Committee

Members

The Nomination Committee must comprise of at least three members.

As at June 30, 2009, the members of this committee were:

Patrice Motsepe	Chairman; Appointed to the committee on October 24, 2003
Joaquim Chissano	Appointed to the committee on May 3, 2006
Frank Abbott	Appointed to the committee August 5, 2005

Frequency of meetings

Members of this committee are required to meet annually or more often at the committee’s discretion, depending on prevailing circumstances. The committee did not meet in fiscal 2009 as there were no new appointments to or resignations from the board in fiscal 2009.

Purpose and function

The primary purpose of the Nomination Committee is to ensure that the procedures for appointments to the board are formal and transparent, by making recommendations to the board on all new board appointments and reviewing succession planning for directors. The duties and responsibilities of this committee are set out in the Nomination Committee charter, with which the committee is fully compliant.

Independence/compliance

The chairman of the Nomination Committee is non-executive, but is not independent. To ensure appropriate levels of governance, the potential directors identified by the nominations committee are considered by the board as a whole, the majority of whom are non-executive, independent directors.

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Remuneration Committee

Members

The Remuneration Committee must comprise of at least three members.

As at June 30, 2009, the members of this committee were:

Cedric Savage	Chairman; Appointed to the committee on January 24, 2004, and as chairman from May 3, 2006
Simo Lushaba	Appointed to the committee on August 5, 2005
Patrice Motsepe	Appointed to the committee on January 26, 2004
André Wilkens	Appointed to the committee on August 7, 2007

The chief executive officer, the financial director and the human resources executive are invited to attend all meetings.

Frequency of meetings

The Remuneration committee is expected to meet at least on a quarterly basis or to pass a resolution in lieu of a formal meeting not held. In fiscal 2009, the committee met on six occasions.

Purpose and function

The primary purposes of the Remuneration Committee are to ensure that the group’s directors and senior executives are fairly rewarded for their individual contributions to our overall performance and to demonstrate to all stakeholders that the remuneration of our senior executive members is set by a committee of board members who have no personal interest in the outcome of their decisions, and who will give due regard to the interests of our shareholders and to our financial and commercial health.

The committee’s primary objectives are to monitor and strengthen the objectivity and credibility of our directors’ and senior executives’ remuneration system, and to make recommendations to the board on remuneration packages and policies applicable to directors. A formal reward philosophy was adopted by the Remuneration Committee in March 2006. This philosophy is reviewed annually by the committee.

Independence/compliance

The committee comprises four non-executive directors, of which two are independent. It is therefore not compliant with King II which requires that the committee comprise independent directors only. The chairman of the Remuneration Committee is, however, an independent non-executive director and ensures that decisions are fair and not biased. The chairman attended the annual general meeting which was held on November 24, 2008 to respond to any queries from shareholders.

Sustainable Development Committee

Members

The Sustainable Development Committee must comprise of at least three members.

As at June 30, 2009, the following were members of this committee:

Modise Motloba	Chairman; Appointed as chairman on August 5, 2005
Joaquim Chissano	Appointed to the committee on May 3, 2006
Fikile De Buck	Appointed to the committee on May 3, 2006

The chief executive officer and certain executive managers are invited to attend the meetings.

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Frequency of meetings

The Sustainable Development Committee should meet at least four times a year, or more frequently as circumstances dictate. In fiscal 2009, four meetings of this committee were held.

Purpose and function

The objective of the Sustainable Development Committee is to assist the board in ensuring that we are and remain a committed socially responsible corporate citizen. The committee’s primary role is to supplement, support, advise and provide guidance on the effectiveness or otherwise of management’s efforts in respect of sustainable development.

The committee considers the following sustainable development issues: occupational health, safety, HIV/Aids, social investment and environmental management.

Independence/compliance

The committee comprises independent, non-executive directors.

Technical Committee

Members

The Technical Committee must comprise of at least four members.

As at June 30, 2009, the following were members of this committee:

Andre Wilkens	Chairman; Appointed as chairman on January 22, 2008
Ken Dicks	Appointed to the committee on January 22, 2008
Fikile De Buck	Appointed to the committee on July, 14, 2008
Modise Motloba	Appointed to the committee on January 22, 2008
Cedric Savage	Appointed to the committee on January 22, 2008

The chief executive and certain executive managers are all invited to attend the meetings.

Frequency of meetings

The Committee should meet at least six times a year. The Committee, at its discretion, may decide to change this requirement, depending on the circumstances. In fiscal 2009, six meetings of this committee were held.

Purpose and function

The Technical Committee was formed in January 2008 to provide a platform for the chief executive officer to discuss the company’s strategy, its performance against targets and its operational results and projects. The Technical Committee keeps the Board informed of the developments, progress and challenges facing the company’s operations. The strategic plans are considered by the Technical Committee and recommended for approval to the Investment Committee and the Board. In addition, the Technical Committee provides guidance and support to Management to ensure that the Company remains sustainable and successful.

The committee considers and reviews the company’s strategy, its performance targets and its projects on an annual basis; reviews the performance of the company and the chief executive; reports to the Board on the developments, progress and challenges facing the company’s operations on a quarterly basis.

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Independence/compliance

The committee comprises four independent, non-executive directors. The chairman is not independent, but it was agreed that he was best suited to be appointed as chairman, due to his vast knowledge of the company’s assets and his years’ of mining experience.

Compensation of Directors and Senior Management

The following table shows the compensation of directors and senior management for fiscal 2009:

Name	Directors’ Fee (\$’000) 2009	Salaries and Benefits (\$’000) 2009	Retirement Contributions during the year (\$’000) 2009	Bonuses Paid (\$’000) 2009	Total (\$’000) 2009
Non-executive					
Patrice Motsepe	83	—	—	—	83
Joaquim Chissano	41	—	—	—	41
Fikile De Buck	43	—	—	—	43
Cheick Diarra	16	—	—	—	16
Ken Dicks	31	—	—	—	31
Dr Simo Lushaba	38	—	—	—	38
Cathie Markus	26	—	—	—	26
Modise Motloba	51	—	—	—	51
Cedric Savage	55	—	—	—	55
André Wilkens	41	—	—	—	41
Executive					
Frank Abbott	—	270	29	58	357
Graham Briggs	—	470	—	271	741
TOTAL	425	740	29	329	1,523

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Directors’ Terms of Employment

None of our directors have a service contract with us or any of our subsidiaries with a notice or contract period of one year or more or with provisions for pre-determining compensation on termination of an amount which equals or exceeds one year’s salary and benefits in kind.

The terms of employment of our executive directors continue until terminated by reaching the mandatory retirement age of 60 or on service of 30 days’ notice by either us or the employee. Each of our executive directors participates in our share option scheme and a discretionary executive profit share scheme, the latter provided that certain profit targets, set by the Remuneration Committee, are achieved. They have both waived their rights to directors’ fees.

The executive directors also benefit from pension contributions, provident funds, life insurance and medical aid, the value of which is included in the salary details listed above. The total amount currently set aside or accrued by us and our subsidiaries for the payment of these pension, life insurance, medical aid and retirement benefits is U.S.\$nil million. The non-executive directors are entitled to fees as agreed at our annual general meeting from time to time, reimbursement of out-of-pocket expenses incurred on our behalf and remuneration for other services, such as serving on committees. For fiscal 2009, total directors’ remuneration amounted to U.S.\$1.5 million and senior management’s remuneration to U.S.\$2.7 million.

Non-executive directors are paid as per the chart below. Executives participate in an executive bonus scheme and bonuses (if any) are determined for a financial year by the Remuneration Committee, in line with our reward philosophy. A bonus of U.S.\$271,000 was awarded to the chief executive officer during the past financial year.

The board has agreed to an increase in non-executive directors’ fees, effective from July 1, 2008. Shareholders approved the increase in fees at the annual general meeting held on November 24, 2008.

For fiscal 2009 non-executive directors received the following fees:

	Annual Fee
Board	R 140,000 annually
Audit Committee	R 70,000 annually
Empowerment Committee	R 45,000 annually
Investment Committee	R 45,000 annually
Nomination Committee	R 45,000 annually
Remuneration Committee	R 45,000 annually
Sustainable Development Committee	R 60,000 annually
Technical Committee	R 60,000 annually
Chairman of Board	R 650,000 annually
Chairman of Board committees	Double the amount that the individual Board committee member received annually

The terms of employment of the non-executive directors are not set out in any written agreements.

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Share Options

At October 19, 2009, our executive directors and senior management held the following share options, totalling less than 1% of our share capital:

Directors and Senior Management	Number of Share Options	Average Strike Price (R)	Expiration Dates
Frank Abbott	—	—	—
Graham Briggs	91,938	48.55	2012-2015
Senior Management (as a group)	386,182	50.17	2012-2015
Total	478,120	49.86	2012-2015

Options to purchase a total of 2,794,659 ordinary shares were outstanding on October 19, 2009. The exercise prices of the outstanding options range between 36.50 and 91.60 per share and they expire between 2012 and 2015. Of the outstanding options, options to purchase 478,120 ordinary shares were held by our directors and senior management and those of our subsidiary companies, as described above. No consideration was payable on the grant of these options. See Note 36 to the Consolidated Financial Statements included herein.

Shares issued in terms of the Harmony 2006 Share Plan

At October 19, 2009, our executive directors and senior management held the following share appreciation rights and performance shares, totaling less than 1% of our share capital:

Directors and Senior Management	Share Appreciation Rights (SAR)	SAR Price (R)	Performance Shares (PS)	PS Price (R)	Expiration Dates
Frank Abbott	—	—	—	—	—
Graham Briggs	237,488	78.14	214,216	n/a	2014/2015
Senior Management (as a group)	656,809	73.36	577,937	n/a	2014/2015
Total	894,297	74.63	792,153	n/a	2014/2015

Share Ownership

The following sets forth, as at June 30, 2009 and at October 19, 2009, the total amount of ordinary shares directly or indirectly owned by our directors and senior management, including shares issued under the 2006 Share Plan. Our directors and senior management do not own any preference shares.

Holder	Ordinary Shares Number as at June 30, 2009	Percentage	Ordinary Shares Number as at October 19, 2009	Percentage
Non-executive chairman				
Patrice Motsepe ⁽¹⁾	—	—	—	—
Directors Non-executive				
Joaquim Chissano	—	—	—	—
Fikile De Buck	—	—	—	—
Cheick Diarra	—	—	—	—
Ken Dicks	—	—	—	—
Dr Simo Lushaba	—	—	—	—
Cathie Markus	—	—	—	—
Modise Motloba	—	—	—	—
Cedric Savage	—	—	—	—
André Wilkens	101,303	⁽²⁾	101,303	⁽²⁾
Executive Directors				
Frank Abbott	—	—	—	—
Graham Briggs	—	—	—	—
Total Directors (12 persons)	101,303	—	101,303	—

⁽¹⁾ Patrice Motsepe, our Chairman, has an indirect holding in ARM Limited.

⁽²⁾ Less than 1%.

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Employees

General

Set out below is the number of people working at each of our operations and the number at our operations who are employed by outside contractors as at the end of each of fiscal years 2009, 2008 and 2007.

	Harmony Employees at June 30,			Outside Contractors at June 30,		
	2009	2008	2007	2009	2008	2007
South Africa	37,316	40,751	47,600	4,962	6,309	9,075
International	979	862	516	2,482	846	350
Grand total	38,295	41,543	48,325	7,390	7,155	9,851

These numbers show a substantial reduction in the number of both employees and of outside contractors which was achieved over the period ended June 30, 2008. It represents the consequences of the restructuring program on the employee numbers (see below).

South Africa

South Africa is a signatory to all the International Labour Organization conventions in respect of employment and fair labor practices. Consequently, South African labor relations are characterized by a high degree of regulation, with legislation covering all aspects of the employment relationship, including but not restricted to the following:

- minimum conditions of employment (note there is no prescribed basic minimum wage, but laws cover most aspects of employment, from hours of work to prohibitions on child labor);
- trade union access and membership;
- training and development;
- mandatory compensation in the event of termination for operational reasons;
- affirmative action policies and programs;
- compensation for occupational illness and injury;
- mechanisms for collective bargaining;
- procedures for the resolution of disputes; and
- regulation of strikes and dismissals.

Harmony invests in the training and development of its current and potential employees. During fiscal 2009 around 95% of South African employees received some form of training in areas such as mining, engineering, metallurgy, ore reserve, human resources and soft skills. In South Africa, we have various programmes in place to attract and develop university and young school leavers through apprenticeships, bridging programmes and bursaries, as well as extensive in-house and external training programmes.

In the mining industry, our relationship with the unions and the government is well established and provides a structure for negotiation between independent representative Trade Unions and employer associations of all conditions of employment and the provision of benefits, including retirement benefits and health care for employees and their dependants. This structure also allows for consultation on many operational issues including for example, recruitment and selection, training and development and health and safety. We are no different from the other major gold producers in this regard; we fully participate, and in some instances have played a major role, in the industry’s industrial relations structures, including the Chamber of Mines of South Africa (which represents the interest of the major employers in the mining sector), the various statutory training bodies and benefit structures.

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The major unions present and recognized by us are the (i) National Union of Mineworkers (NUM), (ii) United Association of South Africa (UASA) and (iii) Mineworkers’ Solidarity and the South African Electrical Workers’ Association (SAEWA) is the smallest with 15 members.

Set out below is the number of our employees by union membership as of June 30, 2009:

• NUM	28,124
• Solidarity	812
• UASA	3,668
• Collective Bargaining Fund	1,134
• Un-unionized	3,558

Approximately 1,134 employees are subject to Agency Shop arrangements (whereby the terms and conditions of service negotiated and agreed to with the recognized Trade Unions are extended to apply to non-union members who, in turn, then pay a small fee to the union) and the rest of the employees either do not belong to a union or belong to one of the more insignificant unions active in Harmony from time to time.

As a result of our highly unionized labor force and the fact that labor costs constitute approximately 50% of production costs, we have attempted over the years to balance union demands for improvements in wages and conditions of employment with the need to contain and reduce cash costs in order to ensure the long-term viability of our operations.

The most significant event in our employee relations during fiscal 2008 was the restructuring program which resulted in a substantial reduction in our employee headcount. This workforce reduction was achieved with the cooperation of all our represented unions and without any disruption of operations. As such, while a workforce reduction of this size by an South African company would normally be a sensitive issue, we were successful in engage in reductions without major operational disruptions and negative publicity. The success of this exercise is attributable to the excellent relationship that our management has cultivated with the unions over the last three years. Affected employees were given severance packages and many were placed in training programmes funded by the Company’s social plan.

Another key event in fiscal 2008 was the reduction in electricity supply to our mines, resulting in a halting operations and a redeployment of employees to other operations which did not have similar electrical issues. As with our workforce reduction program, we also sought the cooperation of the unions in this matter. While this reduction of electricity supply presented some difficulties which slowed down the redeployment process, approximately 9,095 employees of affected sites were redeployed to other sites within our operations in fiscal 2008.

The industry wage negotiations were successfully completed in July 2009, and the unions reached a agreement with the Chamber of Mines which provided for a better-than-inflation wage agreement (ranging from 10.5% for lower level semi-skilled employees down to 9% for the more skilled employees). Also agreed was that the minimum wage be increased to R4,000 (U.S.\$518) a month with effect from July 2010 for category 3 employees. The wage increases are supplemented by non-contributory medical aid, as well as a living-out allowance or free accommodation and food, as has been practice in the South African mining industry. A guaranteed wage increase of 7.5%, or Consumer Price Index plus 1%, whichever is the higher of the two, was agreed for the second year of the two-year settlement agreement. Special arrangements were also agreed to attempt to address the skills shortage in the industry and certain key job categories now receive scarcity allowances of various kinds in an attempt to make the industry attractive to them.

In November 2007, our Conops Task Team completed an internal due diligence of Conops. The objective of the internal due diligence exercise were to:

- establish whether Conops has been successfully implemented at the mines where it was introduced and to what extent the original objective of improved profitability without compromising safety was met;
- understand the gap that exists between the current performance of the operations and the potential performance after implementation of Conops at these operations; and

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- understand the reasons for the underperformance versus the Conops potential and propose actions to the operations to close the gap.
- Following the above exercise, action plans were produced by each shaft management team at each operation addressing those issues that were identified as requiring attention. After the recommended actions were implemented, progress towards operational improvement was monitored. Our stated intention was to review these planned Conops within three months of implementation; in February 2008, this review was completed, and we decided to phase Conops out at those operations whose ore reserves, infrastructure and staffing levels did not delivery on our profitability objectives. Currently, Conops is in force at only two of our Evander shafts, the reason being that these shafts are achieving their objectives under the Conops system.

Work Stoppages

During July and August 2008, two days were lost as part of the national campaign by the largest trade union federation COSATU against soaring food prices.

During September 2008, a one day work stoppage occurred at Tshepong, in protest of mine safety, following a fatal accident in which a mineworker was killed. This work stoppage followed an agreement between our management and NUM and was limited only to Tshepong.

During October 2008, a four day long work stoppage occurred at the Elandsrand mine near Carletonville due to a fall of ground accident which resulted in the death of one mineworker.

There were no group wide work stoppages in fiscal 2007.

Women in mining

The Mining Charter stipulates that 10% of the total workforce should be made up of women by 2009. At the end of June 2009, there were 3,952 women in the group (11%), compared with 3,578 in fiscal 2008, or 9% of women in the total workforce. Various steps have been taken to accommodate women in the underground mining environment.

PNG obtained government approval to recruit females specifically in the surface mining environment. As a result, there are plans in place at Hidden Valley specifically to address the gender balance of employees, and eight heavy equipment women operator trainees were recruited in fiscal 2008. In addition, a process of transferring women landowners (who were part of the construction team) to the open-pit operations has started. Meanwhile, aptitude tests of women landowners are ongoing to establish a pool of available candidates. In fiscal 2009, 16% of the workforce in PNG was women, exceeding the 15% target set in fiscal 2008.

There is no differentiation in salary scales for men and women at Harmony.

Australia

Employee relations in Australia are regulated by a combination of federal and state statutes that stipulate minimum standards and provide for collective bargaining and action. All employment contracts are based on Australian Workplace Agreements. Our Australian workforce is not unionized.

PNG

Employee relations in PNG are regulated by the Employment Act of 1978 (PNG) and the Employment of Non-Citizens Act 1978 (PNG). Individual contracts are entered into, and the workforce is not unionized.

The workforce comprises both expatriates and national citizens, with most expatriates (8% of the workforce) working a fly-in fly-out roster.

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Long Term Incentive Schemes

In addition to employees’ annual salaries, Harmony has implemented various share option schemes, including the Harmony 2006 Share Plan. In all, 14% of Harmony’s share capital is reserved for long- term incentive schemes, which were approved by shareholders at the annual general meeting held in November 2005.

Existing share option schemes

Harmony has two share option schemes, namely the 2001 Share Option Scheme and the 2003 Share Option Scheme (collectively), which all have similar rules. Since the implementation of the 2006 Share Plan, no options have been nor will be issued in terms of the existing schemes. Options granted before the implementation of the 2006 Share Plan remain open for acceptance for 10 years after the date of grant, subject to the terms of the relevant option scheme.

A share purchase trust was established in 2002 which is controlled by Harmony. Recourse loans are provided by the trust to employees to enable them to acquire shares or exercise their options under Share Option Schemes. Since March 27, 2003, share option scheme participants are no longer allowed to place their shares in the share purchase trust.

The share purchase trust is funded by a loan from Harmony, which it repays once it receives repayment of the recourse loans granted to employees. Members of the Remuneration Committee serve as trustees. The trustees are not eligible to receive loans from the trust. Participants are not allowed to use structures to lock-in profits as the options are meant to align employees with our shareholders.

Broad-Based Employee Scheme

The Group intends to implement a broad-based employee share scheme and intends to structure the scheme so as to maximise the recognition of black participation therein, both from the perspective of the MPRDA and the Broad-Based Black Economic Empowerment Act. Discussions relating to option benefits for non-managerial employees are ongoing with unions representing these employees.

The Harmony 2006 Share Plan

The Harmony 2006 Share Plan (the plan) was adopted by shareholders at the annual general meeting held on 10 November 2006. The plan incorporates the following elements: equity- settled share appreciation rights, performance shares and performance allocated restricted shares. The Plan is in line with global best practice and emerging South African practice, which in combination serves to reward the required attributes of shareholder alignment and long- term, sustained performance.

In terms of the Plan, executive directors and senior employees of Harmony and its subsidiaries are awarded rights to receive shares in Harmony, based on the value of these awards when time and performance conditions have been met, the awards have vested and, in the case of the Share Appreciation Rights (SARs), the restricted shares, have been exercised.

The primary intent of the Plan is to reward executives and senior management for long term, sustained performance achievements which are aligned to shareholder value, and at the same time to ensure an optimal positioning in terms of the accounting and regulatory environment.

It is envisaged that rewards will be settled in shares.

Annual allocations of SARs awards of performance shares and grants of restricted shares are governed by Harmony’s reward philosophy, in which (*inter alia*) the ‘expected value’ of long- term incentive rewards is set for defined categories of executives and senior management. The expected value is defined as the present value of the future reward outcome of an allocation/award/grant, given the targeted future performance of Harmony and its share price.

Annual incentive scheme

Our Remuneration Committee ensures that our directors and senior executives are fairly rewarded for their individual contributions to our overall performance.

In September 2006, the Remuneration Committee approved an annual incentive scheme as part of Harmony’s Reward Philosophy to benefit executive directors and members of management. Since July 2008 the shaft management teams get paid a quarterly bonus and are excluded from the annual incentive schemes.

Item 7. MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS

Major Shareholders

We are an independent gold producer, with no single shareholder exercising control. As of October 19, 2009, our issued share capital consisted of 426,028,533 ordinary shares. To our knowledge, (A) we are not directly or indirectly owned or controlled (i) by another corporation or (ii) by any foreign government and (B) there are no arrangements (including any announced or expected takeover bid), the operation of which may at a subsequent date result in a change in our control.

The voting rights of our major shareholders do not differ from the voting rights of other holders of the same class of shares.

Significant changes in the percentage ownership held by major shareholders in the past three years are described below on “Related Party Transactions”.

A list of the 5% holders of our securities as of October 19, 2009 is set forth below:

Holder	Number of Shares	Percentage
1. Bank of New York (1)	123,013,456	28.90%
2. ARM Limited (2)	63,632,922	14.99%
3. Allan Gray	56,383,055	13.29%
4. Blackrock Investment Management (UK) Ltd.	41,496,772	9.78%

- (1) Depository with respect to the ADRs held on the U.S. register.
- (2) Patrice Motsepe, our Chairman, has an indirect holding in ARM Limited.

As of October 19, 2009, there were 2,239 record holders of our ordinary shares in the United States.

Capital Raising

Harmony engaged in capital raising by issuing two tranches of shares following the resolution passed by shareholders at the Annual General Meeting held on November 24, 2008 that allowed directors to issue shares for cash. In the first tranche, completed between November 25, 2008 and December 19, 2008, 10,504,795 Harmony shares were issued at an average subscription price of R93.20 resulting in R979 million (U.S.\$98 million) before costs being raised.

The second tranche of shares was issued between February 10, 2009 and March 6, 2009 and consisted of 7,540,646 Harmony shares being issued at an average subscription price of R124.45, resulting in R938 million (U.S.\$94 million) before costs being raised. The combined share issue amounts to R1.9 billion (U.S.\$192 million) at a cost of R30 million (U.S.\$3.5 million).

Related Party Transactions

None of our directors or major shareholders or, to our knowledge, their families, had any interest, direct or indirect, in any transaction since July 1, 2006 or in any proposed transaction that has affected or will materially affect us or our subsidiaries, other than as stated below.

On November 21, 2008, the Group disposed of its Randfontein Cooke assets to Rand Uranium in exchange for 100% interest in the company. On the same date the Group disposed of 60% of the interest held in Rand Uranium to PRF which resulted in a 40% interest held and Rand Uranium became an associate.

The conditions precedent for the second part of the Rand Uranium transaction relating to the sale of the Old Randfontein assets were fulfilled on April 22, 2009. Additional shares were issued in settlement and 60% of these shares were sold to PRF in terms of the agreement. PRF paid its portion of the purchase price in cash on April 20, 2009. The total value of these transactions was U.S.\$348 million.

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We have three directors on the board of Rand Uranium, being GP Briggs, F Abbott and Ms FFT De Buck. Rand Uranium owes the Group U.S.\$5 million for services and goods provided in terms of the service level agreements entered into between the Group and Rand Uranium. The Group has subordinated a loan of U.S.\$9 million owed by Rand Uranium. The loan bears interest at a rate equal to the 91 Day JIBAR plus 250 basis points and is repayable within seven years.

In fiscal 2008 Morobe Consolidated Goldfields Limited and Wafi Mining Limited, subsidiaries of Harmony Gold (Australia) (Proprietary) Limited entered into a Master Purchase and Farm-in Agreement with Newcrest. This agreement provided for Newcrest to purchase a 30.01% participating interest (stage 1) and a further buy-out of an additional 19.99% participating interest in Harmony’s PNG Gold and copper assets, giving them a 50% interest.

Included in the Group’s consolidated balance sheet is a loan to the Morobe Mining Joint Venture amounting to U.S.\$10 million, being Newcrest’s portion of the loan to the PNG joint venture companies.

On July 11, 2008, we sold our 37.8% share in Village Main Reef Gold Mining Company (1934) Limited for R1.1 million (U.S.\$0.1 million) to To the Point Investments. ZB Swanepoel, our former Chief Executive Officer, is a director and founder of To The Point Investments.

On February 27, 2008, the Group sold its Orkney assets to Pamodzi in exchange for shares, whereby it obtained an interest of 32.4% and Pamodzi became an associate (refer to note 22). Subsequent to this, we provided goods and services to Pamodzi at cost plus an applicable margin as set out in the service level agreement. The balance of the unsecured loan at June 30, 2008 was R103 million (U.S.\$13.2 million). Interest was charged at prime rate. When Pamodzi was placed into liquidation in March 2009, interest was no longer charged on the loan and the loan was provided for in full. The balance of the loan at that time was R116 million (U.S.\$15.0 million).

ARM Limited currently holds approximately 15% of our shares. Patrice Motsepe, André Wilkens and Frank Abbott are directors of ARM Limited.

In fiscal 2005, as part of the disposal of our investment in ARM Limited to the ARM Broad-based Economic Empowerment Trust (“**BEE Trust**”), various agreements were put in place to which we accepted and resulted in the majority of the risk not being transferred away from us. Included in these agreements were two guarantees by us to Nedbank relating to the loans obtained by the BEE Trust to acquire the shares from us. On September 28, 2007, the guarantees were cancelled by Nedbank and, consequently, we have no further obligation to Nedbank in this regard. The ARM investment (and associated Nedbank loan) have been derecognized from this date.

INTERESTS OF EXPERTS AND COUNSEL

Not applicable.

Item 8. FINANCIAL INFORMATION

CONSOLIDATED STATEMENTS

Please refer to *Item 18. “Financial Statements”* of this annual report.

Legal Proceedings

None of our properties is the subject of pending material legal proceedings. We have experienced a number of claims and legal and arbitration proceedings incidental to the normal conduct of our business, such as the ones described below. The directors, however, do not believe that liabilities related to such claims and proceedings are likely to be, individually or in the aggregate, material to the company’s consolidated financial condition.

Class Action

There is a pending class action in the United States whereby certain ADR holders are seeking damages against us pertaining to our business practices. We have filed with the court a Motion to Dismiss all claims asserted in the class action case, the plaintiffs have filed an opposing response, and we have subsequently replied to that response. At this point the matter is in the hands of the U.S. court and we are awaiting a ruling. It is not possible to predict with certainty when the court will rule on the Motion to Dismiss as the timing of the ruling is entirely within the discretion of the Court, but we would estimate that such a decision will be made by the end of the calendar year, although it may be later than that.

ArcelorMittal South Africa Limited (“ArcelorMittal”)

On September 14, 2009 Harmony and DRDGold withdrew a complaint to the Competition Commission against ArcelorMittal originally made in 2002. The complaint alleged that ArcelorMittal had abused its dominant position in the local market for flat steel products by charging excessive prices. Following several years of litigation, Harmony, DRDGold and ArcelorMittal entered into a settlement agreement, the terms of which are confidential.

Dividends and Dividend Policy

We paid interim and final dividends on our ordinary shares in 2003 and 2004. Due to operating conditions and our commitment to expenditure on long-term growth projects, we were not able to declare any dividends in fiscal 2005, fiscal 2006, fiscal 2007 or fiscal 2008. On August 13, 2009, the Board approved a final dividend for fiscal 2009 of R0.50 per share, that was paid on September 21, 2009. The total amount of the dividend paid was R213 million (U.S.\$28.6 million). As the dividend was declared after the reporting date of June 30, 2009, the dividend was not recorded in fiscal 2009. For information on our accounting policy relating to dividends, see note 2.20 to the consolidated financial statements.

South African law was relaxed to permit the distribution of a company’s equity as a dividend, provided that the necessary shareholder or board approval is obtained and, after the distribution of the dividend, the company remains solvent and liquid. Cash dividends, however, may only be paid out of accumulated profits or other distributable reserves. Previously under South African law, a company’s equity could not be distributed as a dividend. The amount of dividends, if any, paid in the future will depend on our results of operations, financial condition, cash requirements and other factors deemed relevant by the Board.

Recent Developments

PNG exploration acquisition

On August 27, 2009, we acquired two new exploration projects, the Amanab and the Mount Hagen Projects, in PNG.

These ELs complement the exploration activities undertaken by Harmony and underscore our commitment and belief in the developing minerals industry in PNG.

Amanab project EL1708 was granted on July 6, 2009 and comprises of about 863 square kilometers of tenure. The tenement is located approximately 160 kilometers north of the OK Tedi copper-gold mine in the Sandaun Province and was pegged to target the bedrock source of the alluvial goldfield centered on the Yup River.

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The Mount Hagen project comprises two contiguous tenements, EL1611 & EL1596, encompassing approximately 1,100 square kilometers of tenure. The tenements are located approximately 20 kilometers north-northeast of Mount Hagen and are readily accessible via the Highlands Highway connecting Lae and Porgera.

Harmony acquired 100% of the mineral rights for EL1596 from Frontier Resources for the cash consideration of A\$0.3 million (U.S.\$0.25 million).

We also acquired the rights to explore the adjacent tenement EL1611 over a four year period, with the condition that our exploration program meets the minimum annual expenditure commitment. At any time during this period we may exercise an option to purchase 100% of the tenement for a total cash consideration of 6 million Kina (U.S.\$2.4 million).

Pamodzi Gold Free State (Proprietary) Limited

During June 2009, Harmony reported that the provisional liquidators for Pamodzi Gold Free State (Proprietary) Limited (In Provisional Liquidation) (“Pamodzi Free State”) had chosen Harmony Group as the preferred bidder of Pamodzi Free State’s assets. These assets consisted of President Steyn 1 and 2 Shafts, Loraine 3 Shaft, Freddie 7 Shaft and Freddie 9 Shaft, a metallurgical gold plant, a waste rock dump and a dormant tailings storage facility.

Harmony’s offer was accepted during July 2009, following the approval from the Industrial Development Corporation of South Africa and the relevant trade unions.

In September 2009 Harmony entered into four separate agreements to purchase Pamodzi Free State’s assets. The Pamodzi Free State assets will be purchased free from all liabilities, save for all associated rehabilitation and environmental liabilities. The purchase consideration for these assets is R405 million. The purchase was approved by the South African High Court on September 15, 2009.

The major conditions precedent that have to be fulfilled in order for the agreements to become unconditional are the conversion of the Pamodzi Free State mining rights and the consent for the cession thereof to Harmony by the Minister of Mineral Resources.

Avoca Resources Limited

During September 2009 and October 2009, the Group disposed of its Avoca Resources Limited shares for approximately A\$6 million (US\$5.2 million).

Big Bell Operations (Proprietary) Limited

During September 2009 quarter, the board approved the sale of Big Bell Operations (Proprietary) Limited (BBGO), operations in Western Australia. A tender process was completed and a preferred bidder was identified. The share sale agreement is expected to be completed and executed during the December 2009 quarter. BBGO has been classified as held-for-sale.

Item 9. THE OFFER AND LISTING

Markets

Stock Exchange Listings and Ticker Codes

The primary listing of our ordinary shares is on the JSE Limited. Our ordinary shares are also listed on stock exchanges in London and Berlin, as well as being quoted in Brussels, Paris and Luxembourg in the form of International Depositary Receipts (IDRs) and on the New York Stock Exchange and NASDAQ in the form of ADSs.

JSE Limited	HAR
New York Stock Exchange	HMY
NASDAQ	HMY
London Stock Exchange	HRM
Euronext Brussels	HMY
Euronext Paris	HG
Berlin Stock Exchange	HAM1

Offering and Listing Details

The high and low sales prices in Rand for our ordinary shares on the JSE for the periods indicated were as follows:

	Harmony Ordinary Shares (Rand per Ordinary Share)	
	High	Low
Fiscal year ended June 30, 2007		
First Quarter	121.54	86.10
Second Quarter	123.00	101.00
Third Quarter	113.45	90.85
Fourth Quarter	117.85	94.30
Full Year	123.00	86.10
Fiscal year ended June 30, 2008		
First Quarter	104.05	60.00
Second Quarter	83.05	63.00
Third Quarter	118.50	69.00
Fourth Quarter	104.41	82.98
Full Year	118.52	60.00
Fiscal year ended June 30, 2009		
First Quarter	97.00	54.99
Second Quarter	103.75	62.50
Third Quarter	129.50	92.50
Fourth Quarter	104.40	75.50
Full Year	129.50	54.99
Month of		
July 2009	79.00	69.05
August 2009	76.50	70.80
September 2009	87.51	71.60
As of October 19, 2009	87.00	80.00

On October 19, 2009, the share price of our ordinary shares on the JSE was R85.60.

Our ADRs are dual-listed on the New York Stock Exchange and, as of November 29, 2005, on the NASDAQ. The high and low sales prices in U.S. dollars for our ADRs for the periods indicated, as reported on the NYSE and NASDAQ, were as follows:

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	NYSE Harmony ADRs (\$ per ADR)		NASDAQ Harmony ADRs (\$ per ADR)	
	High	Low	High	Low
Fiscal year ended June 30, 2007				
First Quarter	17.10	11.91	17.10	12.93
Second Quarter	17.26	13.44	15.75	13.44
Third Quarter	15.27	13.90	15.27	13.90
Fourth Quarter	14.31	14.27	14.31	14.27
Full Year	17.26	11.91	16.76	12.67
Fiscal year ended June 30, 2008				
First Quarter	15.27	8.42	15.27	8.42
Second Quarter	11.90	10.31	11.90	10.31
Third Quarter	11.51	10.75	11.51	10.75
Fourth Quarter	12.25	11.51	12.25	11.51
Full Year	15.27	8.42	15.27	8.42
Fiscal year ended June 30, 2009				
First Quarter	12.51	6.39	12.51	6.39
Second Quarter	10.97	5.58	10.97	5.58
Third Quarter	13.06	8.95	13.06	9.12
Fourth Quarter	12.10	8.17	12.10	8.17
Full Year	13.06	5.58	13.06	5.58
Month of				
July 2009	10.35	8.50	10.34	8.50
August 2009	9.62	8.93	9.58	8.91
September 2009	11.75	9.03	11.78	9.05
As of October 19, 2009	11.98	10.23	11.94	10.22

On October 19, 2009, the closing share price of our ordinary shares on the NYSE was U.S.\$11.59.

On October 19, 2009, the closing share price of our ordinary shares on NASDAQ was U.S.\$11.60.

The Securities Exchange In South Africa

The JSE is the sixth largest emerging market exchange and by far the leading exchange in Africa, playing a leadership role in the continent, supporting South Africa’s role as the African financial hub. It is also recognized as a leading exchange in the global resources sector.

As South Africa’s only full service securities exchange, the JSE connects buyers and sellers in five different markets; equities, which includes a primary and secondary board, equity derivatives, agricultural derivatives and interest rate instruments. The JSE is one of the top 20 exchanges in the world in terms of market capitalization. The market capitalization of the JSE equities market was R4,733 billion (U.S.\$613 billion) at June 30, 2009. The mining market capitalization was, at June 30, 2009, 28.9% of the overall JSE market capitalization and constituted 29.2% in terms of value traded.

The JSE is the market of choice for local and international investors looking to gain exposure to the leading capital markets in South Africa and the broader African continent.

History

The Securities Exchange in South Africa, now known as JSE Limited, was formed in November 1887. In 1993 the JSE became an active member of the African Stock Exchanges Association. On May 15, 1996, the formal bond market passed from the JSE to the Bond Exchange of South Africa and is separately licensed as a financial market in terms of the Financial Markets Control Act.

Following the closure of the open outcry trading floor on June 7, 1996, an order driven, centralized automated trading system known as the JSE Equities Trading, or JET, system was introduced together with dual trading and negotiated brokerage. On August 18, 1997, the Listings division of the JSE introduced a real time news service for the dissemination of company announcements and price sensitive information. Stock Exchange News Service (“**SENS**”) ensures early, equal and wide dissemination of all information

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that is expected to have an effect on the prices of securities that trade on the JSE. In 1998, the JSE introduced an Internet-based Service, the Emerging Enterprise Zone, or the EEZ, to match seekers and providers of capital for small and medium business. In November 1999, the electronic clearing and settlement system, Share Transactions Totally Electronic (“**STRATE**”) was introduced and the JET system was modified to prepare for the implementation of an open interface to the system via the Application Program Interface. The Alternative Exchange, known as the “AltX”, aimed at attracting smaller companies to the JSE, was launched in October 2003 and at June 30, 2009 boasts 76 listings. Yield-X, which trades spot and derivative interest rate products across the yield curve on an automated central order book was introduced in February 2005. The JSE’s Single Stock Futures market is the world leader in terms of contracts traded, according to the World Federation of Exchanges’ IOMA Derivative Markets Survey. Concurrent with its loss of tax-exempt status on July 1, 2005, the JSE Securities Exchange South Africa de-mutualized, ending its 118 year history as a tax-exempt, member owned, voluntary association to become JSE Limited, a public but unlisted company.

STRATE Settlement

Under STRATE there are essentially two types of clients: controlled and non-controlled. A controlled client is one who elects to keep his shares and cash with his broker and these shares are held in custody at the broker’s chosen Custodian Bank, the CSDP. A non-controlled client is one who appoints his own CSDP to act as custodian on his behalf. Equity settlements take place on a contractual T+5 (where T= trade date) settlement cycle. Securities and funds become due for settlement a set number of business days after the trade. Contractual settlement is a market convention embodied in the rules of the JSE which states that a client has a contractual obligation to cause a JSE trade to settle on settlement day. The JSE, in its capacity as Settlement Authority, ensures that all on-market trades entered into by two JSE member firms settle five days after the trade date.

PLAN OF DISTRIBUTION

Not applicable.

SELLING SHAREHOLDERS

Not applicable.

DILUTION

Not applicable.

EXPENSES OF THE ISSUE

Not applicable.

Item 10. ADDITIONAL INFORMATION

Share Capital

Not applicable.

Memorandum and Articles of Association

This section summarizes certain material provisions of Harmony’s Memorandum and Articles of Association, the Companies Act and the JSE listings requirements, each as currently in effect. These descriptions do not purport to be complete and are qualified in their entirety by reference to all of the provisions of those sources. Directions on how to obtain a complete copy of Harmony’s Articles of Association are provided under “— Documents on Display” below.

General

We are a public company with limited liability, and is registered under the Companies Act with the Registrar of Companies, Department of Trade and Industry under Registration number 1950/038232/06. We are governed by our Memorandum of Association and Articles of Association, the provisions of the Companies Act and the various Listings Requirements. Our operations are also subject to various laws and regulations, including those described in *Item 4. “Information on the Company Regulation”*.

Objects and Purposes

Our objects are set forth in Paragraph 3 of our Memorandum of Association and include:

- to acquire by purchase, cession, grant, lease, exchange or otherwise any movable or immovable property, mines, mineral property, claims, mineral rights, mining rights, mining leases, mining titles, mynpachts, lands, farms, buildings, water rights, concessions, grants, rights, powers, privileges, surface rights of every description, servitudes or other limited rights or interests in land and mineral contracts of every description; and any interest therein and rights over the same; and to enter into any contract, option or prospecting contract in respect thereof, and generally to enter into any arrangement that may seem conducive to our objects or any of them;
- to carry out all forms of exploration work and in particular to search for, prospect, examine, explore and obtain information in regard to mines, mineral properties, claims, mineral rights, mining rights, mining leases, mining titles, mynpachts, mining districts or locations and ground and soil supposed to contain or containing precious stones, minerals or metals of every description;
- to open, work, develop and maintain gold, silver, diamond, copper, coal, iron and other mines, mineral and other rights, properties and works, and to carry on and conduct the business of raising, crushing, washing, smelting, reducing and amalgamating ores, metals, minerals and precious stones, and to render the same merchantable and fit for use and to carry on all or any of the businesses of miners, mineralogists, metallurgists, amalgamators, geophysicists, smelters, quarry owners, quarrymen and brickmakers;
- to buy, sell, refine and deal in bullion, specie, coin and precious and base metals, and also precious stones and other products of mining; and
- to employ and pay mining experts, agents and other persons, partnerships, companies or corporations, and to organize, equip and dispatch expeditions for prospecting, exploring, reporting on, surveying, working and developing lands, farms, districts, territories and properties in any part of the world, whether the same are our property or otherwise.

Directors

Disclosure of Interests

A Harmony director may not vote in respect of any contract or arrangement in which he or she is interested, and may not be counted in the quorum for the purpose of any resolution regarding such a contract or arrangement. This restriction does not apply, however, to:

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- any arrangement for giving the director a security or indemnity in respect of money lent, or an obligation undertaken, by such director for our benefit;
- any arrangement by which we give any security to a third party in respect of our debt or obligation for which the director himself or herself has assumed responsibility, in whole or in part, whether under a guarantee or indemnity or by the deposit of a security;
- any contract by the director to subscribe for or underwrite our shares or debentures;
- any contract or arrangement with a company other than us, in which the director holds or controls, directly or indirectly, no more than 1% of shares representing either (i) any class of the equity share capital of that company or (ii) the overall voting rights of that company; or
- any retirement scheme or fund which relates to both directors and to employees (or a class of employees) and does not accord to any director, as such, any privilege or advantage not generally accorded to the employees to which such scheme or fund relates.

The restrictions preventing directors from voting in respect of contracts or arrangement in which they are interested may be suspended or relaxed at any time, either generally or in respect of particular circumstances, by the holders of 75% of our ordinary shares who are present and voting in a general meeting.

A director, notwithstanding his or her interest, may be counted in the quorum present at any meeting where: (i) he or she or any other director is appointed to hold any office or position of profit in Harmony; (ii) the directors resolve to exercise any of our rights to appoint, or concur in the appointment of, a director to hold any office or position of profit in any other company; or (iii) the terms of any such appointment are considered or varied. At this meeting, each director may vote on the matters listed above, but no director may vote in respect of his or her own appointment, or the arrangement or variation of the terms of his or her own appointment.

The restrictions described above do not prevent or debar any director, as a holder of any class of our shares, from taking part in or voting upon any question submitted to a vote by that class at a general meeting, regardless of that director's personal interest or concern.

Compensation

The remuneration of our directors in their capacity as directors, including fees per directors meeting, and additional compensation for the performance of other services, such as serving on committees, may be established either by a majority of the holders of our ordinary shares, present and voting in a general meeting, or by a majority of disinterested directors at a meeting of directors, provided they constitute a quorum.

Borrowing Powers

Our directors may raise, borrow or secure the payment of any sums of money for our purposes as they see fit. However, without the consent of a majority of the holders of our ordinary shares present and voting in a general meeting, the aggregate principal amount outstanding in respect of monies raised, borrowed or secured by us and any of our subsidiaries may not exceed the greater of (i) R40 million or (ii) the aggregate amount, from time to time, of our issued and paid up capital, plus the aggregate of the amounts standing to the credit of all distributable and non-distributable reserves, plus our share premium account and the share premium accounts of our subsidiaries.

The Companies Act provides that a company may only make a loan to its owner, director or manager with the prior consent of all the members of the company or pursuant to a special resolution relating to a specific transaction.

Rotation

At each of our annual general meetings, one-third of the directors, or, if the number is not a multiple of three, then the number nearest to but not exceeding one-third, shall retire from office by rotation. Those directors who have been longest in office since their last election or re-election shall retire. As between directors of equal seniority, the directors to retire by rotation shall, in the absence of agreement, be selected by lot. If at the date of any annual general meeting, any director shall have held office for a period of at least three years since his or her last election or re-election, he or she shall retire at such meeting, either as one of the directors resigning pursuant to the aforementioned rotation principles, or in addition thereto. Retiring directors are eligible for re-election and said

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directors have made themselves available for re-election.

If a director is appointed to any Harmony executive office, his or her employment contract may provide that he or she shall be exempt from rotation for the lesser of (i) a period of 5 years or (ii) the period during which he or she continues to hold the relevant executive office. During the relevant period, the director in question shall not be taken into account in determining the retirement of directors by rotation. The number of directors who may be exempt from retirement by rotation in this manner shall not equal or exceed one-half of the total number of the directors at the time of the relevant director’s appointment. Currently none of our directors are exempted from retirement under these provisions.

Qualifications

There is no age limit requirement with regard to retirement or non-retirement of directors. Directors are not required to hold any of our shares to qualify them for appointment as directors.

Share Capital

As of June 30, 2009, our issued share capital consisted of 425,986,836 ordinary shares with a par value of R0.50 each. As of October 19, 2009, our issued share capital consisted of 426,028,533 ordinary shares with a par value of R0.50 each. Our authorized share capital is 1,200,000,000 ordinary shares with a par value of R0.50 each. The terms of the ordinary shares are described in “— Description of Ordinary Shares” below.

Description of Ordinary Shares

This section summarizes the material provisions of Harmony’s ordinary shares as set out in Harmony’s Memorandum and Articles of Association, the Companies Act and the JSE listings requirements, each as currently in effect. It does not purport to be complete and is qualified in its entirety by reference to all of the provisions of those sources.

Dividends

Either the Board or a majority of the holders of our ordinary shares, voting in a general meeting, may, from time to time, declare a dividend to be paid to the registered holders of ordinary shares according to their respective rights and interests in the profits, measured in proportion to the number of ordinary shares held by them. Under South African law, a company’s equity may be distributed as a dividend, provided that any necessary shareholder approval is obtained and, after the distribution of the dividend, the company remains solvent and liquid. Cash dividends, however, may only be paid out of the profits of the company. Cash dividends paid by us will not bear any interest payable by us. Dividends may be declared either free of, or subject to, the deduction of income tax and any other tax or duty which may be chargeable. There is currently no tax payable in South Africa by the recipients of dividends who are outside South Africa.

Dividends are declared payable to holders of ordinary shares who are registered as such on a record date determined by the Board, which must be after the later of the date of the dividend declaration or the date of confirmation of the dividend. The period between the record date and the date of the closing of the transfer registers in respect of the dividend shall be not less than 14 days.

Holders of our ordinary shares, voting in a general meeting, may not declare a dividend greater than the amount recommended by the directors, but may declare a smaller dividend. Dividends will be paid to the holders of our ordinary shares in proportion to the number of their shares. All unclaimed dividends may be invested or otherwise utilized by the Board for our benefit until claimed; provided that dividends unclaimed after a period of twelve years from the date of declaration may be declared forfeited by the Board. Forfeited dividends revert to us.

Any dividend or other sum payable in cash to a holder may be transmitted by a payment method determined by the directors, such as electronic bank transfer or ordinary post to the address of the holder recorded in the register or any other address the holder may previously have given to us in writing. We will not be responsible for any loss in transmission.

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Any dividend may be paid and satisfied, either wholly or in part, by the distribution of specific assets, including shares and debentures of any other company, in cash, or by one or more of such methods, as the Board may determine and direct at the time of the dividend declaration.

When any holders of our ordinary shares reside outside of South Africa, the Board has the power, subject to any applicable laws or regulations, to declare a dividend in a relevant currency other than the Rand and to determine the date on which and the rate of exchange at which the dividend shall be converted into the other currency.

All cash dividends paid by us are expected to be in Rand. Holders of ADRs on the relevant record date will be entitled to receive any dividends payable in respect of the ordinary shares underlying the ADRs, subject to the terms of the Deposit Agreement. Cash dividends paid in Rand will be converted by the depository to U.S. dollars and paid by the depository to holders of ADRs, to the extent it can do so on a reasonable basis and can transfer the U.S. dollars to the United States, net of conversion expenses of the depository, and in accordance with the Deposit Agreement.

Voting Rights

Subject to any rights or restrictions attached to any class of ordinary shares, every holder of our ordinary shares who is present in person at a shareholder meeting, or a person present as a representative of holders of one or more ordinary shares, shall on a show of hands have one vote, irrespective of the number of ordinary shares he holds or represents. Every holder of ordinary shares shall, on a poll, have one vote for every ordinary share held by him. A shareholder is entitled to appoint a proxy to attend and speak and vote at any meeting on his or her behalf. The proxy need not be a shareholder. On a poll, a shareholder entitled to more than one vote (or his representative, proxy or agent) need not, if he votes, use all of his votes or cast all of his votes in the same way.

Distribution of Assets on Liquidation

In the event of voluntary or compulsory liquidation, dissolution or winding up, the assets remaining after payment of all our debts and liabilities, including the costs of liquidation, will be applied to repay the amount paid up on our issued capital to holders of our ordinary shares and, thereafter, the balance will be divided pro rata among the holders of our ordinary shares, subject to any special rights or conditions attaching to any shares. Any portion of our assets may, upon such liquidation, dissolution or winding up, and with the approval of a special resolution, be paid to the ordinary shareholders by the distribution of specific assets or may be vested in trustees for the benefit of such ordinary shareholders.

Redemption/Purchase of Shares

No shares shall be issued which are redeemable by their terms or at the option of any party.

The Companies Act permits companies to establish share incentive trusts and provide funds with which such trusts may purchase securities (including debt and equity securities) of a company or its holding company. These securities are to be held by or for the benefit of employees, including salaried directors. The Companies Act also permits such a trust to loan funds to company employees for the purpose of purchasing or subscribing for our securities, provided that such trusts may not loan funds to directors who do not hold salaried employment or office.

The Companies Amendment Act provides that a company may approve the acquisition of its own shares by special resolution, if authorized to do so by its articles. A company is not, however, permitted to make any form of payment to acquire any of its own shares if there are reasonable grounds for believing that the company is or, after the payment, would be unable to pay its debts or if, after the payment, the consolidated assets of the company fairly valued would be less than the consolidated liabilities of the company. The procedure for acquisition of shares by a company is regulated, in the case of listed companies, both by the Companies Amendment Act and the Listings Requirements of the JSE. The Companies Amendment Act further provides that a company may make payments to its shareholders if authorized by its articles subject to the liquidity and solvency requirements described above.

We are authorized pursuant to our Articles of Association to approve the acquisition of our shares by special resolution from time to time. We are also authorized pursuant to our Articles of Association to make payments in cash or in specie to any class of our shareholders.

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Issue of Additional Shares and Pre-emptive Rights

The Companies Act does not provide holders of any class of our shares with pre-emptive rights. However, the JSE requires that any new issues of equity shares by companies listed on the exchange must first be offered to existing holders of such shares, in proportion to their current holding.

The JSE will, however, allow a company to issue shares to third parties without first offering them to existing shareholders, in circumstances such as the following:

- pursuant to an employee share incentive scheme the terms of which have been approved by the holders of the relevant class of shares in a general meeting;
- for the acquisition of an asset, provided that if the issue is more than 30% of the company's issued share capital, a simple majority of holders of ordinary shares present and voting, must vote in favor of the acquisition;
- to raise cash by way of a general issue in the discretion of the directors (but not to related parties) of up to 15% of the issued share capital in any one fiscal year at an issue price with a discount not exceeding 10% of the 30-day weighted average trading price prior to the determination date, provided that the holders of ordinary shares, present and voting at a general meeting, must approve the granting of such authority to the directors by a 75% vote; or
- to raise cash by way of a specific issue of a specified number or a maximum number of shares for cash provided that the holders of ordinary shares, other than controlling shareholders, present and voting, vote in favor of the resolution to issue the shares at a general meeting by a 75% vote. In terms of JSE listings requirements, the circular to be sent to all shareholders informing them of the general meeting must include, inter alia:
- details of the persons to whom the shares are to be issued if such persons fall into the following categories or other categories identified by the JSE: directors of the company or its subsidiaries or their associates; trustees of employee or directors' share scheme or pension funds; any person having the right to nominate directors of the company; and certain shareholders holding more than 10% of the issued share capital;
- if the persons to whom the shares are to be issued are related parties, an independent expert's opinion that the issue price is fair and reasonable; and
- should the maximum size of the issue equal or exceed 30% of the company's issued share capital, full listing particulars, which include, inter alia, a reporting accountant's report and, in the case of a mining company, a competent person's report setting out technical details of the company's operations and assets.

Transfer of Shares

Owners of our ordinary shares may transfer any or all of their shares in writing in any common form or in any form approved by our directors. Every instrument of transfer must be executed by the transferor or, if the directors so determine, by the transferor and the transferee. The transferor will remain the holder of the ordinary shares transferred until the name of the transferee is entered in our register of members in respect of such ordinary shares.

The Board may refuse to recognize any instrument of transfer that is not duly stamped (if required) or is not accompanied by appropriate evidence of the transferor's title. Such right of refusal will not prevent dealings occurring on an open and proper basis. We retain all instruments of transfer that are registered. Any instrument of transfer that the Board refuses to register is, except in the case of fraud, returned on demand to the person depositing such instrument.

Rights of Minority Shareholders and Fiduciary Duties

Majority shareholders of South African companies have no fiduciary obligations under South African common law to minority shareholders. However, under the Companies Act, a shareholder may, under certain circumstances, seek relief from the court if he has been unfairly prejudiced by the company. The provisions in the Companies Act are designed to provide relief for oppressed shareholders without necessarily overruling the majority's decision. There may also be common law personal actions available to a shareholder of a company.

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Although the concepts are similar, the specific interpretations of fiduciary obligations of directors in South Africa may differ from those in the U.S. and certain other countries. In South Africa, the common law imposes on directors a duty to act with care, skill and diligence and fiduciary duties, which include the duty to conduct the company’s affairs honestly and in the best interests of the company.

Variation of Rights

We may vary the rights attached to any issued or not yet issued shares by special resolution. However, if at any time the issued share capital is divided into different classes of shares, the rights attached to any class may not be varied except with the consent in writing of the holders of at least 75% of the issued shares of that class or through a resolution passed at a separate general meeting of the holders of the shares of that class. The quorum for such a meeting shall be the lesser of (i) 3 shareholders or (ii) 75% of the shareholders of that class, present in person or by their representatives, agents or proxies, provided that such shareholders must control or hold at least one half of the issued shares of that class. A share shall be a share of a different class from another share if the two shares do not rank *pari passu* in every respect.

Changes in Capital or Objects and Powers of Harmony

The provisions of our Memorandum and Articles of Association pertaining to changes in our share capital and powers are substantially equivalent to the provisions of the Companies Act. We may by special resolution:

- increase our authorized or paid-up share capital;
- consolidate and divide all or any part of our shares into shares of a larger amount;
- increase the number of our no par value shares without an increase of our stated capital;
- sub-divide all or any part of our shares having a par value;
- convert all of our ordinary or preference share capital consisting of shares having a par value into stated capital constituted by shares of no par value and vice versa;
- convert our stated capital constituted by ordinary or preference shares of no par value into share capital consisting of shares having a par value;
- vary the rights attached to any shares whether issued or not yet issued;
- convert any of our issued or unissued shares into shares of another class;
- convert any of our paid-up shares into stock, and reconvert any stock into any number of paid-up shares of any denomination;
- convert any of our issued shares into preference shares which can be redeemed;
- cancel shares which, at the date of passing of the resolution, have not been taken or agreed to be taken by any person, and diminish the amount of the authorized share capital by the amount of the shares so cancelled; or
- reduce the authorized share capital.

We may by ordinary resolution:

- reduce our issued share capital;
- reduce our stated capital; or
- reduce our capital redemption reserve fund and share premium account.

Meetings of Shareholders

Our directors may at any time convene general meetings of our shareholders. The directors shall convene a general meeting upon request of shareholders in accordance with the provisions of the Companies Act. No more than fifteen months may elapse between the date of one annual general meeting and the next, and the annual general meeting shall be held within six months after the expiration of each of our financial years.

We are required to provide our members with written notice of meetings, which shall specify the place, the day and time of the meeting. In every notice calling a meeting of Harmony or of any class of members of Harmony, there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy to attend and vote in lieu of such person and that a proxy need not also be a member. Notice of a general meeting shall be given to the JSE and to the following persons and no other person shall be entitled to receive notice of general meetings:

- to every member of Harmony except any member who has not supplied to Harmony a registered address for the giving of notices;
- to every person entitled to a share in consequence of the death or insolvency of a member;
- to the directors and auditor for the time being of Harmony; and
- by advertisement to the holders of share warrants to bearer.

Annual general meetings and meetings calling for the passage of a special resolution require twenty-one days' notice in writing. Any other general meeting requires no less than fourteen days' notice in writing. A meeting called upon shorter notice shall be deemed to have been duly called if a majority in number of the members having a right to attend and vote at the meeting agree to such a shortened notice period, and if such members hold no less than 95% of the total voting rights of all members.

Our business may be transacted at a general meeting only when a quorum of members is present. Three members present personally or by representative and entitled to vote are a quorum.

The annual general meeting deals with and disposes of all matters prescribed by our Articles of Association and by the Companies Act, including:

- the consideration of the annual financial statements and report of the auditors;
- the election of directors;
- the appointment of auditors; and
- any business arising from the annual financial statements considered at the meeting.

The holder of a general or special power of attorney given by a member, whether the holder is a member or not, shall be entitled to attend meetings of Harmony or of any class of members of Harmony and to vote at such meetings if so authorized by the power of attorney. Any member may appoint a proxy, who need not be a member, to attend, speak and, subject to the provisions of the Companies Act, to vote in his place on a show of hands and on a poll at any general meeting or at any meeting of any class of members. The instrument appointing a proxy to vote at a meeting of Harmony and the power of attorney or other authority shall be deposited at our transfer office not later than 48 hours (excluding Saturdays, Sundays and Public Holidays) before the meeting at which the person empowered proposes to vote. No instrument appointing a proxy shall be valid after the end of a period of 6 months commencing on the date on which it is signed unless otherwise expressly stated in the proxy.

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Title to Shares

The registered holder or holders of any shares shall, during his or their respective lifetimes and while not subject to any legal incapacity, be the only person or persons recognized by us as having any right to, or in respect of, such shares and, in particular, we shall not be bound to recognize:

- that the registered holder or holders hold such shares upon trust for, or as the nominee of, any other person; or
- that any person, other than the registered holder or holders, holds any contingent, future or partial interest in such shares or any interest in any fractional part of any of such shares.

Where any share is registered in the names of two or more persons they shall be deemed to be joint holders. Accordingly where any member dies, the survivor or survivors, where the deceased was a joint holder, and the executor of the deceased, where the deceased was the sole holder, shall be the only persons recognized by us as having any right to the interest of the deceased in any of our shares.

We may enter in the register as member, no mine official, of Harmony, the name of any person who submits proof of his appointment as the executor, administrator, trustee, curator or guardian in respect of the estate of a deceased member of Harmony or of a member whose estate has been sequestered or of a member who is otherwise under disability or as liquidator of any body corporate in the course of being wound up which is a member of Harmony, and any person whose name has been so entered in the register shall be deemed to be a member of Harmony.

Non-South African Shareholders

There are no limitations imposed by South African law or by our Articles of Association on the rights of non-South African shareholders to hold or vote our ordinary shares or securities convertible into ordinary shares.

Disclosure of Interest in Shares

Pursuant to the Companies Amendment Act Number 37 of 1999, where securities of an issuer are registered in the name of a person and that person is not the holder of the beneficial interest in all of the securities so held, it is obliged, at the end of every three-month period after June 30, 1999 (i.e., commencing on September 30, 1999), to disclose to the issuer the identity of each person on whose behalf the registered holder holds securities and the number and class of securities issued by that issuer held on behalf of each such person. Moreover, an issuer of securities may, by notice in writing, require a person who is a registered shareholder, or whom the issuer knows or has reasonable cause to believe to have a beneficial interest in, a security issued by the issuer, to confirm or deny whether or not such person holds that beneficial interest and, if the security is held for another person, to disclose to the issuer the identity of the person on whose behalf a security is held. The addressee of the notice may also be required to give particulars of the extent of the beneficial interest held during the three years preceding the date of the notice. All issuers of securities are obliged to establish and maintain a register of the disclosures described above and to publish in their annual financial statements a list of the persons who hold beneficial interests equal to or in excess of 5% of the total number of securities of that class issued by the issuer together with the extent of those beneficial interests.

Changes in Control

There are various procedures under the Companies Act whereby mergers and takeovers can be effected. These procedures are not exclusive and there are a variety of techniques that can be used to acquire control. All of these procedures are, however, subject to control by the Securities Regulation Panel and the requirements embodied in the Securities Regulation Code on Takeovers and Mergers shall be adhered to. The JSE Listing Requirements also contain certain requirements with regard to the process involved in a merger or takeover. While the requirements of the Securities Regulation Panel and the JSE Listings Requirements might have the general effect of delaying, deferring or preventing a change in control of a company, our Memorandum and Articles of Association do not impose additional restrictions on mergers or takeovers.

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Register of Members

We keep a register of shareholders at our office and at the office of our transfer secretaries in South Africa, and our transfer secretaries in the United Kingdom keep a branch shareholders’ register at their offices.

The register of members includes:

- the names and address of the members;
- the shares held by each member, distinguishing each share by its denoting number, if any, by its class or kind, and by the amount paid or deemed to be paid thereon;
- the date on which the name of any person was entered in the register as a member; and
- the date on which any person ceased to be a member.

Annual Report and Accounts

The Board is required to keep such accounting records and books of account as are prescribed by the Companies Act.

The directors will cause to be prepared annual financial statements and a South African annual report as required by the Companies Act and the JSE rules. We will deliver a copy of the South African annual report and annual financial statements to every member not less than twenty-one days prior to the date of each annual general meeting.

Our annual report on Form 20-F is available on our website at www.harmony.co.za. We will deliver a paper copy of the annual report containing our IFRS audited financial statements, free of charge, to any shareholder upon request.

Material Contracts

We enter into material contracts in connection with our business, as described in *Item 4. “Information on the Company — Business”* and in connection with financing arrangements, as described in *Item 5. “Operating and Financial Review and Prospects — Liquidity and Capital Resources”*.

Exchange Controls

Introduction

The following is a general outline of South African exchange controls. Investors should consult a professional adviser as to the exchange control implications of their particular investments.

The Republic of South Africa’s exchange control regulations provide for restrictions on exporting capital from a Common Monetary Area consisting of South Africa, the Republic of Namibia and the Kingdoms of Lesotho and Swaziland. Transactions between South African residents (including corporations) and between residents of the Common Monetary Area are subject to these exchange controls, which are regulated by the South African Reserve Bank (“**SARB**”).

Since 1995 a number of exchange control regulations have been relaxed with regard to both residents and non-residents. The government remains committed to the total abolition of exchange controls, but has stated its intention of following a gradual approach. This gradual approach to the abolition of exchange controls adopted by the South African government is designed to allow the economy to adjust more smoothly to the removal of controls that have been in place for a considerable period of time. The stated objective of the authorities is to reach a point where there is equality of treatment between residents and non-residents in relation to inflows and outflows of capital. South Africa, being classified as an emerging market, is therefore still regarded as a capital importer, hence the controls over capital flows. Unlimited outward transfers of capital are not permitted at this stage, but the emphasis of regulation is expected to be increasingly on the positive aspects of prudential financial supervision.

A considerable degree of flexibility is built into the system of exchange controls, and the SARB possesses substantial discretionary powers in approving or rejecting the applications that fall outside the authority granted to authorized dealers.

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The main purpose of exchange controls is to ensure the timely repatriation of funds into the South African banking system of certain foreign currency acquired by residents of South Africa, whether through transactions of a current or of a capital nature. Timely repatriation of funds will help avoid undue pressure on the country’s gold and foreign reserves and an undue depreciation of the exchange rate of the Rand. Payment of foreign currency and the use of gold and foreign reserves for importation of goods and services into the country are relatively freely allowed.

These comments relate to exchange controls in force at June 30, 2009. These controls are subject to change at any time without notice. It is not possible to predict whether existing exchange controls will be abolished, continued or modified by the South African government in the future.

Government Regulatory Considerations

Shares

A foreign investor may invest freely in shares in a South African company, whether listed on the JSE or not. The foreign investor may also sell his or her share investment in a South African company and transfer the proceeds out of South Africa without restriction. However, when the company is not listed on the JSE, the SARB must be satisfied that the sales price of any shares reflects fair market value.

Under present South African exchange control regulations, our ordinary shares and ADSs are freely transferable outside the Common Monetary Area between non-residents of the Common Monetary Area. No prior SARB approval is required for the transfer of proceeds to South Africa, in respect of shares listed on the JSE, provided these funds enter the country through the normal banking channels. In addition, the proceeds from the sale of ordinary shares on the JSE on behalf of those holders of ordinary shares who are not residents of the Common Monetary Area are freely remittable to those holders. Share certificates and warrant certificates held by non-residents will be endorsed with the words “non-resident.”

Loans

Generally, the making of loans to us or our subsidiaries, our or our subsidiaries’ ability to borrow from non-South African sources and the repatriation of dividends, interest and royalties by Harmony will be regulated by the Exchange Control Department of the SARB. If a foreign investor wishes to lend capital to a South African company, the prior approval of the SARB must be sought mainly in respect of the interest rate and terms of repayment applicable to such loan.

Interest on foreign loans is freely remittable abroad, provided the loans received prior approval from the SARB.

Investments

We are also required to seek approval from the SARB to use funds held in South Africa to make investments outside of South Africa.

Dividends

Dividends declared by a quoted company are freely transferable out of South Africa from both trading and non-trading profits earned in South Africa through a major bank as agent for the SARB.

Where 75% or more of a South African company’s capital, voting power, power of control or earnings is directly or indirectly controlled by non-residents, such a company is designated an “affected person” by the SARB, and certain restrictions are placed on its ability to obtain local financial assistance. We are not, and have never been, designated an “affected person” by the SARB.

If an affected person made use of local borrowing facilities, the affected persons must apply for SARB approval prior to remitting dividends offshore. As a general matter, an affected person that has accumulated historical losses may not declare dividends out of current profits unless and until such time that the affected person’s local borrowings do not exceed the local borrowing limit.

Certain South African Tax Considerations

The discussion in this section is based on current law and our interpretation thereof. Changes in the law may alter the tax treatment of our ordinary shares or ADSs, as applicable, possibly on a retroactive basis. The following summary is not a comprehensive description of all of the tax considerations that may be relevant to a decision to purchase, own or dispose of our ordinary shares or ADSs, and does not cover the tax consequences that depend upon your particular tax circumstances. In particular, the following summary addresses tax consequences for holders of ordinary shares or ADSs who are not tax residents of South Africa. It specifically excludes the tax consequences for non-tax residents whose holding of shares or ADSs is effectively connected with a permanent establishment in South Africa through which the holder carries on business activities, or who is not a beneficial recipient of the dividends, or where the source of the transaction is to be in South Africa. In addition, it does not cover the tax consequences for the holder that is not entitled to the benefits of the double taxation agreement concluded between the Republic of South Africa and the United States of America signed on February 17, 1997 (“**Treaty**”). It also assumes that the holders would hold the ordinary shares or ADSs on capital account (that is, for investment purpose). We recommend that you consult your own tax adviser about the consequences of holding our ordinary shares or ADSs, as applicable, in your particular situation.

Dividends

South Africa does not currently level any withholding tax on dividends. Rather, it currently imposes a corporate tax known as Secondary Tax on Companies (“**STC**”) at a rate of 10% on dividends declared by a South African company. It is important to appreciate that STC is not a withholding tax on dividends, but a tax on profits of a company. However, it was announced that STC would be abolished and be replaced by a traditional dividend withholding tax. At this stage it is expected that the new dividend withholding tax will be introduced on 1 January 2011. The rate of the new dividend withholding tax will be 10%. The new withholding tax will be imposed on, amongst others, non-resident shareholders, and it would be withheld by the company declaring and paying the dividend to its shareholders or the regulatory intermediary, as the case may be.

Article 10 of the Treaty provides that a withholding tax may be levied by South Africa. However, it may not exceed 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10% of the voting stock of the company paying the dividends. Although the Treaty refers to a maximum withholding tax rate of 15% in other cases, the rate would be 10%.

Capital Gains Tax

A Capital Gains Tax (“**CGT**”) was introduced with effect from October 1, 2001. In the case of an individual, 25% of the capital gain is included in its taxable income. In the case of a corporate entity, 50% of such gain is included in its taxable income, resulting in an effective tax rate of 14%. CGT is only applicable to non-residents if the proceeds from the sale are attributable to a permanent establishment of the non-resident shareholder. The Treaty (which would prevail the case of conflict) provides that the U.S. holder of ordinary shares or ADSs will not be subject to CGT if the assets have been held as capital assets, unless they are linked to a permanent establishment of such non-resident shareholder in South Africa. To the extent that shares or ADSs are held on revenue account, a similar principle would apply with reference to the payment of income tax, and income tax will only be payable to the extent that the holder carries on business in South Africa through the permanent establishment situation therein. Any gains realized on the disposal of shares are automatically deemed to be of a capital nature if they have been held for a continuous period of 3 years. Such provision applies automatically and is not elective.

Generally the domestic laws of South Africa provide that a capital gain will be deemed to have been sourced in South Africa and be subject to South African tax to the extent that the asset related to an interest in immovable property situated in South Africa. It includes any equity shares held by a person in a company if —

- 80% or more of the market value of the equity shares at the time of disposal thereof is attributable directly or indirectly to immovable property held otherwise than as trading stock; and
- The person directly or indirectly holds at least 20% of the equity share capital of that company.

The provisions of the Treaty will override the deemed source rules to the extent applicable.

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Security Transfer Tax

A Security Transfer Tax (“**STT**”) has been introduced with effect from July 1, 2008 in respect of the transfer of any security issued by a South African company at a rate of 0.25% of the taxable amount of the security concerned (generally the market value thereof). A security is defined to include depository receipt in a company, in addition to company shares. STT is not payable on the issue of any security.

Although ADSs in respect of our shares are not listed on the JSE, reference is specifically made to the transfer of depository receipts in a South African company. As a consequence, STT will therefore be payable on the transfer of ADSs. In addition, the process of depositing shares listed on the JSE in return for ADSs, or withdrawing such shares from the deposit facility, may attract STT as and when the shares are transferred to or from the depository institution.

STT is payable by the broker or participant if a transaction is effected through a stockbroker or a strata participant, but it may be recovered from the person acquiring the beneficial ownership of the rights concerned. In other instances, STT is payable by the person acquiring beneficial ownership.

STT is also payable on the subsequent redemption or cancellation of shares or cancellation of shares or ADSs.

Capitalization Shares

Capitalization shares distributed at the option of holders of shares in lieu of cash dividends are currently not subject to STC. However, this position may change to the extent that the new withholding tax on dividends is introduced.

Voting Rights

There are no limitations on the right of non-resident or foreign owners to hold or vote our ordinary shares imposed by South African law or by our charter.

Certain United States Federal IncomeTax Considerations

Except as described below under the heading “Non-U.S. Holders,” the following is a discussion of certain material U.S. federal income tax consequences for a U.S. holder of purchasing, owning and disposing of the ordinary shares (for purposes of this summary, references to the ordinary shares include the ADSs, unless the context otherwise requires). This summary does not purport to be a comprehensive description of all of the tax considerations that may be relevant to a decision to purchase the ordinary shares. In particular, this summary deals only with U.S. holders that will hold the ordinary shares as capital assets. It does not address considerations that may be relevant to you if you are an investor that is subject to special tax rules, such as a bank, real estate investment trust, regulated investment company, insurance company, dealer in securities or currencies, trader in securities or commodities that elects mark-to-market treatment, person that will hold the ordinary shares as a hedge against currency risk or as a position in a “straddle” or conversion transaction, tax-exempt organization, person whose “functional currency” is not the U.S. dollar, person liable for alternative minimum tax, or a person who owns directly, indirectly or by attribution, at least 10 percent of our stock.

You will be a U.S. holder if you are a beneficial owner of ordinary shares and you are:

- an individual who is a citizen or resident of the United States;
- a U.S. domestic corporation, or other entity treated as a domestic corporation for U.S. federal income tax purposes;
- an estate whose income is subject to U.S. federal income tax regardless of its source; or
- a trust if a U.S. court can exercise primary supervision over the trust’s administration and one or more U.S. persons are authorized to control all substantial decisions of the trust.

If a partnership (including for this purpose any entity treated as a partnership for U.S. tax purposes) is a beneficial owner of the ordinary shares, the U.S. tax treatment of a partner in the partnership generally will depend on the status of the partner and the activities of the partnership. A holder of the ordinary shares that is a partnership and partners in such a partnership should consult their own tax advisors about the U.S. federal income tax consequences of holding and disposing of the ordinary shares.

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A “non-U.S. holder” is a beneficial owner of ordinary shares that is not a U.S. person for U.S. federal income tax purposes. If you are a “non-U.S. holder,” the discussion below under “— Non-U.S. Holders” will apply to you.

This summary is based on the U.S. Internal Revenue Code of 1986, as amended, or the Code, its legislative history, existing and proposed U.S. Treasury regulations, rulings, and decisions, all as now in effect and all of which may change. Any change could apply retroactively and could affect the continued validity of this summary.

In general, if you hold ADSs, you will be treated as the holder of the ordinary shares represented by those ADSs for U.S. federal income tax purposes.

We believe that we will not be a passive foreign investment company, or PFIC, for U.S. federal income tax purposes for the current taxable year. However, we cannot assure you that we will not be considered a PFIC in the current or future years. The determination whether or not we are a PFIC is a factual determination that is based on the types of income we earn and the value of our assets and cannot be made until the close of the applicable tax year. If we were currently or were to become a PFIC, U.S. holders of ordinary shares would be subject to special rules and a variety of potentially adverse tax consequences under the Code.

Taxation of Dividends

Subject to the PFIC rules referred to below, under U.S. federal income tax laws, if you are a U.S. holder, the gross amount of dividends that you receive in cash (or that are part of a distribution that any shareholder has the right to receive in cash) in respect of the ordinary shares generally will be subject to U.S. federal income taxation as dividend income to the extent paid out of our current or accumulated earnings and profits (as determined for U.S. federal income tax purposes). You must include the amount of any South African tax withheld from the dividend payment in this gross amount even though you do not in fact receive it. Dividends received by an individual taxpayer during taxable years beginning before January 1, 2011 will be taxed at a maximum rate of 15% where certain holding period and other requirements are satisfied, if such dividends constitute qualified dividend income. Qualified dividend income includes dividends paid by a Qualified Foreign Corporation, and we believe that we are, and will continue to be, a Qualified Foreign Corporation. Holders of ordinary shares should consult their own tax advisors regarding the availability of the reduced dividend tax rate in light of their own particular circumstances. Dividends will not be eligible for the dividends-received deduction generally allowed to U.S. corporations in respect of dividends received from other corporations.

Dividends paid in South African Rand will be includible in your gross income in a U.S. dollar amount calculated by reference to the exchange rate in effect on the day you receive (or the depository receives, in the case of the ADSs) the dividend, regardless of whether the payment is in fact converted into U.S. dollars. If the foreign currency received as a dividend is not converted into U.S. dollars on the date of receipt, a U.S. holder will have a basis in the foreign currency equal to its U.S. dollar value on the date of receipt. Generally, any gain or loss resulting from currency exchange fluctuations during the period from the date you include the dividend payment in income to the date you convert the payment into U.S. dollars will be treated as ordinary income or loss. The gain or loss generally will be income or loss from sources within the United States for foreign tax credit limitations. You generally should not be required to recognize any foreign currency gain or loss to the extent such dividends paid in South African Rand are converted into U.S. dollars immediately upon receipt by the applicable party. If we distribute non-cash property as a dividend, you generally will include in income an amount equal to the fair market value of the property, in U.S. dollars, on the date that it is distributed. Subject to certain limitations, a U.S. holder may be entitled to a credit or deduction against its U.S. federal income taxes for the amount of any South African taxes that are withheld from dividend distributions made to such U.S. holders. The decision to claim either a credit or deduction must be made annually, and will apply to all foreign taxes paid by the U.S. holder to any foreign country or U.S. possession with respect to the applicable tax year.

Dividends received from us will generally be income from non-United States sources, for U.S. foreign tax credit purposes, subject to various classifications and other limitations. The rules relating to computing foreign tax credits are complex. You should consult your own tax advisor to determine the foreign tax credit implications of owning ordinary shares.

Distributions in excess of current and accumulated earnings and profits, as determined for U.S. federal income tax purposes, will be treated as a non-taxable return of capital to the extent of your basis in the ordinary shares and thereafter as capital gain.

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Capital Gains

Subject to the PFIC rules referred to below, if you are a U.S. holder and you sell your ordinary shares, you will recognize capital gain or loss in an amount equal to the difference between the U.S. dollar value of the amount you realize on the sale and your adjusted tax basis in the ordinary shares, determined in U.S. dollars. Such gain or loss generally will be long-term capital gain or loss if you held the ordinary shares for more than one year. Prior to January 1, 2011, long-term capital gain recognized by a non-corporate U.S. holder is generally subject to a maximum tax rate of 15%. In general, any capital gain or loss recognized upon the sale or exchange of ordinary shares will be treated as U.S. source income or loss, as the case may be, for U.S. foreign tax purposes. Your ability to offset capital losses against income is subject to limitations.

Deposits and withdrawals of ordinary shares by U.S. holders in exchange for ADSs will not result in the realization of gain or loss for U.S. federal income tax purposes.

To the extent that you incur South African stamp duty, MST or uncertified securities tax (to be replaced with STT) in connection with a *transfer or withdrawal of ordinary shares as described under “— Certain South African Tax Considerations — Security Transfer Tax”* above, such stamp duty, MST or uncertified securities tax will not be a creditable tax for U.S. foreign tax credit purposes.

Non-U.S. Holders

If you are a non-U.S. holder of the ordinary shares, you generally will not be subject to U.S. federal income or withholding tax on dividends received on such ordinary shares, unless such income is effectively connected with your conduct of a trade or business in the United States, and the dividends are attributable to a permanent establishment (or in the case of an individual, a fixed place of business) that you maintain in the United States if that is required by an applicable income tax treaty as a condition for subjecting you to U.S. taxation on a net income basis. In such cases, you generally will be taxed in the same manner as a U.S. holder, and will not be subject to U.S. federal income tax withholding. If you are a corporate non-U.S. holder, “effectively connected” dividends may, under certain circumstances, be subject to an additional “branch profits tax” at a 30% rate or a lower rate if you are eligible for the benefits of an income tax treaty that provides for a lower rate.

If you are a non-U.S. holder of the ordinary shares, you will also generally not be subject to U.S. federal income or withholding tax in respect of gain realized on the sale of such ordinary shares, unless (i) such gain is effectively connected with your conduct of a trade or business in the United States, and the gain is attributable to a permanent establishment (or in the case of an individual, a fixed place of business) that you maintain in the United States if that is required by an applicable income tax treaty as a condition for subjecting you to U.S. taxation on a net income basis; or (ii) in the case of gain realized by an individual non-U.S. holder, you are present in the United States for 183 days or more in the taxable year of the sale and certain other conditions are met. In the first case, the non-U.S. holder will be taxed in the same manner as a U.S. holder. In the second case, the non-U.S. holder will be subject to U.S. federal income tax at a rate of 30% on the amount by which such non-U.S. holder’s U.S.-source capital gains exceed such non-U.S. holder’s U.S.-source capital losses. If you are a corporate non-U.S. holder, “effectively connected” dividends may, under certain circumstances, be subject to an additional “branch profits tax” at a 30% rate or a lower rate if you are eligible for the benefits of an income tax treaty that provides for a lower rate.

PFIC Rules

We believe that our ordinary shares will not be treated as stock of a PFIC for U.S. federal income tax purposes for the current tax year. The determination of whether or not we are a PFIC is a factual determination that cannot be made until the close of the applicable tax year and that is based on the types of income we earn and the value of our assets (including goodwill), both of which are subject to change. In calculating goodwill for this purpose, we will value our total assets based on the total market value, determined with reference to the then market price of the ordinary shares, and will make determinations regarding the amount of this value allocable to goodwill. Because the determination of goodwill will be based on the market price of the ordinary shares, it is subject to change. It is possible that the U.S. Internal Revenue Service may challenge our valuation of our assets (including goodwill), which may result in our being classified as a PFIC. Thus, it is possible that we may be or become a PFIC in the current or any future taxable year and we cannot assure you that we will not be considered a PFIC in any such tax year.

In general, if you are a U.S. holder, we will be a PFIC with respect to you if for any taxable year in which you held the ordinary shares:

- at least 75% of our gross income for the taxable year is passive income; or

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- at least 50% of the value, determined on the basis of a quarterly average, of our assets is attributable to assets that produce or are held for the production of passive income.

Passive income generally includes dividends, interest, royalties, rents (other than certain rents and royalties derived in the active conduct of a trade or business), the excess of gains over losses from certain types of transactions in commodities, annuities and gains from assets that produce passive income. If a foreign corporation owns at least 25% by value of the stock of another corporation, the foreign corporation is treated for purposes of the PFIC tests as owning its proportionate share of the assets of the other corporation, as receiving directly its proportionate share of the other corporation's income.

If we are treated as a PFIC, and you are a U.S. holder that did not make a mark-to-market election, as described below, you will be subject to special rules with respect to:

- any gain you realize on the sale or other disposition of your ordinary shares; and
- any excess distribution that we make to you (generally, any distributions to you during a single taxable year that are greater than 125% of the average annual distributions received by you in respect of the ordinary shares during the three preceding taxable years or, if shorter, your holding period for the ordinary shares).

Under these rules:

- the gain or excess distribution will be allocated rateably over your holding period for the ordinary shares;
- the amount allocated to the taxable year in which you realized the gain or excess distribution will be taxed as ordinary income;
- the amount allocated to each prior year, with certain exceptions, will be taxed at the highest tax rate in effect for that year; and
- the interest charge generally applicable to underpayments of tax will be imposed in respect of the tax attributable to each such year.

Special rules apply for calculating the amount of the foreign tax credit with respect to excess distributions by a PFIC.

If you own shares in a PFIC that are treated as marketable stock, you may make a mark-to-market election. If you make this election in a timely fashion, you will not be subject to the PFIC rules described above. Instead, in general, you will include as ordinary income each year the excess, if any, of the fair market value of your ordinary shares at the end of the taxable year over your adjusted basis in your ordinary shares. You will also be allowed to take an ordinary loss in respect of the excess, if any, of the adjusted basis of your ordinary shares over the fair market value at the end of the taxable year (but only to the extent of the net amount of previously included income as a result of the mark-to-market election). Your basis in the ordinary shares will be adjusted to reflect any such income or loss amounts.

We do not intend to furnish you with the information that you would need in order to make a "qualified electing fund" election to include your share of its income on a current basis.

If you own ordinary shares during any year that we are a PFIC, you must file U.S. Internal Revenue Service Form 8621 that describes the distribution received on the ordinary shares and the gain realized on the disposition of the ordinary shares. The reduced tax rate for dividend income, discussed in "Taxation of Dividends," is not applicable to dividends paid by a PFIC.

U.S. Information Reporting and Backup Withholding Rules

Payments of dividends and sales proceeds that are made within the United States or through certain U.S.-related financial intermediaries are subject to information reporting and may be subject to backup withholding at a rate currently of 28% unless the holder (i) is a corporation or other exempt recipient or (ii) provides a taxpayer identification number and certifies that no loss of exemption from backup withholding has occurred. Backup withholding is not an additional tax, and the amount of any backup withholding from a payment to a U.S. holder will be allowed as a credit against the U.S. holder's U.S. federal income tax liability provided that the appropriate returns are filed. A non-U.S. holder generally may eliminate the requirement for information reporting and backup withholding by providing certification of its foreign status to the payor, under penalties of perjury, on IRS Form W-8BEN.

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THE PRECEDING DISCUSSION OF CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES IS INTENDED FOR GENERAL INFORMATION ONLY AND DOES NOT CONSTITUTE TAX ADVICE. ACCORDINGLY, EACH INVESTOR SHOULD CONSULT ITS OWN TAX ADVISER AS TO PARTICULAR TAX CONSEQUENCES TO IT OF PURCHASING, HOLDING AND DISPOSING OF THE ORDINARY SHARES, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL OR FOREIGN LAWS, AND PROPOSED CHANGES IN APPLICABLE LAWS.

DIVIDENDS AND PAYING AGENTS

Not applicable.

STATEMENTS BY EXPERTS

Not applicable.

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DOCUMENTS ON DISPLAY

Our Memorandum and Articles of Association may be examined at our principal place of business at: Randfontein Office Park, Corner of Main Reef Road and Ward Avenue, Randfontein, 1760, South Africa. We also file annual and furnish interim reports and other information with the Securities and Exchange Commission, or the SEC. You may read and copy any reports or other information on file at the SEC’s public reference room at the following location:

Public Reference Room
100 F Street, NW
Room 1580
Washington D.C. 20549

Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. The SEC filings are also available to the public from commercial document retrieval services. We file electronically with the SEC, and the documents it files are available on the website maintained by the SEC at www.sec.gov.

SUBSIDIARY INFORMATION

Not applicable.

Item 11. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

General

We are exposed to market risks, including credit risk, foreign currency risk, commodity price risk and interest rate risk associated with underlying assets, liabilities and anticipated transactions. Following periodic evaluation of these exposures, we may enter into derivative financial instruments to manage these exposures. We have policies in areas such as counterparty exposure and hedging practices, which have been approved by our senior management. We do not hold or issue derivative financial instruments for trading or speculative purposes.

We did not apply hedge accounting to incidental hedges held in the past.

In accordance with IAS 39 — Financial Instruments: Recognition and Measurement, we account for our derivative financial instruments as hedging transactions if the following criteria are met:

- in the case of a hedge of an anticipated future transaction, there is a high probability that the transaction will occur.

Foreign Currency Sensitivity

In the ordinary course of business, we enter into transactions denominated in foreign currencies (primarily U.S. dollars, Australian dollars and Kina). In addition, we incur investments and liabilities in U.S. dollars, Canadian dollars, British pounds sterling and Australian dollars from time to time. As a result, we are subject to transaction and translation exposure from fluctuations in foreign currency exchange rates. We do not generally hedge our exposure to foreign currency exchange rates.

Our revenues and costs are very sensitive to the exchange rate of the Rand and other non-U.S. currencies to the U.S. dollar because gold is generally sold throughout the world in U.S. dollars, but most of our operating costs are incurred in Rand and other non-U.S. currencies. Appreciation of the Rand and other non-U.S. currencies against the U.S. dollar increases working costs at our operations when those costs are translated into U.S. dollars, which reduces operating margins and net income from our operations. Depreciation of the Rand and other non-U.S. currencies against the U.S. dollar reduces these costs when they are translated into U.S. dollars, which increases operating margins and net income from our operations. See *Item 3. “Key Information — Exchange Rates”* and *Item 3. “Key Information — Risk Factors — Because most of Harmony’s production costs are in Rand and other non-U.S. currencies, while gold is generally sold in U.S. dollars, Harmony’s financial condition could be materially harmed by an appreciation in the value of the Rand and other non-U.S. currencies”*.

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Commodity Price Sensitivity

General

The market price of gold has a significant effect on our results of operations, our ability to pay dividends and undertake capital expenditures, and the market prices of our ordinary shares.

Gold prices have historically fluctuated widely and are affected by numerous industry factors over which we do not have any control. See *Item 3. “Key Information — Risk Factors — The profitability of Harmony’s operations, and the cash flows generated by those operations, are affected by changes in the market price for gold, which in the past has fluctuated widely”*. The aggregate effect of these factors, all of which are beyond our control, is impossible for us to predict.

Harmony’s Hedging Policy

As a general rule, we sell our gold production at market prices. We generally do not enter into forward sales, commodity, derivatives or hedging arrangements to establish a price in advance for the sale of our future gold production, although we may do so in the future. For more detailed information on our hedging policy, See *Item 4. “Information on the Company — Business — Hedge Policy”*.

A substantial proportion of the production of both New Hampton and Hill 50 was already hedged when acquired by us. In fiscal 2003, we restructured the overall hedge portfolio of the Australian operations and changed the classification of the hedge book from normal purchase and sale agreements to speculative contracts. The mark-to-market movements on these contracts were reflected in the income statement. We have reduced the remaining hedge positions of the Australian operations by primarily closing out the remainder of these hedge agreements. In fiscal 2007, we closed out the remainder of our Australian hedge book, which we had inherited with the acquisition of the Hill 50 mine. In total, some 220,000 ounces were closed out at an average spot rate of A\$809/ounce, for a total cost of A\$72.8 million (U.S.\$60.0 million). This means that we are completely unhedged.

Commodity Sales Agreements

We did not have any forward commodity sales agreements in place during fiscal 2009 and 2008.

Commodity Hedging Experience

In fiscal 2009, we sold 1,559,308 ounces of gold at an average price of U.S.\$863 per ounce. At a gold price of U.S.\$500, product sales would have amounted to approximately U.S.\$780 million for fiscal 2009, a reduction of approximately U.S.\$66 million in product sales. In fiscal 2008, we sold 1,948,776 ounces of gold at an average price of U.S.\$818 per ounce. At a gold price of U.S.\$500, product sales would have amounted to approximately U.S.\$974 million for fiscal 2008, a reduction of approximately U.S.\$620 million in product sales. In fiscal 2007, we sold 2,334,198 ounces of gold at an average price of U.S.\$638 per ounce. At a gold price of U.S.\$500, product sales would have amounted to approximately U.S.\$1,167 million for fiscal 2007, a reduction of approximately U.S.\$322 million in product sales.

The gold spot price on October 19, 2009 was U.S.\$1,050.50 per ounce. During fiscal 2009, the gold spot price traded in a range from U.S.\$712.50 to U.S.\$989.00 per ounce.

Foreign Currency Sensitivity

Our revenues are sensitive to the exchange rate of the Rand and other non-U.S. currencies to the U.S. dollar. We generally do not enter into forward sales, commodity, derivatives or other hedging arrangements to establish a ZAR/U.S.\$ exchange rate in advance for the sale of our future gold production.

We did not have any currency contracts in place as of June 30, 2009, 2008 or 2007.

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Interest Rate Sensitivity

Our interest rate risk arises mainly from long-term borrowings. We have both fixed and variable interest rate borrowings. Fixed rate borrowings expose us to fair value interest rate risk. Variable rate borrowings expose us to cash flow interest rate risk. We have not entered into interest rate swap agreements in fiscal years 2007, 2008 and 2009.

Sensitivity analysis

A change of 100 basis points in interest rates at June 30, 2009, 2008 and 2007 would have increased/(decreased) profit or loss before tax by the amounts shown below. This analysis assumes that all other variables remain constant.

	<u>2009</u>	<u>June 30, 2008</u> (\$ in millions)	<u>2007</u>
Increase in 100 basis points	—	3	16
Decrease in 100 basis points	—	(3)	(16)

The above table excludes the fixed rate convertible bond. As it is accounted for at amortized cost, interest rate changes do not affect reported profit and loss.

For further information on sensitivities, see note 4 of the consolidated financial statements in Item 18.

Item 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES

Not applicable.

GLOSSARY OF MINING TERMS

The following explanations are not intended as technical definitions, but rather are intended to assist the general reader in understanding certain terms as used in this annual report.

- Alluvial*: the product of sedimentary processes in rivers, resulting in the deposition of alluvium (soil deposited by a river).
- Arenaceous*: said of a sediment or sedimentary rock consisting wholly or in part of sand-sized fragments or having a sandy texture or the texture of such a sediment or rock.
- Auriferous*: a substance that contains gold (AU).
- Beneficiation*: the process of adding value to gold products by transforming gold bullion into fabricated gold products.
- Carbon In Pulp (CIP)*: a common process used to extract gold from cyanide leach slurries. The process consists of carbon granules suspended in the slurry and flowing counter-current to the process slurry in multiple-staged agitated tanks. The process slurry, which has been leached with cyanide prior to the CIP process, contains solubilized gold. The solubilized gold is absorbed onto the carbon granules, which are subsequently separated from the slurry by screening. The gold is then recovered from the carbon by electrowinning onto steel wool cathodes or by a similar process.
- Carbon In Solution (CIS)*: a process similar to CIP except that the gold, which has been leached by the cyanide into solution, is separated by the process of filtration (solid/liquid separation). The solution is then pumped through six stages where the solution comes into contact with the activated carbon granules.
- Cash cost*: a measure of the average cost of producing an ounce of gold, calculated by dividing the total cash working costs in a period by the total gold production over the same period. Working costs represent total operating costs less certain administrative expenses, royalties and depreciation. In determining the cash cost of different elements of the operations, production overheads are allocated pro rata.
- Conglomerate*: a coarse-grained classic sedimentary rock, composed of rounded to sub-angular fragments larger than 2mm in diameter (granules, pebbles, cobbles, boulders) set in a fine-grained matrix of sand or silt, and commonly cemented by calcium carbonate, iron oxide, silica or hardened clay.
- Crosscut*: a mine working that is driven horizontally and at right angles to an adit, drift or level.
- Cut and fill*: a method of underground mining in which a stope is excavated and refilled with material (waste or tailings).
- Cut-off grade*: the grade at which the total profit from mining the orebodies, under a specified set of mining parameters, is maximized.
- Cyanide leaching*: the extraction of a precious metal from an ore by its dissolution in a cyanide solution.
- Decline*: an inclined underground access way.
- Deferred Stripping*: the removal of overburden through stripping in the current period to access ore expected to be exploited in a future period. Costs incurred with deferred stripping are deferred until the ore is accessed, in order to ensure matching of costs and revenues.
- Depletion*: the decrease in quantity of ore in a deposit or property resulting from extraction or production.
- Development*: activities (including shaft sinking and on-reef and off-reef tunneling) required to prepare for mining activities and maintain a planned production level and those costs to enable the conversion of mineralized material to reserves.
- Electro-winning*: the process of removing gold from solution by the action of electric currents.
- Elution*: removal of the gold from the activated carbon before the zinc precipitation stage.

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- Exploration:* activities associated with ascertaining the existence, location, extent or quality of mineralized material, including economic and technical evaluations of mineralized material.
- Fabricated gold:* gold on which work has been performed to turn it into a product, such as jewelry, which differs from a pure investment product, such as a gold bullion bar.
- Fatal injury frequency rate:* the number of fatal injuries per million hours worked.
- Fluvial:* produced by the action of a stream or river.
- Footwall:* the underlying side of a fault, orebody or stope.
- Forward purchase:* an agreement for the purchase of a commodity at a specified future date at a fixed price.
- Forward sale:* the sale of a commodity for delivery at a specified future date and price.
- Gold reserves:* the gold contained within proven and probable reserves on the basis of recoverable material (reported as mill delivered tons and head grade).
- Gold lease rate swap:* an agreement to pay a floating lease rate in exchange for the fixed lease rate inherent in establishing the fixed price in one or more forward gold sales.
- Grade:* the quantity of metal per unit mass of ore expressed as a percentage or, for gold, as ounces of gold per ton of ore.
- Greenfield:* a potential mining site of unknown quality.
- Greenstone:* a field term applied to any compact dark-green altered or metamorphosed basic igneous rock that owes its color to the presence of chlorite, actinolite or epidote.
- Grinding:* reducing mineralized rock to the consistency of fine sand by crushing and abrading in a rotating steel grinding mill.
- Head grade:* the grade of the ore as delivered to the metallurgical plant.
- Heap leaching:* a low-cost technique for extracting metals from ore by percolating leaching solutions through heaps of ore placed on impervious pads. Generally used on low-grade ores.
- Leaching:* dissolution of gold from the crushed and milled material, including reclaimed slime, for absorption and concentration on to the activated carbon.
- Level:* the workings or tunnels of an underground mine that are on the same horizontal plane.
- Littoral:* of or pertaining to a shore.
- Longhole sub-level caving:* a process for removing ore in which relatively thin blocks of ore are caused to cave in by successively undermining small panels of ore. The broken and caved ore is then extracted by mechanical means.
- Lost time injury frequency rate:* the number of lost time injuries per million hours.
- Mark-to-market:* the current fair value of a derivative based on current market prices or to calculate the current fair value of a derivative based on current market prices, as the case may be.

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Measures: conversion factors from metric units to U.S. units are provided below.

Metric unit		U.S. equivalent
1 tonne	= 1 t	= 1.10231 short tons
1 gram	= 1 g	= 0.03215 ounces
1 gram per tonne	= 1 g/t	= 0.02917 ounces per short ton
1 kilogram per tonne	= 1 kg/t	= 29.16642 ounces per short ton
1 kilometer	= 1 km	= 0.621371 miles
1 meter	= 1 m	= 3.28084 feet
1 centimeter	= 1 cm	= 0.3937 inches
1 millimeter	= 1 mm	= 0.03937 inches
1 hectare	= 1 ha	= 2.47105 acres

Metallurgical plant: a processing plant used to treat ore and extract the contained gold.

Mill delivered tons: a quantity, expressed in tons, of ore delivered to the metallurgical plant.

Milling/mill: the comminution of the ore, although the term has come to cover the broad range of machinery inside the treatment plant where the gold is separated from the ore.

Mineable: that portion of a mineralized deposit for which extraction is technically and economically feasible.

Mineralization: the presence of a target mineral in a mass of host rock.

Mineralized material: a mineralized body that has been delineated by appropriately spaced drilling and/or underground sampling to support a sufficient tonnage and average grade of metals to warrant further exploration. Such a deposit does not qualify as a reserve until a comprehensive evaluation based upon unit cost, grade, recoveries, and other material factors conclude legal and economic feasibility.

Morphology: the form or shape of a crystal or mineral aggregate.

Open-pit/Open cast/Open cut: mining in which the ore is extracted from a pit. The geometry of the pit may vary with the characteristics of the orebody.

Ore: a mixture of mineralized material from which at least one of the contained minerals can be mined and processed at an economic profit.

Ore grade: the average amount of gold contained in a ton of gold bearing ore expressed in ounces per ton.

Ore reserves: that part of mineralized material which at the time of the reserve determination could be economically and legally extracted or produced. Ore reserves are reported as general indicators of the life of mineralized materials. Changes in reserves generally reflect:

- development of additional reserves;
- depletion of existing reserves through production;
- actual mining experience; and
- price forecasts.

Grades of ore actually processed may be different from stated reserve grades because of geologic variation in different areas mined, mining dilution, losses in processing and other factors. Recovery rates vary with the metallurgical characteristics and grade of ore processed. Neither reserves nor projections of future operations should be interpreted as assurances of the economic life of mineralized material nor of the profitability of future operations.

Orebody: a well defined mass of mineralized material of sufficient mineral content to make extraction economically viable.

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- Ounce*: one Troy ounce, which equals 31.1035 grams.
- Overburden*: the soil and rock that must be removed in order to expose an ore deposit.
- Overburden tons*: tons that need to be removed to access an ore deposit.
- Palaeotopography*: the topography implied at some time in the past.
- Pay limit*: the breakeven grade at which the orebody can be mined without profit or loss, calculated using the forecast gold price, working costs and recovery factors.
- Placer*: a sedimentary deposit containing economic quantities of valuable minerals mainly formed in alluvial environments.
- Precipitate*: the solid product of chemical reaction by fluids such as the zinc precipitation referred to below.
- Probable reserves*: reserves for which quantity and grade and/or quality are computed from information similar to that used for proven reserves, but the sites for inspection, sampling, and measurement are farther apart or are otherwise less adequately spaced. The degree of assurance, although lower than that for proven reserves, is high enough to assume continuity between points of observation.
- Prospect*: an area of land with insufficient data available on the mineralization to determine if it is economically recoverable, but warranting further investigation.
- Prospecting license*: an area for which permission to explore has been granted.
- Proven reserves*: reserves for which: (a) quantity is computed from dimensions revealed in outcrops, trenches, workings or drill holes; grade and/or quality are computed from the results of detailed sampling; and (b) the sites for inspection, sampling and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth and mineral content of reserves are well-established.
- Pyrite*: a brassy-colored mineral of iron sulphide (compound of iron and sulfur).
- Quartz*: a mineral compound of silicon and oxygen.
- Recovery grade*: the actual grade of ore realized after the mining and treatment process.
- Reef*: a gold-bearing sedimentary horizon, normally a conglomerate band, that may contain economic levels of gold.
- Refining*: the final stage of metal production in which final impurities are removed from the molten metal by introducing air and fluxes. The impurities are removed as gases or slag.
- Rehabilitation*: the process of restoring mined land to a condition approximating its original state.
- Sampling*: taking small pieces of rock at intervals along exposed mineralization for assay (to determine the mineral content).
- Shaft*: a shaft provides principal access to the underground workings for transporting personnel, equipment, supplies, ore and waste. A shaft is also used for ventilation and as an auxiliary exit. It is equipped with a surface hoist system that lowers and raises conveyances for men, materials and ore in the shaft. A shaft generally has more than one conveyancing compartment.
- Slimes*: the finer fraction of tailings discharged from a processing plant after the valuable minerals have been recovered.
- Slurry*: a fluid comprising fine solids suspended in a solution (generally water containing additives).
- Smelting*: thermal processing whereby molten metal is liberated from beneficiated ore or concentrate with impurities separating as lighter slag.
- Spot price*: the current price of a metal for immediate delivery.

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- Stockpile:* a store of unprocessed ore.
- Stockwork:* mineralized material consisting of a three-dimensional network of planar to irregular veinlets closely enough spaced that the whole mass can be mined.
- Stope:* the underground excavation within the orebody where the main gold production takes place.
- Stripping:* the process of removing overburden to expose ore.
- Sulphide:* a mineral characterized by the linkages of sulfur with a metal or semi-metal, such as pyrite, FeS.
- Syncline:* a basin-shaped fold.
- Tailings:* finely ground rock from which valuable minerals have been extracted by milling.
- Ton:* one ton is equal to 2,000 pounds (also known as a “short” ton).
- Tonnage:* quantities where the ton or tonne is an appropriate unit of measure. Typically used to measure reserves of gold-bearing material in situ or quantities of ore and waste material mined, transported or milled.
- Tonne:* one tonne is equal to 1,000 kilograms (also known as a “metric” ton).
- Trend:* the arrangement of a group of ore deposits or a geological feature or zone of similar grade occurring in a linear pattern.
- Unconformity:* the structural relationship between two groups of rock that are not in normal succession.
- Waste:* ore rock mined with an insufficient gold content to justify processing.
- Waste rock:* the non-mineralized rock and/or rock that generally cannot be mined economically that is hoisted to the surface for disposal on the surface normally close to the shaft on an allocated dump.
- Yield:* the actual grade of ore realized after the mining and treatment process.
- Zinc precipitation:* a chemical reaction using zinc dust that converts gold solution to a solid form for smelting into unrefined gold bars.

PART II

Item 13. DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES

Not applicable.

Item 14. MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS

MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS

At a general meeting held on November 24, 2008, our shareholders authorized the Board to (i) place 10% of the unissued ordinary shares of the company under directors’ control and (ii) authorizing the Board to allot and issue up to 10% of all or any of our authorized but unissued ordinary shares for cash to such persons and on such terms as the Board may, without restriction, from time to time, deem fit as and when suitable opportunities arise, but subject to the requirements of the JSE.

At a general meeting held on November 26, 2007, our shareholders authorized the Board to (i) place 10% of the unissued ordinary shares of the company under directors’ control and (ii) authorizing the Board to allot and issue up to 10% of all or any of our authorized but unissued ordinary shares for cash to such persons and on such terms as the Board may, without restriction, from time to time, deem fit as and when suitable opportunities arise, but subject to the requirements of the JSE.

At a general meeting held on November 11, 2006, our shareholders authorized the Board to acquire from time to time such a number of our issued ordinary shares at such price or prices and on such terms and conditions as the Board may determine, but subject to the requirements of the JSE and the requirements of the other exchanges upon which our ordinary shares may be quoted or listed. The shareholders also approved amendments to our Articles of Association in order to comply with the JSE amended listing requirements.

USE OF PROCEEDS

Not applicable.

Item 15. DISCLOSURE CONTROLS AND PROCEDURES

(a) Disclosure Controls and Procedures

As of June 30, 2009, our management, with the participation of our Chief Executive Officer (“**CEO**”) and Chief Financial Officer (“**CFO**”), carried out an evaluation, pursuant to Rule 13a-15 promulgated under the Exchange Act of the effectiveness of our “disclosure controls and procedures”. Based on the foregoing, our management, including the CEO and CFO, concluded that our disclosure controls and procedures were effective as of June 30, 2009.

(b) Management’s Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining effective internal control over financial reporting and for the assessment of the effectiveness of internal control over financial reporting. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Harmony’s internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company’s assets that could have a material effect on the financial statements. Where appropriate, the necessary actions are taken to remedy any failings or weaknesses identified from review of the effectiveness of the internal control system.

Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human error. Internal control over financial reporting also can be circumvented by collusion or improper management override. Also, projections of any evaluation of effectiveness to future periods are subject to risk that controls may become inadequate because of change in conditions, or that the degree of compliance with the policies or procedures may deteriorate. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Management conducted an evaluation of the effectiveness of its internal control over financial reporting based on the framework in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (“**COSO**”). Management has assessed the effectiveness of internal control over financial reporting, as of June 30, 2009, and has concluded that such internal control over financial reporting was effective based upon those criteria.

PricewaterhouseCoopers Inc, an independent registered public accounting firm, which has audited the consolidated financial statements included in this Annual Report, has issued an attestation report on the effectiveness of Harmony’s internal control over financial reporting as of June 30, 2009.

(c) Attestation Report of the Registered Public Accounting Firm

See report of PricewaterhouseCoopers Inc, an independent registered public accounting firm, on page F-2.

(d) Changes in Internal Control over Financial Reporting

There has been no change in Harmony’s internal control over financial reporting that occurred during fiscal 2009 that has materially affected or is reasonably likely to materially affect, Harmony’s internal control over financial reporting.

Item 16A. AUDIT COMMITTEE FINANCIAL EXPERT

At this time, we do not have an individual “audit committee financial expert” as defined by the rules of the SEC.

The audit committee members through their collective experience do meet a majority of the definitions of the SEC for an “audit committee financial expert” in both the private and public sectors. The members have served as directors and officers of numerous public companies and have over the years developed a strong knowledge and understanding of IFRS as issued by the IASB, overseeing the preparation, audit and evaluation of financial statements. We believe that the combined knowledge, skills and experience of the Audit Committee, and their authority to engage outside experts as they deem appropriate to provide them with advice on matters related to their responsibilities, enable them, as a group, to act effectively in the fulfillment of their tasks and responsibilities required under the Sarbanes-Oxley Act of 2002. See *Item 7. “Directors and Management — Board Practices — Audit Committee”*.

Item 16B. CODE OF ETHICS

The Harmony Code of Ethics has been developed to respond to the challenge of ethical conduct in a business environment. The Code of Ethics goes beyond the company’s legal and institutional responsibilities by formalizing our values. The purpose of the code is to guide employees’ behavior, not to provide specific answers to every conceivable situation in the workplace. We approached the development and the annual review of the Code of Ethics in a fully inclusive manner, with broad consultation and information gathering at all levels of the company. Employees have been kept fully informed about the Code of Ethics and all employees are expected to comply with its contents. (The term ‘employees’ is used in the broadest sense and includes all staff with which a service contract exists, including management, non-management, directors, contractors, consultants, suppliers and temporary staff.) An Ethics Committee was formed in May 2006, which consists of four executive managers and the Company Secretary (who chairs the meeting). This committee is required to meet quarterly to monitor the gift registers and any reported unethical behavior. The Code of Ethics is available on our website at www.harmony.co.za.

Item 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES

AUDIT FEES

The following sets forth the aggregate fees billed for each of the two past fiscal years for professional fees to our principal accountants for the audit of the annual financial statements or for services normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.

Fiscal year ended June 30, 2008	U.S.\$1.949 million
Fiscal year ended June 30, 2009	U.S.\$1.631 million

AUDIT-RELATED FEES

The following sets forth additional aggregate fees to those reported under “Audit Fees” in each of the last two fiscal years that were provided by the principal accountant that are reasonably related to the performance of the audit or review of the financial statements:

Fiscal year ended June 30, 2008	U.S.\$0.752 million
Fiscal year ended June 30, 2009	U.S.\$0.331 million

Fees related to interim reviews and review of interim reports, other SEC filings as well as guidance on section 404 Sarbanes Oxley compliance.

TAX FEES

The following sets forth the aggregate fees billed in each of the last two fiscal years for professional services rendered by the principal accountant for tax compliance, tax advice and tax planning:

Fiscal year ended June 30, 2008	U.S.\$0.052 million
Fiscal year ended June 30, 2009	U.S.\$0.038 million

Services comprised advice on capital gains tax issues, treatment of tax in respect of acquisitions, guidance on share option schemes.

ALL OTHER FEES

The following sets forth the aggregate fees billed in each of the last two fiscal years for products and services provided by the principal accountant not described above:

Fiscal year ended June 30, 2008	U.S.\$0.759 million
Fiscal year ended June 30, 2009	U.S.\$0.300 million

AUDIT COMMITTEE APPROVAL

Our audit committee pre-approves our engagement of PricewaterhouseCoopers Inc to render audit or non-audit services. All of the services described above were approved by the audit committee.

Item 16D. EXEMPTIONS FROM LISTING STANDARDS FOR AUDIT COMMITTEES

Not applicable.

Item 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS

Not applicable.

Item 16F. CHANGE IN REGISTRANT’S CERTIFYING ACCOUNTANT

Not applicable.

Item 16G. CORPORATE GOVERNANCE

Significant ways in which Harmony’s corporate governance practices differ from practices followed by publicly-listed US companies.

Foreign private issuers, such as Harmony, must briefly highlight any significant ways in which their corporate governance practices differ from those following by US-listed companies. Set out below is a brief, general summary of the significant differences:

US-listed companies are required to have a nominating/corporate governance committee, and all members of this committee must be non-executive directors. Harmony has a Nomination Committee which comprises three non-executive board members, two of whom are independent.

For US-listed companies, the chairperson of this committee is required to be the chairperson of the Board of Directors. The current chairman of the Harmony Board of Directors, Patrice Motsepe, is Chairman of one of Harmony’s largest shareholders, African Rainbow Minerals Limited, and is thus not independent.

US-listed companies are required to have a remuneration committee composed entirely of independent directors. Harmony has appointed a Remuneration Committee, comprising three board members, all of whom are non-executive and two of whom are independent.

The non-management directors of US-listed companies must meet at regularly scheduled executive sessions without management. Although Harmony does not specifically require such meetings of its non-executive directors, the Board has unrestricted access to all company information, records, documents and property. Directors may, if necessary, take independent professional advice at the company’s expense and non-executive directors have access to management and may meet separately with management, without the attendance of executive directors.

US-listed companies are required to publish and distribute to shareholders an annual report within 120 days from the end of its fiscal year. Non-US companies such as Harmony are given 225 days from the end of the fiscal year.

PART III

Item 17. FINANCIAL STATEMENTS

We have elected to provide financial statements for the fiscal year ended June 30, 2009 and the related information pursuant to Item 18.

Item 18. FINANCIAL STATEMENTS

Financial Statements

The financial statements appear in this annual report on Form 20-F beginning on page F-4. The report of the independent registered public accounting firm appears on page F-2.

Item 19. EXHIBITS

- 1.1 Memorandum of Association of Harmony, as amended (incorporated by reference to Harmony’s Registration Statement (file no. 333-13516) on Form F-3 filed on June 21, 2001).
- 1.2 Articles of Association of Harmony, as amended (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 2.1 Notice to shareholders dated September 25, 2007 in respect of the Annual General Meeting held on November 26, 2007 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 2.2 Share Exchange Agreement between Avmin and Harmony to acquire the shareholding in Avgold dated February 16, 2004 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2004, as amended, filed on October 14, 2004).
- 2.3 Deposit Agreement among Harmony, The Bank of New York, as Depositary, and owners and holders of American Depositary Receipts, dated as of August 12, 1996, as amended and restated as of October 2, 1996, as further amended and restated as of September 15, 1998 (incorporated by reference to Post-Effective Amendment No. 1 to Harmony’s Registration Statement (file no. 333-5410) on Form F-6 filed on May 17, 2001).
- 2.4 Form of ADR (included in Exhibit 2.3).
- 2.5 Form of Harmony’s senior unsecured 13% bonds due June 14, 2006 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2001 filed on September 26, 2001).
- 2.6 Form of Global Bond (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2004, as amended, filed on October 14, 2004).
- 2.7 Bond Offering Circular dated October 14, 2004 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2004, as amended, filed on October 14, 2004).
- 4.1 Harmony (2003) Share Option Scheme, as amended (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.2 Harmony 2006 Share Scheme (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 4.3 Sale of Shares Agreement amongst Harmony, ARMgold Harmony Joint Investment Company (Proprietary) Limited, and The ARM Broad-Based Empowerment Trust signed on April 15, 2005 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.4 Subordination Agreement amongst Harmony, Nedbank Limited and The ARM Broad-Based Empowerment Trust signed on April 15, 2005 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.5 First Loan Agreement between Nedbank Limited and The ARM Broad-Based Empowerment Trust signed on April 15, 2005 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.6 First Ranking Cessation and Pledge between The ARM Broad-Based Empowerment Trust and Nedbank Limited signed on April 15, 2005 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.7 Second Loan Agreement between Nedbank Limited and The ARM Broad-Based Empowerment Trust signed on April 15, 2005 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).

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- 4.8 Second Ranking Cessation and Pledge between The ARM Broad-Based Empowerment Trust and Nedbank Limited signed on April 15, 2005 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.9 Flow of Funds Agreement amongst Nedbank Limited, ARMgold Harmony Joint Investment Company (Proprietary) Limited, Harmony and The ARM Broad-Based Empowerment Trust signed on April 15, 2005 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.10 Harmony Undertaking amongst Harmony, ARMgold Harmony Joint Investment Company (Proprietary) Limited and Nedbank Limited signed on April 15, 2005 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2005, filed on November 3, 2005).
- 4.11 Term Loan Agreement with Rand Merchant Bank dated March 9, 2006 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2006, filed on October 31, 2006).
- 4.12 Pledge Agreement in favor of FirstRand Bank Limited (acting through its Rand Merchant Bank division) dated March 9, 2006 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2006, filed on October 31, 2006).
- 4.13 Senior Facility Agreement among Nedbank Limited and Harmony Gold Mining Company Limited and the Guarantors named therein dated on or about September 28, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 4.14 Cessation and Pledge in Security by African Rainbow Minerals Gold Limited in favour of Nedbank dated on or about September 28, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 4.15 Cessation and Pledge in Security by Harmony Gold Mining Company Limited in favour of Nedbank dated on or about September 28, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 4.16 Preference Share Subscription Agreement dated March 20, 2007 by and among FirstRand Bank Limited (RMB), Harmony and the subsidiaries named therein (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 4.17 Senior Bridge Loan Facility with RMB dated June 29, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 4.18 Draw Down Facility Agreement with Westpac Bank dated June 27, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2007, filed on December 7, 2007).
- 4.19 Sale Agreement with Randfontein Estates Limited, Clidet No. 726 (Proprietary) Limited and Clidet No. 770 (Proprietary) Limited dated December 18, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2008, filed on October 29, 2008).
- 4.20 Shareholders Agreement between ARMGold/Harmony Joint Investment Company (Proprietary) Limited, Clidet No. 770 (Proprietary) Limited and Clidet No. 726 (Proprietary) Limited dated December 18, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2008, filed on October 29, 2008).
- 4.21 Sale of Shares and Claim Agreement with Randfontein Estates Limited, ARMGold/Harmony Joint Investment Company (Proprietary) Limited and Clidet No. 770 (Proprietary) Limited dated December 18, 2007 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2008, filed on October 29, 2008).
- 4.22 Deed of Extinguishment of Royalty (Hidden Valley Project) dated May June 11, 2008 (incorporated by reference to Harmony's Annual Report on Form 20-F for the fiscal year ended June 30, 2008, filed on October 29, 2008).

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4.23	Senior Facility Agreement with Nedbank Limited dated September 28, 2007 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2008, filed on October 29, 2008).
4.24	Master Lease Facility Agreement between Morobe Consolidated Goldfields Limited and Westpac Bank PNG Limited (Hidden Valley Project) dated June 14, 2007 (incorporated by reference to Harmony’s Annual Report on Form 20-F for the fiscal year ended June 30, 2008, filed on October 29, 2008).
*4.25	Deed of Extinguishment of Royalty (Wafi-Golpu Project) dated February 16, 2009.
*4.26	Master Purchase and Farmin Agreement dated May 22, 2008 between Morobe Consolidated Goldfields Limited, Wafi Mining Limited, Morobe Exploration Limited, Newcrest PNG 1 Limited, Newcrest PNG 2 Limited and Newcrest PNG 1 Limited.
*4.27	Hidden Valley Joint Venture Agreement dated May 22, 2008 between Morobe Consolidated Goldfields Limited, Newcrest PNG 1 Limited and Hidden Valley Services Limited.
*4.28	Master Co-operation Agreement dated on or about August 5, 2008 between Hidden Valley Services Limited, Wafi-Golpu Services Limited, Morobe Exploration Services Limited, Harmony Gold (PNG Services) Pty Limited and Newcrest Mining Limited.
*8.1	Significant subsidiaries of Harmony Gold Mining Company Limited.
*12.1	Certification of the principal executive officer required by Rule 13a-14(a) or Rule 15(d)-14(a), pursuant to Section 302 of the Sarbanes Oxley Act of 2002.
*12.2	Certification of the principal financial officer required by Rule 13a-14(a) or Rule 15(d)-14(a), pursuant to Section 302 of the Sarbanes Oxley Act of 2002.
*13.1	Certification of the principal executive officer, pursuant to Section 906 of the Sarbanes Oxley Act of 2002.
*13.2	Certification of the principal financial officer, pursuant to Section 906 of the Sarbanes Oxley Act of 2002.

* Filed herewith

SIGNATURE

Pursuant to the requirements of Section 12 of the Exchange Act, we hereby certify that we meets all of the requirements for filing on Form 20-F and that we have duly caused this annual report to be signed on our behalf by the undersigned, thereunto duly authorized.

HARMONY GOLD MINING COMPANY LIMITED

By: /s/ Graham Briggs
Graham Briggs
Chief Executive Officer

Date: October 26, 2009

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Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Harmony Gold Mining Company Limited

In our opinion, the accompanying consolidated balance sheets and the related consolidated income statements, statements of other comprehensive income, of changes in shareholders’ equity and cash flows present fairly, in all material respects, the financial position of Harmony Gold Mining Company Limited and its subsidiaries at June 30, 2009 and 2008 and the results of their operations and their cash flows for each of the three years in the period ended June 30, 2009 in conformity with International Financial Reporting Standards as issued by the International Accounting Standards Board. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of June 30, 2009, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company’s management is responsible for these financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in Management’s Annual Report on Internal Control over Financial Reporting appearing under Item 15 (b). Our responsibility is to express opinions on these financial statements and on the Company’s internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in

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accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

PricewaterhouseCoopers Inc
Johannesburg, Republic of South Africa
October 26, 2009

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Consolidated income statements

For the years ended June 30,

Figures in million	Note	2009	US DOLLAR 2008*	2007*
Continuing operations				
Revenue		1,277	1,325	1,202
Cost of sales	5	(1,104)	(1,162)	(1,084)
Production costs		(850)	(959)	(907)
Amortisation and depreciation		(167)	(117)	(134)
Impairment of assets		(61)	(35)	(37)
Employment termination and restructuring costs		(4)	(32)	—
Other items		(22)	(19)	(6)
Gross profit		173	163	118
Corporate, administration and other expenditure		(40)	(33)	(31)
Exploration expenditure		(32)	(32)	(30)
Profit on sale of property, plant and equipment	6	116	18	25
Other expenses — net	7	(3)	(13)	—
Operating profit	8	214	103	82
Profit/(loss) from associates	22	1	(11)	(3)
Profit on sale of investment in associate	9	—	—	33
Impairment of investment in associate	22	(14)	(12)	—
Fair value (loss)/gain on financial instruments	10	(10)	5	15
Loss on sale of listed investments	11	—	(63)	(5)
Investment income	12	49	39	27
Finance cost	13	(24)	(71)	(66)
Profit/(loss) before taxation		216	(10)	83
Taxation	14	(23)	(68)	(50)
Net profit/(loss) from continuing operations		193	(78)	33
Discontinued operations				
Profit from discontinued operations	15	118	48	18
Net profit/(loss)		311	(30)	51
Earnings/(loss) per ordinary share (cents):				
Earnings/(loss) from continuing operations	16	47	(20)	8
Earnings from discontinued operations		28	12	4
Total earnings/(loss) for the period		75	(8)	12
Diluted earnings/(loss) per ordinary share (cents):				
Earnings/(loss) from continuing operations	16	46	(20)	8
Earnings from discontinued operations		28	12	4
Total diluted earnings/(loss) for the period		74	(8)	12

* The comparative periods have been re-presented for a change in discontinued operations. Refer to note 15.

The accompanying notes are an integral part of these consolidated financial statements.

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Consolidated statements of other comprehensive income
For the years ended June 30,

Figures in million	Note	2009	US DOLLAR 2008	2007
Net profit/(loss) for the period		311	(30)	51
Attributable to:				
Owners of the parent		311	(30)	51
Other comprehensive income/(loss) for the period, net of income tax		111	(204)	41
Foreign exchange translation		105	(246)	87
Mark-to-market of available-for-sale investments	28	6	42	(46)
Total comprehensive income/(loss) for the period		422	(234)	92
Attributable to:				
Owners of the parent		422	(234)	92

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Consolidated balance sheets
As at June 30,

Figures in million	Note	US DOLLAR	
		2009	2008
Assets			
Non-current assets			
Property, plant and equipment	17	3,614	3,531
Intangible assets	18	288	283
Restricted cash	19	21	10
Restricted investments	20	212	188
Investment in financial assets	21	7	9
Investment in associates	22	43	19
Deferred tax asset	14	222	190
Trade and other receivables	24	10	18
Total non-current assets		4,417	4,248
Current assets			
Inventories	25	134	89
Trade and other receivables	24	115	112
Income and mining taxes		6	11
Cash and cash equivalents	26	253	53
		508	265
Assets of disposal groups classified as held-for-sale	15	—	197
Total current assets		508	462
Total assets		4,925	4,710
Equity and liabilities			
Share capital and reserves			
Share capital	27	4,004	3,787
Other reserves	28	(72)	(196)
Accumulated loss		(108)	(419)
Total equity		3,824	3,172
Non-current liabilities			
Borrowings	29	14	31
Deferred tax	14	643	573
Provision for environmental rehabilitation	30	198	145
Retirement benefit obligation and other provisions	31	22	18
Total non-current liabilities		877	767
Current liabilities			
Trade and other payables	32	189	201
Income and mining taxes		2	12
Borrowings	29	33	494
		224	707
Liabilities of disposal groups classified as held-for-sale	15	—	64
Total current liabilities		224	771
Total equity and liabilities		4,925	4,710

The accompanying notes are an integral part of these consolidated financial statements.

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Consolidated statements of changes in shareholders’ equity
For the years ended June 30,

	Number of ordinary shares issued	Share capital	Share premium	Accumulated loss	Other reserves	Total
Figures in million (US Dollar)						
<i>Note</i>		27			28	
Balance — June 30, 2006	396,934,450	32	3,700	(438)	(45)	3,249
Dividends declared	—	—	—	(1)	—	(1)
Issue of shares						
— Exercise of employee share options	2,673,934	—	19	—	—	19
Share-based payments	—	—	1	—	6	7
Total comprehensive income for the year	—	—	—	51	41	92
Balance — June 30, 2007	399,608,384	32	3,720	(388)	2	3,366
Dividends declared	—	—	—	(1)	—	(1)
Issue of shares						
— Exercise of employee share options	1,786,213	—	12	—	—	12
— Exchange for PNG Royalty	1,859,159	—	20	—	—	20
Share-based payments	—	—	3	—	6	9
Total comprehensive loss for the year	—	—	—	(30)	(204)	(234)
Balance — June 30, 2008	403,253,756	32	3,755	(419)	(196)	3,172
Issue of shares						
— Exercise of employee share options	1,322,964	—	7	—	—	7
— Exchange for PNG Royalty	3,364,675	—	23	—	—	23
— Capital raising	18,045,441	1	186	—	—	187
Share-based payments	—	—	—	—	13	13
Total comprehensive income for the year	—	—	—	311	111	422
Balance — June 30, 2009	425,986,836	33	3,971	(108)	(72)	3,824

The accompanying notes are an integral part of these consolidated financial statements.

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Consolidated cash flow statements
For the years ended June 30,

Figures in million	Notes	US DOLLAR		
		2009	2008	2007
Cash flow from operating activities				
Cash generated by operations	33	319	268	164
Interest received		51	38	25
Dividends received		—	5	3
Interest paid		(31)	(57)	(31)
Income and mining taxes paid		(85)	(18)	(2)
Cash generated by operating activities		254	236	159
Cash flow from investing activities				
Net increase in amounts invested in environmental trusts		—	(11)	(2)
(Increase)/decrease in restricted cash		(9)	28	(4)
Proceeds on disposal of South Kal Mine assets	33	—	18	—
Proceeds on disposals of Papua New Guinea joint venture	33	235	—	—
Proceeds on disposals of Randfontein Cooke assets	33	209	—	—
Proceeds on disposal of available-for-sale financial assets		—	184	55
Acquisition of intangible assets		(4)	(3)	(6)
Acquisition of other non-current investments		(4)	(11)	(5)
Proceeds on disposal of property, plant and equipment		6	18	27
Additions to property, plant and equipment		(339)	(552)	(383)
Cash generated/(utilised) by investing activities		94	(329)	(318)
Cash flow from financing activities				
Long-term borrowings raised		—	323	253
Long-term borrowings paid		(427)	(256)	(139)
Ordinary shares issued		194	12	19
Dividends paid		—	(1)	(1)
Cash (utilised)/generated by financing activities		(233)	78	132
Foreign currency translation adjustments		85	(2)	6
Net increase/(decrease) in cash and equivalents		200	(17)	(21)
Cash and equivalents — beginning of period		53	70	91
Cash and equivalents — end of period		253	53	70

The accompanying notes are an integral part of these consolidated financial statements.

Notes to the consolidated financial statements
For the years ended June 30,

1 General information

Harmony Gold Mining Company Limited (“**the Company**”) and its subsidiaries (collectively “**Harmony**” or “**the Group**”) are engaged in gold mining and related activities, including exploration, extraction and processing. Gold bullion, the Group’s principal product, is currently produced at its operations in South Africa. Harmony has operations in Papua New Guinea, where the construction of the Hidden Valley mine is being completed, as well as in Western Australia.

The Company is a public company, incorporated and domiciled in South Africa. The address of the registered office is Randfontein Office Park, Corner Main Reef Road and Ward Avenue, Randfontein, 1759.

These consolidated financial statements were authorised for issue by the board of directors on October 9, 2009.

2 Accounting policies

The principal accounting policies applied in the preparation of the consolidated financial statements are set out below. These policies have been consistently applied in all years presented.

2.1 Basis of preparation

The annual financial statements are prepared on the historical cost basis, as modified by available-for-sale financial assets, and financial assets and liabilities, which have been brought to account at fair value. The financial statements are prepared in accordance with International Financial Reporting Standards (“**IFRS**”) as issued by the International Accounting Standards Board (“**IASB**”).

New accounting standards and IFRIC interpretations

(a) Standards and interpretations effective in 2009 but not relevant:

The following standards and interpretations to published standards are mandatory for accounting periods beginning on or after July 1, 2008 but are not relevant to the Group’s operations:

Amendments to IAS 39 and IFRS 7, IAS 39 — Financial Instruments: Recognition and Measurement and IFRS 7 Financial Instruments: Disclosures — Reclassification of Financial Assets;

IFRIC 14, IAS 19 — The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction;

IFRIC 12, Service concession arrangements; and

IFRIC 13, Customer Loyalty Programmes.

(b) Standards and amendments early adopted by the Group in the 2008 year:

IAS 1 (Revised) — Presentation of Financial Statements:

IAS 23 (Revised) — Borrowing Costs; and

IFRS 8 — Operating Segments.

(c) Standards, amendments and interpretations to existing standards that are not yet effective and have not been early adopted by the Group:

At the date of authorisation of these financial statements, the standards, amendments and interpretations listed below were in issue but not yet effective. These new standards and interpretations have not been early adopted by the Group and a reliable estimate of the impact of the adoption thereof for the Group cannot yet be determined for all of them, as management is still in the process of determining the impact of these standards and interpretations on future financial statements. The Group plans on adopting these standards, amendments and interpretations on the dates when they become effective.

Amendments and revised standards:

IAS 27 (Revised) — Consolidated and Separate Financial Statements (effective from periods beginning July 1, 2009).

The revised standard requires the effects of all transactions with non-controlling interests to be recorded in equity if there is no change in control. They will no longer result in goodwill or gains and losses. The standard also specifies the accounting when control is lost. Any remaining interest in the entity is re-measured to fair value and a gain or loss is recognised in profit or loss. The effect of the amended IAS 27 will be recorded in future periods when such transactions are entered into.

IFRS 3 (Revised) — Business Combinations (effective from periods beginning July 1, 2009).

The new standard continues to apply the acquisition method to business combinations, with some significant changes. For example, all payments to purchase a business are to be recorded at fair value at the acquisition date, with some contingent payments subsequently re-measured at fair value through income. Goodwill may be calculated based on the parent’s share of net assets or it may include goodwill related to the minority interest. All transaction costs will be expensed. The effect of the revised IFRS 3 will be recorded in future periods when such transactions are entered into.

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IFRS 2 (Amendment) — Share-Based Payment: Vesting Conditions and Cancellations (effective from periods beginning January 1, 2009).

The amendment deals with two matters. It clarifies that vesting conditions are service conditions and performance conditions only. Other features of a share-based payment are not vesting conditions. It also specifies that all cancellations, whether by the entity or by other parties, should receive the same accounting treatment. The effect of the amended IFRS 2 will be recorded in future periods when such transactions affecting vesting conditions and cancellations on share based payment occurs.

IAS 32 and IAS 1 (Amendment) — IAS 32 Financial Instruments: Presentation and IAS 1 Presentation of financial statements: Puttable Financial Instruments and Obligations Arising on Liquidation (effective from periods beginning January 1, 2009).

The amendments require entities to classify the following types of financial instruments as equity, provided they have particular features and meet specific conditions: a) puttable financial instruments (for example, some shares issued by co-operative entities); b) instruments, or components of instruments, that impose on the entity an obligation to deliver to another party a pro rata share of the net assets of the entity only on liquidation (for example, some partnership interests and some shares issued by limited life entities). Additional disclosures are required about the instruments affected by the amendments. The Group does not expect the adoption of these amendments to have an impact on the consolidated financial statements.

IFRS 1 and IAS 27 (Amendment) — IFRS 1 First-Time Adoption of International Financial Reporting Standards and IAS 27 Consolidated and Separate Financial Statements: Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate (effective from periods beginning January 1, 2009).

The amendment allow first-time adopters to use a deemed cost of either fair value or the carrying amount under previous accounting practice to measure the initial cost of investments in subsidiaries, jointly controlled entities and associates in the separate financial statements. The amendment also removed the definition of the cost method from IAS 27 and replaced it with a requirement to present dividends as income in the separate financial statements of the investor. The Group is not a first-time adopter of IFRS. The effect of the amended IAS 27 will be recorded in future periods when such transactions are entered into.

IAS 39 (Amendment) — IAS 39 Financial Instruments: Recognition and Measurement Exposures Qualifying for Hedge Accounting (effective from periods beginning January 1, 2009).

The amendment makes two significant changes. It prohibits designating inflation as a hedgeable component of a fixed rate debt. It also prohibits including time value in the one-sided hedged risk when designating options as hedges. The Group currently does not anticipate the change to affect the financial statements as the Group does not have hedges.

IFRS 7 (Amendment) — Financial Instruments disclosures: Improving Disclosures about Financial Instruments (effective from periods beginning January 1, 2009).

The amendment increases the disclosure requirements about fair value measurement and reinforces existing principles for disclosure about liquidity risk. The amendment introduces a three-level hierarchy for fair value measurement disclosure and requires some specific quantitative disclosures for financial instruments in the lowest level in the hierarchy. In addition, the amendment clarifies and enhances existing requirements for the disclosure of liquidity risk primarily requiring a separate liquidity risk analysis for derivative and non-derivative financial liabilities. The standard will affect the disclosure of financial instruments in the financial statements.

Annual improvements to IFRS issued August 2008 (effective on or after January 1, 2009 unless otherwise specified).

This is a collection of amendments to IFRSs. These amendments are the result of conclusions the IASB reached on proposals made in its annual improvements project. The annual improvements project provides a vehicle for making non-urgent but necessary amendments to IFRSs. Some amendments involve consequential amendments to other IFRSs. The Group is assessing the impact that these improvements will have on the financial statements.

Annual improvements to IFRS issued April 2009 (effective on or after January 1, 2010 unless otherwise specified).

This is a collection of amendments to IFRSs. These amendments are the result of conclusions the IASB reached on proposals made in its annual improvements project. The annual improvements project provides a vehicle for making non-urgent but necessary amendments to IFRSs. Some amendments involve consequential amendments to other IFRSs. The Group will assess the impact that these improvements will have on the financial statements.

New interpretations:

IFRIC 15 — Agreements for the Construction of Real Estate (effective from periods beginning January 1, 2009)

IFRIC 15 addresses diversity in accounting for real estate sales. IFRIC 15 clarifies how to determine whether an agreement is within the scope of IAS 11 — Construction contracts or IAS 18 - Revenue and when revenue from construction should be recognised. The guidance replaces example 9 in the appendix to IAS 18. The Group does not expect this interpretation to have an impact on the financial statements.

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IFRIC 16 — Hedges of a Net Investment in a Foreign Operation (effective from periods beginning October 1, 2008)

IFRIC 16 provides guidance on identifying the foreign currency risks that qualify as a hedged risk (in the hedge of a net investment in a foreign operation). It secondly provides guidance on where, within a group, hedging instruments that are hedges of a net investment in a foreign operation can be held to qualify for hedge accounting. Thirdly, it provides guidance on how an entity should determine the amounts to be reclassified from equity to profit or loss for both the hedging instrument and the hedged item. The Group currently does not anticipate the change affecting our financial statements as the Group does not have hedges on its net investments in foreign operations.

IFRIC 17 — Distributions of Non-cash Assets to Owners (effective from periods beginning July 1, 2009)

IFRIC 17 applies to the accounting for distributions of non-cash assets (commonly referred to as dividends in specie) to the owners of the entity. The interpretation clarifies that: a dividend payable should be recognised when the dividend is appropriately authorised and is no longer at the discretion of the entity; an entity should measure the dividend payable at the fair value of the net assets to be distributed; and an entity should recognise the difference between the dividend paid and the carrying amount of the net assets distributed in profit or loss. The effect of the interpretation will be recorded in future periods when such transactions are entered into.

IFRIC 18 — Transfers of assets from customers (effective from periods beginning July 1, 2009)

The interpretation clarifies the accounting treatment for transfers of property, plant and equipment received from customers. This Interpretation applies to agreements with customers in which the entity receives cash from a customer when that amount of cash must be used only to construct or acquire an item of property, plant and equipment and the entity must then use the item of property, plant and equipment either to connect the customer to a network or to provide the customer with ongoing access to a supply of goods and services, or to do both. The Group currently does not expect this interpretation to have any effect on the financial statements.

2.2 Consolidation

The consolidated financial information includes the financial statements of the Company, its subsidiaries, its proportionate interest in joint ventures, special purpose entities ("**SPES**") and its interests in associates.

- (i) **Subsidiaries**, which are those entities in which the Group has an interest of more than one half of the voting rights or otherwise has power to govern the financial and operating policies, are consolidated. Subsidiaries are consolidated from the date on which control is acquired and are no longer consolidated when control ceases. The purchase method of accounting is used to account for the acquisition of subsidiaries. The cost of an acquisition is measured as the fair value of the assets given up, shares issued or liabilities assumed at the date of acquisition plus costs directly attributable to the acquisition.

Identifiable assets acquired and liabilities and contingent liabilities assumed in a business combination are measured initially at their fair values at the acquisition date, irrespective of the extent of any non-controlling interests. Non-controlling interests are carried at a proportion of the net identifiable assets acquired.

The excess of the cost of acquisition over the fair value of the Group's share of the identifiable net assets acquired is recorded as goodwill (refer to 2.7).

In situations of successive share purchases when control already existed at the date of further acquisition, no fair value adjustment is made to the identifiable net assets acquired and any excess/deficit purchase price over the carrying value of non-controlling interests acquired is accounted for in equity.

Intercompany transactions, balances and unrealized gains on transactions between group companies are eliminated on consolidation. Unrealized losses are also eliminated and may provide evidence of an impairment that should be recognized. Where necessary, accounting policies of subsidiaries have been changed to ensure consistency with the policies adopted by the Group.

- (ii) **Associates** are those entities, other than a subsidiary, in which the Group has a material interest and in respect of which the Group exercises significant influence over operational and financial policies, normally owning between 20% and 50% of the voting equity, but which it does not control.

Investments in associates are accounted for by using the equity method of accounting, and are initially recognized at cost. The cost of an acquisition is measured as the fair value of the assets given up, shares issued or liabilities assumed at the date of acquisition plus costs directly attributable to the acquisition.

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The Group’s share of the associates’ post-acquisition profits or losses is recognized in the income statement, and its share of post-acquisition movement in reserves is recognized in other reserves. Cumulative post-acquisition movements are adjusted against the carrying amount of the investment. When the Group’s shares of losses in an associate equals or exceeds its interest in the associate, including any other unsecured receivables, the Group does not recognize further losses, unless it has incurred obligations or made payments on behalf of the associate.

The Group’s investment in associates includes goodwill identified on acquisition.

The carrying value of an associate is reviewed on a regular basis and, if an impairment in the carrying value has occurred, it is written off in the period in which such impairment is identified.

Unrealized gains on transactions between the Group and its associates are eliminated to the extent of the Group’s interest in the associates. Unrealized losses are also eliminated and may provide evidence of an impairment that should be recognized.

Accounting policies of associates have been reviewed to ensure consistency with the policies adopted by the Group.

- (iii) **Joint ventures** are those entities in which the Group holds a interest and which is jointly controlled by the Group and one or more ventures under a contractual arrangement. The Group’s interest in jointly controlled entities is accounted for by proportionate consolidation. Under this method, the Group includes its share of the joint venture’s individual income and expenses, assets and liabilities and cash flows on a line-by-line basis with similar items in the Group’s financial statements.

The Group recognizes the portion of gains or losses on the sale of assets by the Group to the joint venture that is attributable to the other ventures. The Group does not recognize its share of profits or losses from the joint venture that result from the purchase of assets by the Group from the joint venture until it resells the assets to an independent party. However, if a loss on the transaction provides evidence of a reduction in the net realizable value of current assets or an impairment loss, the loss is recognized immediately.

- (iv) **Special purpose entities (“SPEs”)** are those undertakings that are created to satisfy specific business needs of the Group, These are consolidated where the Group has the right to the majority of the benefits of the SPE and/or is exposed to the majority of the risk thereof. SPEs are consolidated in the same manner as subsidiaries when the substance of the relationship indicates that the SPE is controlled by the Group.
- (v) **Transactions with non-controlling interests.** The Group applies a policy of treating transactions with minority interests as transactions with equity owners of the Group. For purchases from non-controlling interests, the difference between any consideration paid and the relevant share acquired of the carrying value of net assets of the subsidiary is recorded in equity. Gains or losses on disposals to non-controlling interests are also recorded in equity.

2.3 Foreign currency transactions

- (i) **Functional and presentation currency:** Items included in the financial statements of each of the Group’s entities are measured using the currency of the primary economic environment in which the entity operates (the functional currency).

For translation of the Rand financial statement items to US dollar, the average of R9.00 (2008: R7.26; 2007:R7.20) per US\$1 was used for income statement items (unless this average was not a reasonable approximation of the cumulative effect of the rates prevailing on the transaction dates, in which case these items were translated at the rate on the date of the transactions) and the closing rate of R7.72 (2008: R7.80) per US\$1 for asset and liability items. Equity items were translated at historic rates.

References to “A\$” refers to Australian currency, “R” to South African currency, “\$” or “US\$” to United States currency and “K” or “Kina” to Papua New Guinean currency.

- (ii) **Transactions and balances:** Foreign currency transactions are translated into the functional currency using the exchange rates prevailing at the dates of the transactions. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation to year-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognized in the income statement. These transactions are included in the determination of other expenses — net.

Changes in the fair value of monetary securities denominated in a foreign currency classified as available-for-sale are analyzed between translation differences resulting from changes in the amortized cost of the security, and other changes in the carrying amount of the security. Translation differences are recognized in profit or loss, and other changes in carrying amount are recognized in other reserves.

Translation differences on non-monetary financial assets and liabilities are reported as part of fair value gains or losses. Translation differences on non-monetary financial assets and liabilities such as equities held at fair value through profit or loss are recognized in profit or loss as part of the fair value gain or loss. Translation differences on non-monetary financial assets such as equities classified as available-for-sale are included in other comprehensive income.

- (iii) **Group companies:** The results and financial position of all Group entities (none of which has the currency of a hyperinflationary economy) that have a functional currency different from the presentation currency are translated into the presentation currency as follows:

- a) assets and liabilities for each balance sheet presented are translated at the closing rate at the date of that balance sheet;
- b) income and expenses for each income statement are translated at average exchange rates (unless this average is not a reasonable approximation of the cumulative effect of the rates prevailing on the transaction dates, in which case income and expenses are translated at the rate on the date of the transactions);
- c) all resulting exchange differences are recognized as a separate component of other reserves; and
- d) equity items are translated at historic rates.

On consolidation, exchange differences arising from the translation of the net investment in foreign operations, and of borrowings and other currency instruments designated as hedges of such investments, are taken to other reserves. When a foreign operation is sold or the loans included in the net investment in foreign operations are repaid or partially repaid, exchange differences that were recorded in equity are recognized in profit or loss in the period in which the sale or repayment takes place.

Goodwill and fair value adjustments arising on the acquisition of a foreign operation are treated as assets and liabilities of the foreign operation and translated at the closing rate.

2.4 Segmental reporting

Operating segments are reported in a manner consistent with the internal reporting provided to the chief operating decision-maker. The chief operating decision-maker has been identified as the executive committee. The accounting policies of the segments are the same as those described in the accounting policy notes to the financial statements.

2.5 Property, plant and equipment

- (i) **Mining assets** including mine development costs and mine plant facilities are initially recorded at cost, where after it is measured at cost less accumulated amortization and impairment.

At the Group's surface mines, when it has been determined that a mineral property can be economically developed as a result of establishing proven and probable reserves, costs incurred to develop the property are capitalized as incurred until the mine is considered to have moved into the production phase. These costs include costs to further delineate the ore body and remove overburden to initially expose the ore body. Stripping costs incurred during the production phase to remove waste ore are deferred and charged to production costs on the basis of the average life-of-mine stripping ratio. The average stripping ratio is calculated as the number of tonnes of waste material removed per tonne of ore mined. The average life-of-mine ratio is revised annually in the light of additional knowledge and change in estimates. The cost of "excess stripping" is capitalized as mine development costs when the actual stripping ratio exceeds the average life of mine stripping ratio. Where the average life of mine stripping ratio exceeds the actual stripping ratio, the cost is charged to the income statement.

At the Group's underground mines, all costs incurred to develop the property, including costs to access specific ore blocks or other areas of the underground mine, are capitalized to the extent that such costs will provide future economic benefits as a result of establishing proven and probable reserves associated with specific ore blocks or areas of operations. These costs include the cost of shaft sinking and access, the costs of building access ways, lateral development, drift development, ramps, box cuts and other infrastructure development.

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During the development stage, the Group may enter into arrangements whereby it agrees to transfer a part of its mineral interest in consideration for an agreement by another party (the farmee) to meet certain expenditure which would otherwise have to be undertaken by the Group. Such arrangements, referred to as farm-in transactions, are accounted for as executory contracts — particularly when the expenditures to be incurred by the farmee are discretionary in nature, and the mineral interest to be transferred may vary depending upon such discretionary spend. At the date of completion of each party's obligations under the farm-in arrangement, the Group derecognizes the proportion of the mining assets and liabilities associated with the joint venture that it has sold to the farmee, and recognizes its interest in the capital expenditure (consideration received) at fair value within operating assets. The difference between the net disposal proceeds and the carrying amount of the asset disposed of is recognized in profit or loss.

Borrowing costs are capitalized to the extent that they are directly attributable to the acquisition and construction of qualifying assets. Qualifying assets are assets that take a substantial time to get ready for their intended use. These costs are capitalized until the asset moves into the production phase. Other borrowing costs are expensed.

The net assets of operations placed on care and maintenance are impaired to their recoverable amount. Expenditure on the care and maintenance of these operations is charged against income, as incurred.

Where a depreciable asset is used in the construction or extension of a mine, the depreciation is capitalized against the mines cost.

- (ii) **Non-mining assets:** Land is shown at cost and not depreciated. Other non-mining fixed assets are shown at cost less accumulated depreciation and accumulated impairment losses.
- (iii) **Undeveloped properties** are initially valued at the fair value of resources obtained through acquisitions. The carrying value of these properties are annually tested for impairment. Once development commences, these properties are transferred to mining properties and accounted for in accordance with the related accounting policy.
- (iv) **Mineral and surface use rights** represent mineral and surface use rights for parcels of land both owned and not owned by the Group. Mineral and surface rights include acquired mineral use rights in production, development and exploration phase properties. The amount capitalized related to a mineral and surface right represents its fair value at the time it was acquired, either as an individual asset purchase or as part of a business combination, and is recorded at cost of acquisition.

Production phase mineral interests represent interests in operating properties that contain proven and probable reserves. Development phase mineral interests represent interests in properties under development that contain proven and probable reserves. Exploration phase mineral interests represent interests in properties that are believed to potentially contain (i) other mineralized material such as inferred material within pits; measured, indicated and inferred material with insufficient drill spacing to qualify as proven and probable reserves; (ii) around-mine exploration potential such as inferred material not immediately adjacent to existing reserves and mineralization but located within the immediate mine infrastructure; (iii) other mine-related exploration potential that is not part of measured, indicated or inferred material and is comprised mainly of material outside of the immediate mine area; or (iv) greenfield exploration potential that is not associated with any production, development or exploration phase property as described above.

The Group's mineral use rights are enforceable regardless of whether proven or probable reserves have been established. In certain limited situations, the nature of a use changes from an exploration right to a mining right upon the establishment of proven and probable reserves. The Group has the ability and intent to renew mineral use rights where the existing term is not sufficient to recover all identified and valued proven and probable reserves and/or undeveloped mineral interests.

- (v) **Leased assets:** The Group leases certain property, plant and equipment. Leases of property, plant and equipment where the Group has substantially all the risks and rewards of ownership are classified as finance leases. The assets are capitalized at the lease's commencement at the lower of the fair value of the leased property and the present value of the minimum lease payments.

Finance lease payments are allocated using the rate implicit in the lease, which is included in finance costs, and the capital repayment, which reduces the liability to the lessor. The corresponding rental obligations, net of finance charges, are included in Borrowings, with the current portion included under Current Liabilities.

Capitalized lease assets are depreciated over the shorter of their estimated useful lives and the lease terms.

- (vi) **Depreciation and amortization of mining assets:** Depreciation and amortization of mineral property interests, mineral and surface rights, mine development costs and mine plant facilities are computed principally by the units of production method based on estimated proved and probable reserves. Changes in management's estimates of the quantities of economically recoverable reserves impact amortization and depreciation on a prospective basis.

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Costs incurred and capitalized to enable access to specific ore blocks or areas of the mine, and which only provide an economic benefit over the period of mining that ore block or area, are amortized using the units-of-production method where the denominator is the proven and probable reserves within that ore block or area.

If capitalized underground development costs provide an economic benefit over the entire life-of-mine, the costs are amortized using the unit-of-production method, where the denominator is the total accessible proven and probable reserves.

Proved and probable ore reserves reflect estimated quantities of economically recoverable reserves which can be recovered in future from known mineral deposits. Amortization is first charged on mining ventures from the date on which the mining ventures are considered to have moved into the production phase.

(vii) Depreciation and amortization of non-mining fixed assets: Other non-mining fixed assets are depreciated on a straight line basis over their estimated useful lives as follows:

- Vehicles at 20% per year;
- Computer equipment at 33.3% per year; and
- Furniture and equipment at 16.67% per year.

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each balance sheet date.

Gains and losses on disposals are determined by comparing proceeds with carrying amount. These are included in the income statement.

(viii) Depreciation and amortization of mineral and surface use rights: Mineral rights associated with production phase mineral interests are amortized over the life of mine using the units-of-production method in order to match the amortization with the expected underlying future cash flows. Mineral interests associated with development and exploration phase mineral interests are not amortized until such time as the underlying property is converted to the production stage.

For details on the Group's accounting policy on impairments, refer to note 2.8.

2.6 Exploration costs

The Group expenses all exploration and evaluation expenditures until the directors conclude that a future economic benefit is more likely to be realized than not, i.e. 'probable'. The information that the directors use to make that determination depends on the level of exploration as well as the degree of confidence in the ore body.

Exploration and evaluation expenditure on greenfield sites, being those where the Group does not have any mineral deposits which are already being mined or developed, is expensed as incurred until a final feasibility study has been completed, after which the expenditure is capitalized within development costs if the final feasibility study demonstrates that future economic benefits are probable.

Exploration and evaluation expenditure on brownfield sites, being those adjacent to mineral deposits which are already being mined or developed, is expensed as incurred until the directors are able to demonstrate that future economic benefits are probable through the completion of a prefeasibility study, after which the expenditure is capitalized as a mine development cost. A 'prefeasibility study' consists of a comprehensive study of the viability of a mineral project that has advanced to a stage where the mining method, in the case of underground mining, or the pit configuration, in the case of an open pit, has been established, and which, if an effective method of mineral processing has been determined, includes a financial analysis based on reasonable assumptions of technical, engineering, operating economic factors and the evaluation of other relevant factors. The prefeasibility study, when combined with existing knowledge of the mineral property that is adjacent to mineral deposits that are already being mined or developed, allows the directors to conclude that it is more likely than not that the Group will obtain future economic benefit from the expenditures.

Exploration and evaluation expenditure relating to extensions of mineral deposits which are already being mined or developed, including expenditure on the definition of mineralization of such mineral deposits, is capitalized as a mine development cost following the completion of an economic evaluation equivalent to a feasibility study. This economic evaluation is distinguished from a feasibility study in that some of the information that would normally be determined in a feasibility study is instead obtained from the existing mine or development. This information when combined with existing knowledge of the mineral property already being mined or developed allow the directors to conclude that more likely than not the Group will obtain future economic benefit from the expenditures.

Costs relating to property acquisitions are also capitalized. These costs are capitalized within development costs.

2.7 Intangible assets

Intangible assets consist of all identifiable non-monetary assets without physical substance. They are stated at cost less accumulated amortization and accumulated impairment losses, if any. The following are the main categories of intangible assets:

i) Intangible assets with an indefinite useful life

Intangible assets with an indefinite useful life are not amortized but tested for impairment on an annual basis. Goodwill represents the excess of the cost of an acquisition over the fair value of the Group's share of the net assets of the acquired subsidiary, associate, joint venture or business at the date of acquisition. Goodwill on acquisition of subsidiaries, joint ventures and businesses are included in intangible assets. Goodwill on acquisition of associates is included in investments in associates and tested for impairment as part of the overall balance.

Goodwill is tested annually for impairment and carried at cost less accumulated impairment losses. Impairment losses on goodwill are not reversed. The impairment testing is performed on June 30.

Goodwill is allocated to cash-generating units for the purpose of impairment testing. The allocation is made to those cash-generating units or groups of cash-generating units that are expected to benefit from the business combination in which the goodwill arose. If the composition of one or more cash-generating units to which goodwill has been allocated changes due to a re-organization, the goodwill is re-allocated to the units affected.

The gain or loss on disposal of an entity includes the carrying amount of goodwill relating to the entity sold.

(ii) Intangible assets with a finite useful life

Acquired computer software licenses are capitalized on the basis of costs incurred to acquire and bring to use the specific software. Intangible assets with a finite useful life are amortized on a straight line basis of over their estimated useful lives, which are reviewed annually, as follows:

- Computer software at 20% per year.

2.8 Impairment of non-financial assets

Assets that have an indefinite useful life are not subject to amortization and are tested annually for impairment.

Assets that are subject to amortization are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

An impairment loss is recognized for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash flows (cash generating units). Each operating shaft, along with allocated common assets such as plants and administrative offices, is considered to be a cash generating unit as each shaft is largely independent from the cash flows of other shafts and assets belonging to the Group.

The assets' recoverable amount is generally determined using discounted estimated future cash flows. Future cash flows are estimated based on quantities of recoverable minerals, expected gold prices (considering current and historical prices, price trends and related factors), production levels and cash costs of production, all based on life-of-mine plans.

The term "recoverable minerals" refers to the estimated amount of gold that will be obtained from proven and probable reserves and all related exploration stage mineral interests (except for other mine-related exploration potential and greenfields exploration potential discussed separately below) after taking into account losses during ore processing and treatment. Estimates of recoverable minerals from such related exploration stage mineral interests will be risk adjusted based on management's relative confidence in such materials. In estimating future cash flows, assets are grouped at the lowest level for which there are identifiable cash flows that are largely independent of cash flows from other asset groups. With the exception of other mine-related exploration potential and greenfields exploration potential, estimates of future undiscounted cash flows are included on an area of interest basis, which generally represents an individual operating mine, even if the mines are included in a larger mine complex.

In the case of mineral interests associated with other mine-related exploration potential and greenfields exploration potential, cash flows and fair values are individually evaluated based primarily on recent exploration results and recent transactions involving sales of similar properties, if any. Assumptions underlying future cash flow estimates are subject to significant risks and uncertainties.

Non-financial assets other than goodwill that suffered an impairment are reviewed for possible reversal of the impairment at each reporting date. Reversal of impairments is also considered when there is objective evidence to indicate that the asset is no longer impaired.

2.9 Financial instruments

Financial instruments are initially measured at fair value when the Group becomes a party to their contractual arrangements. Transaction costs are included in the initial measurement of financial instruments, with the exception of financial instruments classified as at fair value through profit or loss. The subsequent measurement of financial instruments is discussed below.

A financial asset is derecognized when the right to receive cash flows from the asset has expired or the Group has transferred its rights to receive cash and either (a) has transferred substantially all the risks and rewards of the asset, or (b) has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control of the assets.

A financial liability is derecognized when the obligation under the liability is discharged, cancelled or expires.

On derecognition of a financial asset, the difference between the carrying amount and the sum of the consideration received and any cumulative gain or loss recognized in equity is recognized in profit or loss.

On derecognition of a financial liability, the difference between the carrying amount of the liability extinguished or transferred to another party and the amount paid is recognized in profit or loss.

Financial assets

The Group classifies its financial assets in the following categories: loans and receivables, available-for-sale, held-to-maturity and at fair value through profit or loss. The classification depends on the purpose for which the financial assets were acquired. Management determines the classification of its financial assets at initial recognition.

Purchases and sales of financial assets are recognized on trade-date, the date on which the Group commits to purchase or sell the asset.

- (i) **Loans and receivables**, are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They arise when the Group provides money, goods or services directly to a debtor with no intention of trading the receivable. Loans and receivables are subsequently measured at amortized cost using the effective interest method. They are included in current assets, except for those with maturities greater than 12 months after the balance sheet date which are classified as non-current assets. Loans and receivables include trade and other receivables (excluding VAT and prepayments), restricted cash and cash and cash equivalents.

Cash and cash equivalents

Cash and cash equivalents are defined as cash on hand, deposits held at call with banks and short-term highly liquid investments with original maturities of three months or less. Cash and cash equivalents exclude restricted cash (discussed below).

Restricted cash

Restricted cash consists of cash held for guarantees and performance bonds related to environmental rehabilitation.

Trade and other receivables

Trade and other receivables are recognized initially at fair value and subsequently measured at amortized cost using the effective interest method, less provision for impairment. A provision for impairment of receivables is established when there is objective evidence that the Group will not be able to collect all amounts due according to the original terms of receivables. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganization, and default or delinquency in payments are considered indicators that the trade receivable is impaired. The amount of the provision is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the effective interest rate. The carrying amount of the asset is reduced through the use of a provision for impairment (allowance account) and the amount of the loss is recognized in the income statement. When a trade receivable is uncollectible, it is written off against the allowance account for trade receivables. Subsequent recoveries of amounts previously written off are credited in the income statement.

- (ii) **Available-for-sale financial assets**, are non-derivatives that are either designated in this category or not classified in any of the other categories. They are included in non-current assets unless management intends to dispose of the investment within 12 months of the balance sheet date.

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Available-for-sale financial assets are subsequently carried at fair value. Changes in the fair value of monetary securities denominated in a foreign currency and classified as available-for-sale are analyzed between translation differences resulting from changes in amortized cost of the security and other changes in the carrying amount of the security. The translation differences on monetary securities are recognized in profit or loss, while translation differences on non-monetary securities are recognized in other reserves. Changes in the fair value of monetary and non-monetary securities classified as available-for-sale are recognized in other reserves.

When securities classified as available-for-sale are sold or impaired, the accumulated fair value adjustments recognized in other comprehensive income are reclassified in the income statement as profit or loss on sale of listed investments. Dividends on available-for-sale equity instruments are recognized in the income statement as part of investment income when the Group's right to receive payments is established.

The fair values of quoted investments are based on current bid prices. If the value for a financial instrument cannot be obtained from an active market, the Group establishes fair value by using valuation techniques. These include the use of recent arm's length transactions, reference to other instruments that are substantially the same, discounted cash flow analysis, and option pricing models refined to reflect the issuer's specific circumstances. The valuation techniques make maximum use of market inputs and rely as little as possible on entity-specific inputs.

The Group assesses at each balance sheet date whether there is objective evidence that a financial asset or a group of financial assets is impaired. In the case of equity securities classified as available-for-sale, a significant or prolonged decline in the fair value of the security below its cost is considered in determining whether the securities are impaired. If, in the opinion of the directors, permanent diminution in value exists for available-for-sale financial assets, the cumulative loss — measured as the difference between the acquisition cost and the current fair value, less any impairment loss on that financial asset previously recognized in profit or loss — is removed from other reserves and recognized in the income statement. Subsequent increases in the fair value are recognized in equity — impairment losses recognized in the income statement on equity instruments are not reversed through the income statement.

- (iii) **Held-to-maturity investments** are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Group's management has the positive intention and ability to hold to maturity. The Group's held-to-maturity investments are subsequently measured at amortized cost using the effective interest method.

The restricted investments held by the trust funds (refer note 20) are classified as held-to-maturity investments.

- (iv) **Financial assets at fair value through profit or loss** have two sub-categories: financial assets held-for-trading, and those designated at fair value through profit and loss at inception. A financial asset is classified in this category if acquired principally for the purpose of selling in the short term or if so designated by management in terms of specified criteria. Derivatives are also categorized as held-for-trading unless they are designated as hedges. Assets in this category are classified as current assets if they are either held-for-trading or are expected to be realized within 12 months of the balance sheet date. These assets are subsequently measured at fair value with gains or losses arising from changes in fair value recognized in the income statement in the period in which they arise.

Financial liabilities

Borrowings

Borrowings are initially recognized at fair value net of transaction costs incurred and subsequently measured at amortized cost, comprising original debt less principal payments and amortization, using the effective yield method.

The fair value of the liability portion of a convertible bond is determined using a market interest rate for an equivalent non-convertible bond. This amount is recorded as a liability on an amortized cost basis until extinguished on conversion or maturity of the bonds. The remainder of the proceeds are allocated to the conversion option. This is recognized and included in equity, net of income tax effects.

Borrowings are classified as current liabilities unless the Group has an unconditional right to defer settlement of the liability for at least 12 months after the balance sheet date.

Trade and other payables

Trade and other payables are recognized initially at fair value and subsequently measured at amortized cost using the effective interest method.

2.10 Inventories

Inventories which include bullion on hand, gold in process, ore stockpiles and stores and materials, are measured at the lower of cost and net realizable value after appropriate allowances for redundant and slow moving items. Cost of bullion and gold in process is determined by reference to production cost, including amortization and depreciation at the relevant stage of production. Ore stockpiles are valued at average production cost. Stockpiles are classified as a non-current asset where the stockpile exceeds current processing capacity.

Stores and materials consist of consumable stores and are valued at weighted average cost.

Net realizable value is the estimated selling price in the ordinary course of business less the estimated cost of completion and the estimated cost necessary to perform the sale.

Gold in process inventories represent materials that are currently in the process of being converted to a saleable product. Conversion processes vary depending on the nature of the ore and the specific mining operation, but include mill in-circuit, leach in-circuit, flotation and column cells, and carbon in-pulp inventories. In-process material is measured based on assays of the material fed to process and the projected recoveries at the respective plants. In-process inventories are valued at the average cost of the material fed to process attributable to the source material coming from the mine, stockpile or leach pad plus the in-process conversion costs, including the applicable depreciation relating to the process facility, incurred to that point in the process. Bullion on hand and gold in process at certain of the underground operations include gold in lockup which can be reliably measured, and generally this is from the smelter onwards. Where mechanized mining is used in underground operations, in-progress material is accounted for at the earliest stage of production when reliable estimates of quantities and costs are capable of being made, normally from when ore is broken underground. Given the varying nature of the Group's open pit operations, gold in process represents either production in broken ore form or production from the time of placement on heap leach pads.

2.11 Non-current assets or disposal group held-for-sale and discontinued operations

A non-current asset or disposal group (a business grouping of assets and their related liabilities) is designated as held-for-sale when its carrying amount will be recovered principally through a sale transaction rather than through continuing use. The classification as held-for-sale of a non-current asset or disposal group occurs when it is available for immediate sale in its present condition and the sale is highly probable. A sale is considered highly probable if management is committed to a plan to sell the non-current asset or disposal group, an active divestiture programme has been initiated, the non-current assets or disposal group is marketed at a price reasonable to its fair value and the disposal will be completed within one year from classification.

Upon classification of a non-current asset or disposal group as held-for-sale, it is reviewed for impairment. The impairment charged to the income statement is the excess of the carrying value of the non-current asset or disposal group over its expected net selling price (fair value less costs to sell). At each subsequent reporting date, the carrying values are remeasured for possible impairment. A gain is recognized for any subsequent increase in net selling price but not in excess of the cumulative impairment loss already recognized.

No depreciation is provided on non-current assets from the date they are classified as held-for-sale.

When a disposal group is classified as held-for-sale it is also necessary to assess whether or not the criteria for discontinued operations are met. If the criteria are met, the results of the disposal group are classified as discontinued operations in the income statement and the comparative amounts restated for all periods presented.

If a non-current asset or disposal group is classified as held-for-sale but the criteria for classification as held-for-sale are no longer met, the disclosure of such non-current asset or disposal group as held-for-sale is ceased.

On ceasing such classification, the non-current assets are reflected at the lower of:

- the carrying amount before classification as held for sale adjusted for any depreciation or amortization that would have been recognized had the assets not been classified as held-for-sale; or
- the recoverable amount at the date the classification as held-for-sale ceases. The recoverable amount is the amount at which the asset would have been recognized after the allocation of any impairment loss arising on the cash generating unit as determined in accordance with the group's policy on impairment of non-financial assets.

Any adjustment required to be made on reclassification is charged to the income statement on reclassification, and included in income from continuing operations.

Where the disposal group was also classified as a discontinued operation, the subsequent classification from held-for-sale also requires that the discontinued operation be included in continuing operations. Comparative information in the income statement and cash flow note disclosures relating to the classification as a discontinued operation is re-presented accordingly. Comparative information in the balance sheet is not re-presented for this change.

2.12 Environmental obligations

Estimated long term environmental obligations, comprising pollution control, rehabilitation and mine closure, are based on the Group’s environmental management plans in compliance with current technological, environmental and regulatory requirements.

Based on disturbances to date, the net present value of expected rehabilitation cost estimates are recognized and provided for in full in the financial statements. The estimates are reviewed annually and are discounted using a pre-tax risk-free rate that is adjusted to reflect the current market assessments of the time value of money and the risks specific to the obligation.

Annual changes in the provision consist of finance costs relating to the change in the present value of the provision and inflationary increases in the provision estimate, as well as changes in estimates. The present value of environmental disturbances created are capitalized to mining assets against an increase in the rehabilitation provision. Rehabilitation projects undertaken, included in the estimates are charged to the provision as incurred. The cost of ongoing current programmes to prevent and control pollution is charged against income as incurred. Over time, the liability is increased to reflect an interest element, and the capitalized cost is depreciated over the life of the related asset.

2.13 Environmental trust funds

Contributions are made to the Group’s trust funds, created in accordance with statutory requirements, to fund the estimated cost of pollution control, rehabilitation and mine closure at the end of the life of the Group’s mines. Contributions are determined on the basis of the estimated environmental obligation over the life of the mine. The trusts are consolidated into the Group. Income earned on monies paid to environmental trust funds is accounted for as investment income. The funds contributed to the trusts plus growth in the trust funds are included under restricted investments on the balance sheet.

2.14 Provisions

Provisions are recognized when the Group has a present legal or constructive obligation as a result of past events where it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation, and a reliable estimate of the amount of the obligation can be made.

The amount recognized as a provision is the present value of the best estimate of the expenditure required to settle the present obligation at balance sheet date. This estimate takes into account the associated risks and uncertainties. The increase in the provision due to the passage of time is recognized as interest expense.

Provisions are reviewed at each balance sheet date and adjusted to reflect the current best estimate. If it is no longer probable that an outflow of economic benefits will be required, the provision is reversed.

2.15 Current and deferred taxation

The current income tax charge is calculated on the basis of the tax laws enacted or substantively enacted at the balance sheet date in the countries where the Group operates and generates taxable income. Management periodically evaluates positions taken in tax returns with respect to situations in which applicable tax regulations is subject to interpretation and establishes provisions where appropriate on the basis of amounts expected to be paid to the tax authorities.

The Group follows the comprehensive liability method of accounting for deferred tax using the balance sheet approach. Under this method deferred income taxes are recognized for the tax consequences of temporary differences by applying expected tax rates to the differences between the tax base of all assets or liabilities and its balance sheet carrying amount. Deferred tax is charged to the income statement, except to the extent that deferred tax arises from the initial recognition of an asset or liability in a transaction that is not a business combination and does not affect the accounting or taxable profit or loss at the time of the transaction. The effect on deferred tax of any changes in tax rates is recognized in the income statement, except to the extent that it relates to items previously charged or credited directly to equity.

The principal temporary differences arise from amortization and depreciation on property, plant and equipment, provisions, post retirement benefits, unutilized tax losses and unutilized capital allowances carried forward. Deferred tax assets relating to the carry forward of unutilized tax losses and unutilized capital allowances are recognized to the extent that it is probable that future taxable profit will be available against which the unutilized tax losses and unutilized capital allowances can be utilized.

Deferred income tax is provided on temporary differences arising from investments in subsidiaries, joint ventures and associates, except where the timing of the reversal of the temporary difference is controlled by the Group and it is probable that the temporary difference will not reverse in the foreseeable future.

2.16 Employee benefits

- (i) **Pension and provident plans** are funded through annual contributions. The Group’s contributions to the defined contribution pension and provident plans are charged to the income statement in the year to which they relate. The Group’s liability is limited to its annually determined contributions.

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- (ii) **Medical plans:** The Group provides medical cover to current employees and certain retirees through certain funds. The medical accounting costs for the defined benefit plan are assessed using the projected unit credit method. The health care obligation is measured as the present value of the estimated future cash outflows using market yields consistent with the term and risks of the obligation. Actuarial gains and losses as a result of these valuations are recognized in the income statement at revaluation date. The future liability for current and retired employees and their dependents is accrued in full based on actuarial valuations obtained annually.
- (iii) **Equity compensation benefits:** The Group operates an equity-settled, share-based payments plan, where the Group grants share options to certain employees. Equity share-based payments are measured at fair value of the equity instruments at the date of the grant. The share-based payments are expensed over the vesting period, based on the Group's estimate of the shares that are expected to eventually vest. The Group used an appropriate option pricing model in determining the fair value of the options granted. Non-market vesting conditions are included in assumptions about the number of options that are expected to vest. At each balance sheet date, the estimates of the number of options that are expected to become exercisable are revised. The impact of the revision of original estimates, if any, are recognized in the income statement, with a corresponding adjustment to equity. The proceeds received net of any directly attributable transaction costs are credited to share capital (nominal value) and share premium when the options are exercised.
- (iv) **Termination benefits** are payable when employment is terminated before the normal retirement date, or whenever an employee accepts voluntary redundancy in exchange for these benefits. The Group recognizes termination benefits when it is demonstrably committed to either: terminating the employment of current employees according to a detailed formal plan without possibility of withdrawal; or providing termination benefits as a result of an offer made to encourage voluntary redundancy. Benefits falling due more than 12 months after balance sheet date are discounted to present value.
- (v) **Leave pay:** The Group accrues for the cost of the leave days granted to employees during the period in which the leave days accumulate.

2.17 Share capital

Ordinary shares are classified as equity. Incremental costs directly attributable to the issue of new shares or options are shown in equity as a deduction, net of tax, from the proceeds.

2.18 Leases

Leases in which a significant portion of the risk and rewards of ownership are retained by the lessor are classified as operating leases. Payments made under operating leases (net of any incentives received from the lessor) are charged to the income statement on a straight-line basis over the period of the lease.

For the Group's policy on finance leases, refer to note 2.5 (v).

2.19 Revenue recognition

- (i) **Revenue** arising from gold sales is recognized when the price is determinable, the product has been delivered in accordance with the terms of the contract, the significant risks and rewards of ownership have been transferred to the customer and collection of the sales price is reasonably assured. These criteria are typically met when the gold arrives at the refinery.

Revenue further excludes value-added tax. Revenues from silver and other by-products sales are credited to production costs as a by-product credit.
- (ii) **Interest income:** Interest is recognized on a time proportion basis, taking into account the principal outstanding and the effective rate over the period to maturity, when it is determined that such income will accrue to the Group.
- (iii) **Dividend income** is recognized when the shareholder's right to receive payment is established. This is recognized at the last date of registration.

2.20 Dividends declared

Dividends declared are recognized in the period in which they are approved by the shareholders. Dividends are payable in South African Rand.

3 Critical accounting estimates and judgments

The preparation of the financial statements in conformity with IFRS requires the Group's management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Estimates and judgments are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances.

The resulting accounting estimates may differ from actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below:

3.1 Impairment of mining assets

The recoverable amount of mining assets is generally determined utilizing discounted future cash flows. Management also considers such factors as the quality of the individual orebody and country risk in determining the fair value.

Key assumptions for the calculations of the mining assets' recoverable amounts are the forward gold price and the annual life of mine plans. In determining the gold price to be used, management assess the long term views of several reputable institutions on the gold price and based on this, derive the forward gold price. The life of mine plans are based on the proven and probable reserves as included in the Reserve Declaration, which are determined in terms of SAMREC and JORC.

During the year under review, the Group calculated the recoverable amounts (generally fair value less costs to sell) based on updated life of mine plans, a gold price of R225 000 per kilogram and a discount rate of 9.34% (2008: R180 000 per kilogram and a 11.36% discount rate; 2007: R115 000 and a discount rate of 9.18%). Cash flows used in the impairment calculations are based on life of mine plans which exceed five years for the majority of the mines. Refer to note 5 for details of impairments recorded.

Should management's estimate of the future not reflect actual events, further impairments may be identified. Factors affecting the estimates include:

- changes to proven and probable ore reserves;
- the grade of the ore reserves may vary significantly from time to time;
- review of strategy;
- differences between actual commodity prices and commodity price assumptions;
- unforeseen operational issues at the mines;
- changes in capital, operating mining, processing and reclamation costs.

It is impracticable to disclose the extent of the possible effects of the changes in assumptions for the forward gold price and life of mine plans at June 30, 2009, as these assumptions are inextricably linked.

3.2 Impairment of investment in associate

The investments in associates are evaluated for impairment by comparing the entire carrying value of the investment to the recoverable amount, which is the higher of value in use or fair value less costs to sell. In calculating fair value less cost to sell, the cash flows from disposal are looked at with reference to the closing share price at year end.

3.3 Valuation of available-for-sale financial assets

If the value of financial instruments cannot be obtained from an active market, the Group establishes fair value by using valuation techniques. These include the use of recent arm's length transactions, reference to other instruments that are substantially the same, discounted cash flow analysis and option pricing models refined to reflect the issuer's specific circumstances. When considering indications of an impairment, management considers a prolonged decline to be longer than 12 months. The significance of the decline is assessed for each security individually.

3.4 Estimate of exposure and liabilities with regard to rehabilitation costs

Estimated long term environmental obligations, comprising pollution control, rehabilitation and mine closure, are based on the Group's environmental management plans in compliance with current technological, environmental and regulatory requirements.

Management used an inflation rate of 6% (2008: short-term (two years): 9% and long-term: 6%; 2007: 5%) and the expected life of the mines according to the life-of-mine plans in the calculation of the estimated net present value of the rehabilitation liability. The discount rates used for the calculation are dependant on the shaft's life of mine and are as follows: for 12 months — 6.75% (2008: 12.25%; 2007: 13.77%); for 1 - 5 years — 8.25% (2008: 11.75%; 2007: 10.61%); for 5 - 9 years — 8.25% (2008: 10.5%; 2007: 9.49%) and for 10 years or more — 8.75% (2008: 10.25%; 2007: 9.25%). These estimates were based on recent yields determined on government bonds.

3.5 Estimate of employee benefit liabilities

An updated actuarial valuation is carried out at the end of each financial year. Assumptions used to determine the liability included a discount rate of 10%, no increases in employer subsidies (in terms of the agreement) and mortality rates according to the SA 1956/62 mortality table (SA “a mf” tables) (60 years) and a medical inflation rate of 7.8% (2008: discount rate of 12%, 60 years and 9.8% inflation rate; 2007: discount rate of 9%, 60 years and 6.34% inflation rate).

Management determined the discount rate by assessing financial instruments with similar terms to the liability. The decreases to the discount rate and medical inflation rate are similar to changes in interest and inflation rates in South Africa.

3.6 Estimate of taxation

The Group is subject to income tax in numerous jurisdictions. Significant judgment is required in determining the worldwide provision for income taxes. There are many transactions and calculations for which the ultimate tax determination is uncertain during the ordinary course of business. The Group recognizes liabilities for anticipated tax audit issues based on estimates of whether additional taxes will be due. Where the final tax outcome of these matters are different from the amounts that were initially recorded, such differences will impact the income tax and deferred tax provisions in the period in which such determination is made.

Management has to exercise judgment with regards to deferred tax assets. Where the possibility exists that no future taxable income may flow against which these assets can be offset, the deferred tax assets are not raised.

3.7 Fair value of share-based payments

The fair value of options granted are being determined using either a binominal, Black-Scholes or a Monte Carlo valuation model. The significant inputs into the model are: vesting period, risk free interest rate, volatility, price on date of grant and dividend yield. (Refer to note 36 for detail on each of the share option schemes.)

3.8 Impairment of goodwill

Due to the wasting nature of mining assets and the finite life of a mine’s reserves, the allocation of goodwill to a shaft will eventually result in an impairment charge for the goodwill. The Group tests annually whether separately identifiable goodwill has suffered any impairment, in accordance with the accounting policy stated in note 2.8. These calculations require the use of estimates as stated in note 3.1.

3.9 Gold in lock-up

Gold in lock-up in certain plants is estimated based on the calculated plant call factor. Plant call factor is the efficiency measurement of the percentage of gold extracted from the ore.

3.10 Assessment of contingencies

Contingencies will only realize when one or more future events occur or fail to occur. The exercise of significant judgment and estimates of the outcome of future events are required during the assessment of the impact of such contingencies.

3.11 Gold mineral reserves

Gold mineral reserves are estimates of the amount of ounces that can be economically and legally extracted from the Group’s properties. In order to calculate the gold mineral reserves, estimates and assumptions are required about a range of geological, technical and economic factors, including quantities, grades, production techniques, recovery rates, production costs, commodity prices and exchange rates.

Estimating the quantities and/or grade of the reserves requires the size, shape and depth of the orebodies to be determined by analyzing geological data such as the logging and assaying of drill samples. This process may require complex and difficult geological judgments and calculations to interpret the data.

Because the economic assumptions used to estimate the gold mineral reserves change from year to year, and because additional geological data is generated during the course of operations, estimates of the mineral reserves may change from year to year. Changes in the proven and probable reserves may affect the Group’s financial results and financial position in a number of ways, including:

- asset carrying values may be affected due to changes in estimated cash flows;
- depreciation and amortization charged in the income statement may change as they are calculated on the units-of-production method; and
- environmental provisions may change as the timing and/or cost of these activities may be affected by the change in mineral reserves.

At the end of each financial year, the estimate of proven and probable gold mineral reserve is updated. Depreciation of mining assets is prospectively adjusted, based on these changes.

3.12 Production start date

Various relevant criteria are considered in order to assess when the mine is substantially complete and ready for its intended use and moves into the production phase. Some of the criteria would include but are not limited to the following:

- the level of capital expenditure compared to the total project cost estimates;
- the ability to produce gold in a saleable form (where more than an insignificant amount of gold has been produced); and
- the ability to sustain the ongoing production of gold.

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4 Financial risk management

The Group’s financial instruments expose it to a variety of financial risks: market risk (including currency risk, fair value interest rate risk, cash flow interest rate risk and other price risk), credit risk and liquidity risk. The Group may use derivative financial instruments to hedge certain risk exposures.

The Group’s financial instruments are set out below:

Figures in US dollar million	Loans and receivables	Available- for-sale financial assets	Held-to- maturity investments	Financial liabilities at amortized cost
At June 30, 2009:				
Restricted cash	21	—	—	—
Restricted investments	—	—	212	—
Investments in financial assets	—	7	—	—
Trade and other receivables	90	—	—	—
Cash and cash equivalents	253	—	—	—
Borrowings	—	—	—	47
Trade and other payables	—	—	—	71
At June 30, 2008:				
Restricted cash	10	—	—	—
Restricted investments	—	—	188	—
Investments in financial assets	—	9	—	—
Trade and other receivables	87	—	—	—
Cash and cash equivalents	53	—	—	—
Borrowings	—	—	—	525
Trade and other payables	—	—	—	94

Risk management is carried out by a central treasury department (Group Treasury) under policies approved by the Board of Directors. Group Treasury identifies, evaluates and hedges certain selected financial risks in close co-operation with the Group’s operating units. The Board provides written principles for overall risk management, as well as written policies covering specific areas, such as foreign exchange risk, interest rate risk, credit risk, use of derivative financial instruments and non-derivative financial instruments, and the investment of excess liquidity.

(a) Market risk

(i) Foreign exchange risk

The Group operates internationally and is exposed to foreign exchange risk arising from various currency exposures, primarily with respect to the US dollar (US\$). Foreign exchange risk arises from future commercial transactions, recognized assets and liabilities and net investments in foreign operations. Foreign exchange risk arises when future commercial transactions or recognized assets or liabilities are denominated in a currency that is not the entity’s functional currency. Harmony’s revenues are sensitive to the ZAR/US\$ exchange rate as all revenues are generated by gold sales denominated in US\$. Harmony generally does not enter into forward sales, derivatives or other hedging arrangements to establish a ZAR/US\$ exchange rate in advance for the sale of its future gold production.

The Group is exposed to foreign exchange risk arising from inter-company loans denominated in a currency other than the functional currency of that entity (A\$ and Kina). Harmony generally does not enter into forward sales, derivatives or other hedging arrangements to manage this risk.

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Sensitivity analysis

The group has reviewed its foreign currency exposure on financial assets and financial liabilities and has identified the following sensitivities for a 10% change in the exchange rate.

Figures in million	US DOLLAR	
	2009	2008
A\$ against US\$		
Increase by ten percent	1	3
Decrease by ten percent	(1)	(3)
Closing rate	0.81	0.96
A\$ against Rand		
Increase by ten percent	—	30
Decrease by ten percent	—	(30)
Closing rate	7.72	7.51
Kina against A\$		
Increase by ten percent	17	35
Decrease by ten percent	(17)	(35)
Closing rate	2.71	2.42

(ii) Other price risk

The Group is exposed to the risk of fluctuations in the fair value of the available-for-sale financial assets as a result of changes in market prices (other than changes in interest rates and foreign currencies). Harmony generally does not use any derivative instruments to manage this risk.

Sensitivity analysis

The equity investments are listed on the Australian Securities Exchange. A one percent increase in the share price at the reporting date, with all other variables held constant, would have increased other comprehensive income by US\$0.07 million (2008: US\$0.1 million; an equal change in the opposite direction would have decreased other comprehensive income by US\$0.07 million (2008: US\$0.1 million). The analysis is performed on the same basis for 2008.

Commodity price sensitivity

The profitability of the Group’s operations, and the cash flows generated by those operations, are affected by changes in the market price of gold. Harmony generally does not enter into forward sales, derivatives or other hedging arrangements to establish a price in advance for the sale of future gold production.

(iii) Cash flow and fair value Interest rate risk

The Group’s interest rate risk arises mainly from long-term borrowings. The Group has both fixed and variable interest rate borrowings. Fixed rate borrowings expose the Group to fair value interest rate risk. Variable rate borrowings expose the Group to cash flow interest rate risk. The Group has not entered into interest rate swap agreements.

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Sensitivity analysis

A change of 100 basis points in interest rates at the reporting date would have increased/(decreased) profit or loss before tax by the amounts shown below. This analysis assumes that all other variables remain constant. The analysis is performed on the same basis for 2008.

Figures in million	US DOLLAR	
	2009	2008
Increase by 100 basis points	—	3
Decrease by 100 basis points	—	(3)

The above table excludes the fixed rate convertible bond. As it is accounted for at amortized cost, interest rate changes do not affect reported profit or loss.

(b) Credit risk

Credit risk is the risk that a counterparty may default or not meet its obligations timeously. Financial instruments, which subject the Group to concentrations of credit risk, consist predominantly of restricted cash, restricted investments, trade and other receivables (excluding non-financial assets) and cash and cash equivalents.

Exposure to credit risk on trade and other receivables is monitored on a regular basis. The credit risk arising from restricted cash, cash and cash equivalents and restricted investments is managed by ensuring amounts are only invested with financial institutions of good credit quality. The Group has policies that limit the amount of credit exposure to any one financial institution.

It is the policy of the Group to renegotiate credit terms with long-standing customers who have a good credit history with the Group. These customers are monitored on an ongoing basis to ensure that the customer remains within the renegotiated terms.

The Group’s maximum exposure to credit risk is represented by the carrying amount of all financial assets determined to be exposed to credit risk, amounting to US\$610.8 million as at June 30, 2009 (2008: US\$361.2 million).

(c) Liquidity Risk

Prudent liquidity risk management implies maintaining sufficient cash and marketable securities, and the availability of funding through an adequate amount of committed credit facilities.

In the ordinary course of business, the Group receives cash from its operations and is required to fund working capital and capital expenditure requirements. The cash is managed to ensure that surplus funds are invested in a manner to achieve market-related returns and to provide sufficient liquidity at the minimum risk. The Group is able to actively source financing at competitive rates.

The following are the contractual maturities of financial liabilities (including principal and interest payments):

Figures in million	US DOLLAR	
	Current	More than 1 year
2009		
Borrowings ⁽¹⁾⁽²⁾	33	15
Trade and other payables (excluding non-financial liabilities)	71	—
	104	15
2008		
Borrowings ⁽¹⁾⁽²⁾	518	29
Trade and other payables (excluding non-financial liabilities)	94	—
Trade and other payables (Discontinued operations, Note 15)	8	—
	620	29

(1) US\$32.9 million is due between 6 to 12 months. (2008: US\$226.8 million).
(2) US\$4.6 million is due between 1 to 2 years. (2008: US\$7.4 million).

(d) Capital risk management

The primary objective of managing the Group’s capital is to ensure that there is sufficient capital available to support the funding requirements of the Group, in a way that optimizes the cost of capital and matches the current strategic business plan.

The Group manages and makes adjustments to the capital structure which consists of debt and equity as and when borrowings mature or when funding is required. This may take the form of raising equity, market or bank debt or hybrids thereof. The Group may also adjust the amount of dividends paid, sell assets to reduce debt or schedule projects to manage the capital structure.

There were no changes to the Group’s approach to capital management during the year.

(e) Fair value determination

The carrying values (less any impairment allowance) of short-term financial instruments are assumed to approximate their fair values.

The fair value of available-for-sale financial assets are determined by reference to quoted market prices. The fair value of other non-current financial instruments are determined using a discounted cash flow model with market observable inputs, such as market interest rates.

The carrying values of financial assets and liabilities are assumed to approximate their fair value. The exception is the unsecured convertible fixed rate bond which had a fair value of R1 632 million (US\$209.2 million) being 96% of the normal value of R1 700 million for the year ended June 30, 2008.

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Figures in million	2009	US DOLLAR 2008	2007
5 Cost of sales			
Production costs (a)	850	959	907
Amortization and depreciation of mining properties, mine development costs and mine plant facilities (b)	158	107	130
Amortization and depreciation of assets other than mining properties, mine development costs and mine plant facilities (c)	9	10	4
Provision/(reversal of provision) for rehabilitation costs (d)	3	2	(6)
Care and maintenance cost of restructured shafts	6	10	8
Employment termination and restructuring costs (e)	4	32	—
Share-based payments (f)	13	6	6
Impairment of assets (g)	61	35	37
Provision for post retirement benefits	—	1	(2)
Total cost of sales	1,104	1,162	1,084

(a) Production costs include mine production, transport and refinery costs, applicable general and administrative costs, movement in inventories and ore stockpiles and ongoing environmental rehabilitation costs as well as transfers to and from deferred stripping. Ongoing employee termination costs are included, however employee termination costs associated with major restructuring and shaft closures are excluded. Production costs, analyzed by nature, consist of the following:

Figures in million	2009	US DOLLAR 2008	2007
Labor costs, including contractors	540	632	612
Stores and materials	215	229	196
Water and electricity	93	90	91
Insurance	25	19	21
Transportation	15	9	5
Changes in inventory	(2)	9	(10)
Capitalization of mine development costs	(106)	(109)	(70)
By-products sales	(3)	(4)	(3)
Other	73	84	65
Total production cost	850	959	907

(b) While Mount Magnet was classified as held-for-sale, no depreciation was recorded as per the requirements of IFRS 5, Non-current assets held-for-sale and Discontinued Operations. When Mount Magnet ceased being classified as held-for-sale, depreciation was calculated for the period from April 2007 to June 2009 and US\$28 million recorded in the 2009 year.

(c) Amortization and depreciation of assets other than mining properties, mine development costs and mine plant facilities consist of the following:

Figures in million	2009	US DOLLAR 2008	2007
Other non-mining assets	1	4	2
Intangible assets	3	2	1
Amortization of issue costs	5	4	1
Total amortization and depreciation	9	10	4

(d) For the assumptions used to calculate the rehabilitation costs, refer to note 3.4.

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Figures in million	2009	US DOLLAR 2008	2007
(e) Employment termination and restructuring costs consist of the following:			
Free State	1	10	—
Randfontein and Elandskraal	1	5	—
Evander	1	3	—
Freegold	1	10	—
Avgold	—	1	—
Australia	—	3	—
Total employment termination and restructuring cost	4	32	—

During the December 2007 quarter, a voluntary retrenchment process was begun, following the Group’s decision to decentralize central services, as well as the restructuring of shafts due to the cessation of Conops.

(f) Refer to note 36 for details on the share-based payments schemes operated by the Group.

(g) Impairment consist of the following:

Figures in million	2009	US DOLLAR 2008	2007
Virginia ⁽¹⁾	7	—	2
Target ⁽¹⁾	31	—	—
Evander ⁽¹⁾	33	16	—
Kalgold ⁽¹⁾	—	8	(19)
Mount Magnet ⁽²⁾	(10)	(5)	56
Other underground — assets ⁽¹⁾	—	3	(2)
Other underground — goodwill ⁽³⁾	—	13	—
Total impairment	61	35	37

(1) During 2009 and 2008 impairments were recognized, which resulted primarily from the revised business (Life-of-Mine) plans that were completed during the June quarter of each year. Included in the revised plans were increases in labor and electricity costs, Also included in the revised plans for 2009 for Evander and Target was additional capital expenditure that is needed to access reserve ounces in areas where geological anomalies have been discovered. These adjustments impacted negatively on the recoverable amount and contributed to the recognition of the impairments at the shafts. Impairment tests were performed as required by IAS 36, Impairment of Assets, and as a result these impairments were recorded. For assumptions used to calculate the recoverable amount, refer to note 3.1.

During June 2007, the Group recorded an impairment at the Free State operations relating to the cessation of operations at the Refinery. The Group also reversed impairments previously recorded at its Kalgold and Freegold operations, where the recoverable amounts calculated using fair value less costs to sell exceeded the carrying values.

(2) In 2009, the impairment recorded for Mount Magnet since being classified as held-for-sale was reversed when the requirement for IFRS 5 were no longer met and the carrying value was adjusted for depreciation as per IFRS 5. Refer to note 5(b) in this regard.

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During the 2008 year, the disposal group was tested for impairment and as the recoverable amount exceeded the carrying value, a portion of the impairment previously recognized was reversed.

When Mount Magnet was classified as held-for-sale in April 2007, the carrying value had to be measured against the recoverable amount, in terms of IFRS 5. The carrying value exceeded the recoverable amount and therefore an impairment was recorded.

- (3) During 2008 goodwill relating to certain underground operations, classified as Other — underground, was also impaired. For further details on the allocation of goodwill, refer to note 18.

6 Profit on sale of property, plant and equipment

Figures in million	2009	US DOLLAR 2008	2007
Profit on sale of property, plant and equipment	116	18	25

Included in the total for 2009 is US\$111.9 million profit on sale of 50% of Harmony’s gold and copper assets in Morobe province, Papua New Guinea (“**PNG**”), to Newcrest Mining Limited (“**Newcrest**”) in terms of the Master Purchase and Farm-in agreement. The sale was concluded in three stages.

On July 31, 2008, stage 1, being the sale of an initial 30.1% participating interest in the assets, was concluded at a profit of US\$57.9 million. The remaining 19.99% interest was sold in two further stages, resulting in a profit of US\$44.6 million for the 10% interest of stage 2 and a profit of US\$9.9 million for the 9.99% interest of stage 3. These stages were completed on February 27, 2009 and June 30, 2009 respectively. Refer to note 23.

The amount in 2008 includes the sale of tenements by Mount Magnet to BHP Nickel for a profit of US\$10.8 million.

The Randfontein 4 Shaft was sold to Ezulwini Mining Company (Proprietary) Limited on December 29, 2006, resulting in a profit of US\$9.8 million.

The Deelkraal surface assets were disposed of at a profit of US\$13.7 million to Ogoerion Construction CC on April 5, 2007.

7 Other expenses — net

Figures in million	2009	US DOLLAR 2008	2007
Foreign exchange gain — net (a)	(14)	(14)	(2)
Loss/(gain) on financial instruments	—	1	(6)
Bad debts provision expense (b)	11	13	1
Bad debts written off (b)	3	—	—
Other expenses — net	3	13	7
Total other expenses — net	3	13	—

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- (a) (i) During the 2008 year, two intercompany loans, previously designated as forming part of the net investment of the Group’s international operations, were de-designated, mainly as a result of the expected repayment of these loans from the proceeds from the PNG Partnership Agreement (refer to note 23).

In accordance with the Group’s accounting policies, accumulated exchange gains that arose while the loans were considered to form part of the Group’s net investment in its international operations remain in equity and are only reclassified to the consolidated income statements as and when the loans are repaid. Therefore, following partial repayment of the loans in 2009 an accumulated exchange gain of US\$53.1 million that arose while the loans were considered to form part of the Group’s net investment in its international operations has been reclassified from other reserves to the consolidated income statements.

On June 30, 2009, the Group converted the remainder of the loan between the Company and Harmony Gold (Australia) (Proprietary) Limited (“**Harmony Australia**”) to ordinary shares, and the portion of the accumulated exchange gain that arose while the loan to Harmony Australia formed part of the Group’s net investment, continues to be deferred in equity until the investment in Harmony Australia is sold.

Foreign exchange gains/(losses) arising after de-designation of the loans in 2008 have been included in the consolidated income statements and in 2009 amounted to a loss of US\$22.3 million (2008: gain of US\$15.3 million).

- (ii) During the 2009 year, foreign exchange losses of US\$30.0 million were recognised relating to the exchange movements on the US\$ denominated Pamodzi Resources Fund 1 LLP (“**PRF**”) loan for the Cooke transaction. Refer to note 22 for further detail.

In anticipation of the receipt of the purchase consideration for the Cooke assets, the Group arranged a forward exchange contract, allowing the Group to sell the proceeds at R10.27 per US\$1 on April 21, 2009. The gain on this arrangement was US\$21.1 million.

- (b) The amount in 2008 includes a provision for the outstanding balance of US\$6.4 million on the sale of Deelkraal to Ogoerion Construction CC.

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During the 2009 year, trade debt and loans of US\$3.4 million was written off as the Group considered the debts irrecoverable. A net provision of US\$11.2 million was made, where the Group considered the recoverability of the debts to be doubtful. Refer to note 24.

8 Operating profit

The following have been included in operating profit:

Figures in million	2009	US DOLLAR 2008	2007
Auditors' remuneration	3	4	2
External			
Fees — current year	2	2	2
Fees — prior year under provision	—	—	—
Fees — other services	—	1	—
Internal			
Fees — current year	1	1	—

9 Profit on sale of investment in associate

Profit on the sale of Western Areas Limited	—	—	33
Total profit on sale of investment in associate	—	—	33

On December 8, 2006, the Group disposed of its interest in Western Areas Limited.

10 Fair value (loss)/gain on financial instruments

Fair value through profit or loss			
Mark-to-market adjustment (a)	—	5	15
	—	5	15
Available-for-sale			
Impairment recognized in profit or loss (b)	(12)	—	—
Realized portion of mark-to-market movement (c)	2	—	—
	(10)	—	—
Total fair value (loss)/gain on financial instruments	(10)	5	15

- (a) The sale agreement of African Rainbow Minerals Limited (“ARM”) shares gave rise to a non-derivative financial instrument that is designated as at “fair value through profit or loss”. The fair value movement recognized is equivalent to the interest paid on the Nedbank loans, which were guaranteed by the Group. These guarantees were cancelled in September 2007.
- (b) This amount relates to the portion of the mark-to-market losses reclassified from other reserves to the income statement when the investments were considered to be permanently impaired. Refer to note 21(b) and 28 in this regard.
- (c) This portion relates to the realised portion of the mark-to-market gains reclassified from other reserves to the income statement on the disposal of the Dioro investment. Refer to note 21(b) and 28 for further detail.

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Figures in million	2009	US DOLLAR 2008	2007
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11 Loss on sale of listed investments

Loss on sale of investment in Gold Fields Limited	—	(63)	(5)
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The Group acquired its investment in Gold Fields Limited (“**Gold Fields**”) in December 2006, in exchange for its interest in Western Areas Limited (see note 9). The Group disposed of 2 650 000 shares during 2007, and the remaining 7 348 079 shares in 2008 resulting in realized losses of US\$5 million and US\$63 million, respectively.

12 Investment income

Figures in million	2009	US DOLLAR 2008	2007
<i>Interest received</i>	49	34	24
Loans and receivables	10	5	1
Held-to-maturity investments	19	18	14
Cash and cash equivalents	20	11	9
<i>Dividend income on available for sale</i>	—	5	3
Total investment income	49	39	27

13 Finance costs

<i>Financial liabilities</i>			
Bank and short-term facilities	2	5	—
Convertible unsecured fixed rate bonds	15	22	21
Nedbank Limited	23	38	18
Westpac Bank	—	—	—
Rand Merchant Bank	—	2	13
Other creditors	—	1	5
Total finance costs from financial liabilities	40	68	57
<i>Non-financial liabilities</i>			
Post-retirement benefits	2	1	1
Time value of money and inflation component of rehabilitation costs	11	16	16
South African Revenue Services (SARS)	2	8	2
Total finance costs from non-financial liabilities	15	25	19
Total finance cost before interest capitalized	55	93	76
Interest capitalized	(31)	(22)	(10)
Total finance costs	24	71	66

The capitalization rate used to determine the amount of borrowing costs eligible for capitalization during the year is 12.3% (2008: 11.7% and 2007: 9.8%).

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Figures in million	2009	US DOLLAR 2008	2007
14 Taxation			
SA normal taxation			
Mining tax (a)			
- current year	14	5	—
- prior year	5	15	—
Non-mining tax (b)			
- current year	18	1	2
- prior year	1	1	(1)
Deferred tax (c)			
- deferred tax	40	55	60
Foreign normal taxation			
- deferred tax (d)	(55)	(9)	(11)
Total normal taxation	23	68	50

- (a)

Mining tax on gold mining income in South Africa is determined according to a formula, based on the taxable income from mining operations. Gold Mining Companies within the Group that have elected to be exempt from Secondary Tax on Companies (STC) are taxed at higher rates than those that have not made the election.

All qualifying mining capital expenditure is deducted from taxable mining income to the extent that it does not result in an assessed loss and accounting depreciation is eliminated when calculating the South African mining tax income. Excess capital expenditure is carried forward as unredeemed capital to be claimed from future mining taxable income. The Group has several tax paying entities in South Africa. In terms of the mining ring-fencing application, each ring-fenced mine is treated separately and deductions can normally only be utilized against mining income generated from the relevant ring-fenced mine.

The formulas for determining the South African gold mining tax rates are:

Y = 43 - 215/X (elect not to pay STC) (2009 and 2008)

Y = 45 - 225/X (elect not to pay STC) (2007)

Y = 34 - 170/X (no election made) (2009 and 2008)

Y = 35 - 175/X (no election made) (2007)

Where Y is the percentage rate of tax payable and X is the ratio of taxable income, net of any qualifying capital expenditure that bears to mining income so derived, expressed as a percentage.
- (b)

Non-mining income is taxed at 35% (exempt from STC) (2008: 35% and 2007: 37%) and 28% (no election made) (2008: 28% and 2007: 29%). Non-mining companies are taxed at the statutory corporate rate of 28% (2008: 28% and 2007: 29%).

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- (c) The tax rate used to calculate deferred tax is based on the current estimate of future profitability when temporary differences will reverse, based on tax rates (and tax laws) that have been enacted at balance sheet date. Depending on the profitability of the operations, the tax rate can consequently be significantly different from year to year.
- (d) Mining and non-mining income of Australian and PNG operations are taxed at a standard tax rate of 30% (2008: 30% and 2007: 30%). Deferred tax is provided at the estimated expected future mining tax rate for temporary differences, based on tax rates (and tax laws) that have been enacted at balance sheet date.

Income and mining tax rates

The South African taxation rates were changed in the 2008 year after an announcement of a reduction in the applicable rates by the Finance Minister in his annual budget speech in February 2008. There was no change in the 2009 year.

Major items causing the Group’s income tax provision to differ from the maximum mining statutory tax rate of 43% (2008: 43% and 2007: 45%) were:

Figures in million	2009	US DOLLAR 2008	2007
Tax on net income/(loss) from continuing operations at the maximum mining statutory tax rate	(93)	4	(37)
Non-allowable deductions	(42)	(88)	(11)
Difference between effective mining tax rate and statutory mining rate on mining income	14	4	—
Difference between non-mining tax rate and statutory mining rate on non-mining income	11	—	(1)
Effect on temporary differences due to changes in effective tax rates	53	(10)	—
Prior year adjustment — mining and non-mining tax	(5)	(16)	(1)
Capital allowances	39	38	—
Income and mining taxation	(23)	(68)	(50)
Effective income and mining tax rate	-10%	680%	-1%

Deferred tax liabilities and assets on the balance sheet as of June 30, 2009 and 30 June 2008, relate to the following:

Figures in million	2009	US DOLLAR 2008
Deferred tax		
Gross deferred tax liability	643	579
Amortization and depreciation	620	540
Product inventory not taxed	12	13
Convertible bonds	—	1
Other	11	25
Gross deferred tax asset	(222)	(190)
Deferred financial liability	—	—
Unredeemed capital expenditure	(183)	(105)
Provisions, including non-current provisions	(30)	(27)
Tax losses	(9)	(58)
Disposal groups classified as held-for-sale	—	(6)
Net deferred tax liability	421	383

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Movement in the net deferred tax liability recognized in the balance sheet is as follows:

Figures in million	2009	US DOLLAR 2008
Balance at beginning of year	383	386
Total charge per income statement (a)	29	47
Foreign currency translation adjustments	9	(41)
Tax directly charged to equity (b)	—	(4)
Disposal groups classified as held-for-sale	—	(5)
Balance at end of year	421	383
The following amounts that will realize or be recovered in the next 12 months have been included in the deferred tax liabilities and assets:		
Deferred tax liabilities	15	38
Deferred tax assets	(12)	(21)
Net deferred tax liability	3	17

- (a) The charge includes the amounts for both continuing and discontinued operations.
- (b) The charge relates to deferred tax asset on the downward mark-to-market adjustment during the year on available-for-sale financial assets by Australian operations. Refer to note 21 and 28 in this regard.

As at June 30, certain subsidiaries in the Group had the following tax credits:

Figures in million	2009	US DOLLAR 2008	2007
Unredeemed capital expenditure available for utilization against future mining taxable income	1,586	1,195	1,235
Tax losses carried forward utilizable against taxable income	25	338	198
Capital Gains Tax (CGT) losses available to be utilized against future CGT gains.	74	73	—

As at June 30, the Group has not recognized the following deferred tax asset amounts	379	330	—
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The unrecognized temporary differences are:			
Unredeemed capital expenditure	926	795	—
Tax losses	25	133	—
CGT losses	74	73	—
Temporary differences relating to investments in associates	154	—	—

Secondary Taxation on Companies

STC is a tax levied on South African companies at a rate of 10% with effect from October 1, 2007 (previously 12.5%) on dividends distributed.

Current and deferred tax are measured at the tax rate applicable to undistributed income and therefore only take STC into account to the extent that dividends have been received or paid.

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On declaration of a dividend, the Company includes the STC on this dividend in its computation of the income tax expense in the period of such declaration.

Figures in million	2009	US DOLLAR 2008	2007
Available STC credits at end of year	35	35	39

On August 13, 2009, the Board of Directors approved a final dividend for the 2009 financial year of 50 SA cents per share. The total dividend, paid on September 21, 2009, amounted to US\$28.6 million. As the STC credit exceeded the dividend no STC was payable on this declaration.

15 Disposal groups classified as held-for-sale and discontinued operations

The assets and liabilities related to Mount Magnet and South Kal (operations in Australia), Orkney operations (operations in Northwest province) have been presented as held-for-sale following approval of the Group’s management and Board of Directors on April 20, 2007. These operations also met the criteria to be classified as discontinued operations and were reported in the “Discontinued Operations — other” segment in the segment report.

On December 6, 2007, the sale relating to the South Kal operation (operation in Australia) was concluded at a loss, net of tax, of US\$7.6 million and the assets were derecognized.

On February 27, 2008, the sale relating to the Orkney operations (operations in the Northwest province) was concluded at a profit of US\$8.9 million and the assets were derecognized.

The Mount Magnet operations were first classified as held-for-sale in 2007, when Harmony signed a letter of intent for the sale of its Mount Magnet operations with Monarch. However, in July 2008, Harmony was advised that Monarch placed itself in voluntary administration, and in August 2008, the Administrator indicated that Monarch would not proceed with the purchase and consequently the purchase agreement was terminated.

Harmony resumed management of the operation and re-commenced the sale process early in 2009. However, during the fourth quarter 2009, it was decided that further drilling at the Mount Magnet operation would enhance the selling potential of the operation and, as a result, the operation no longer met the requirements to be classified as held-for-sale in terms of IFRS 5. Consequently, the consolidated income statements, earnings per share and related notes for comparative periods have been re-presented to include income and expenses relating to the Mount Magnet operations in continuing operations. The Mount Magnet operations continue to be under care and maintenance.

On ceasing to be classified as held-for-sale, the carrying value was re-measured as per IFRS 5 (refer to note 2.11) and depreciation amounting to US\$28 million was recorded. This also lead to the recording of a reversal of impairment of US\$28 million. Refer to note 5(b) and (g) respectively.

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The assets and liabilities relating to the Cooke 1, Cooke 2, Cooke 3, Cooke plant and related surface operations (operations in the Gauteng province) have been presented as held-for-sale following the approval of the Group’s management on October 16, 2007. These operations were also deemed to be discontinued operation.

The sale of assets to Rand Uranium (Proprietary) Limited (“**Rand Uranium**”) had two tranches, the first being the sale of the Randfontein Cooke assets. The second tranche relates to the sale of the Old Randfontein assets, which is situated near the Cooke operations and contains gold and uranium. Both tranches were subject to conditions, including the approval of the Ministerial Consent of the cession of the Mining Right (Section 11). In exchange for 60% of the issued share capital of Rand Uranium, PRF agreed to pay Harmony a purchase consideration of US\$209 million.

The conditions precedent for the sale of Randfontein’s Cooke assets to Rand Uranium were fulfilled and the transaction became effective on November 21, 2008. US\$40 million of the consideration was received on the effective date with the balance and the interest on the outstanding amount, together amounting to US\$172 million, being received on April 20, 2009. The conditions for the second sale were fulfilled on April 22, 2009.

The total profit for the transaction is US\$171 million before tax.

The assets and liabilities for the operations classified as held-for-sale at the reporting dates presented follow below:

Figures in million	2009	US DOLLAR 2008
Balance sheet		
Assets of disposal groups classified as held-for-sale		
Property, plant and equipment	—	152
Restricted investments	—	22
Investment in financial assets	—	—
Inventories	—	22
Trade and other receivables	—	1
Cash and cash equivalents	—	—
Total assets of disposal groups classified as held-for-sale	—	197
Balance sheet		
Liabilities of disposal groups classified as held-for-sale		
Borrowings	—	—
Deferred income tax	—	6
Provisions for other liabilities and charges	—	50
Trade and other payables	—	8
Total liabilities of disposal groups classified as held-for-sale	—	64

The results and cash flows relating to these operations are disclosed in the tables below:

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Figures in million	2009	US DOLLAR 2008	2007
Income statement			
Analysis of the results of discontinued operations, and the results recognized on the re-measurement of assets for disposal by the Group			
Revenue	69	253	287
Expenses — net	(51)	(199)	(271)
Profit on sale of shares	171	9	—
Loss on sale of property, plant and equipment	—	(13)	—
Profit from discontinued operations before tax	189	50	16
Taxation	(71)	(2)	2
Profit for the year from discontinued operations	118	48	18
Cash flows			
Operating cash flows	20	67	(17)
Investing cash flows	199	(19)	—
Foreign exchange translation adjustment	69	(6)	—
Total cash flows	288	42	(17)

16 Earnings/(loss) per share

Basic earnings/(loss) per share is calculated by dividing the net income attributable to shareholders by the weighted number of ordinary shares in issue during the year.

Figures in million	2009	US DOLLAR 2008	2007
Weighted average number of ordinary shares in issue ('000)	414,121	400,750	397,911
Net profit/(loss) from continuing operations	193	(78)	33
Net profit from discontinued operations	118	48	18
Total net profit/(loss) attributable to shareholders	311	(30)	51
Basic earnings/(loss) per share from continuing operations (cents)	47	(20)	8
Basic earnings per share from discontinued operations (cents)	28	12	4
Total basic earnings/(loss) per share (cents)	75	(8)	12

Fully diluted earnings/(loss) per share

For diluted earnings per share, the weighted average number of ordinary shares in issue is adjusted to assume conversion of all potential dilutive ordinary shares as a result of share options granted to employees under the share option schemes in issue. A calculation is performed to determine the number of shares that could have been acquired at fair value, determined as the average annual market share price of the Company's shares, based on the monetary value of the subscription rights attached to the outstanding share options. The number of shares calculated as above is compared with the number of shares that would have been issued assuming the exercise of the share options.

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Figures in million	2009	US DOLLAR 2008	2007
Weighted average number of ordinary shares in issue ('000)	414,121	400,750	397,911
Potential ordinary shares ('000)	1,842	2,144	4,471
Weighted average number of ordinary shares for fully diluted earnings per share ('000)	415,963	402,894	402,382
Fully diluted earnings/(loss) per share from continuing operations (cents)	46	(20)	8
Fully diluted earnings per share from discontinued operations (cents)	28	12	4
Total fully diluted earnings/(loss) per share (cents)	74	(8)	12

The inclusion of share options issued to employees as at June 30, 2009, as potential ordinary shares, had a dilutive effect on the diluted earnings per share. Additionally for the 2008 and 2007 year, the potential ordinary shares to be issued upon the conversion of the convertible unsecured fixed-rate bond (refer to note 29) had an anti-dilutive effect on the diluted earnings per share. Accordingly, such additional shares were not taken into account in the determination of the diluted loss per share.

17 Property, plant and equipment

Figures in million	2009	US DOLLAR 2008
Mining properties, mine development costs and mine plant facilities	1,628	1,532
Mining assets under construction	725	561
Undeveloped properties	1,253	1,434
Other non-mining assets	8	4
Total property, plant and equipment	3,614	3,531

Mining properties, mine development costs and mine plant facilities

Cost		
Balance at beginning of year	2,521	2,745
Additions	219	316
Disposals	(324)	(174)
Adjustment to rehabilitation asset	27	13
Transfers and other movements	160	166
Translation	(113)	(176)
Net reclassification from/(to) held-for-sale	746	(369)
Balance at end of year	3,236	2,521
Accumulated depreciation and impairments		
Balance at beginning of year	989	1,307
Impairment of fixed assets (a)	71	13
Disposals	(141)	(104)
Depreciation for the year (a)	153	118
Depreciation for the year capitalized to mining assets under construction	5	6
Translation	(89)	(34)
Net reclassification from/(to) held-for-sale	620	(317)
Balance at end of year	1,608	989
Net book value	1,628	1,532

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	US DOLLAR	
Figures in million	2009	2008
Mining assets under construction		
Cost		
Balance at beginning of year (b)	561	404
Additions (c)	300	233
Finance costs capitalized	31	22
Disposals	(186)	(4)
Transfers and other movements	13	(84)
Translation	6	(13)
Net reclassification from held-for-sale	—	3
Book value	725	561
Undeveloped property		
Cost		
Balance at beginning of year	1,436	1,630
Additions	23	—
Disposals	(39)	(24)
Transfers and other movements	(173)	(74)
Translation	(40)	(80)
Net reclassification from/(to) held-for-sale	113	(16)
Balance at end of year	1,320	1,436
Accumulated depreciation and impairments		
Balance at beginning of year	2	9
Reversal on impairment of fixed assets (a)	(10)	(6)
Transfers and other movements	—	9
Translation	(12)	16
Net reclassification from/(to) held-for-sale	87	(26)
Balance at end of year	67	2
Net book value	1,253	1,434
Deferred stripping		
Cost		
Balance at beginning of year	8	12
Translation	—	(1)
Reversal of deferred costs	—	(3)
Balance at end of year	8	8
Accumulated depreciation		
Balance at beginning of year	8	—
Impairment of fixed assets	—	8
Balance at end of year	8	8
Net book value	—	—

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Figures in million	2009	US DOLLAR 2008
Other non-mining assets		
Cost		
Balance at beginning of year	44	46
Additions	4	2
Disposals	—	(5)
Transfers and other movements	—	4
Translation	—	(6)
Net reclassification from held for sale	1	3
Balance at end of year	49	44
Accumulated depreciation		
Balance at beginning of year	40	37
Disposals	—	(4)
Depreciation for the year	1	4
Transfers and other movements	—	4
Translation	—	(4)
Net reclassification from held for sale	—	3
Balance at end of year	41	40
Net book value	8	4
Total net book value	3,614	3,531

- (a) For the 2008 figures these amounts include both continuing and discontinued operations.
- (b) Included in this amount is the balance pertaining to the undivided 26% share of the mining titles in the Doornkop South Reef Project owned by African Vanguard Resources (Doornkop) (Proprietary) Limited (“AVRD”). The Group is required to consolidate AVRD - refer to note 29 (c).

In terms of a revised agreement signed on March 13, 2009, Harmony will purchase this share back from AVRD in exchange for Harmony ordinary shares. The conditions precedent to this transaction are expected to be completed by end of February 2010.
- (c) The additions include amounts relating to purchase of the royalty agreements that Rio Tinto had over Hidden Valley and Kerimenge deposits in PNG. During March 2008, Harmony concluded the buy back of these royalty rights for US\$22 million through the issue of US\$20 million Harmony shares and US\$2 million in cash.

On December 1, 2008, Harmony issued a further 3.4 million Harmony shares to Rio Tinto to cancel the Rio Tinto royalty rights over Wafi-Golpu in PNG. The value of the issued shares were US\$23 million.

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Figures in million	2009	US DOLLAR 2008
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(d) Additional disclosures

Leased assets		
Carrying value of capitalized leased assets (included in mining assets under construction)	17	35
Cost	21	38
Accumulated depreciation	(4)	(3)
Finance lease additions	1	28

18 Intangible assets

Goodwill		
Cost		
Balance at beginning of year (a)	304	337
Translation	3	(33)
Balance at end of year	307	304
Accumulated depreciation		
Balance at beginning of year (a)	27	15
Impairment loss (b)	—	13
Translation	—	(1)
Balance at end of year	27	27
Net book value	280	277

Computer software

Cost (c)		
Balance at beginning of year	8	6
Acquired during the year	4	3
Translation	1	(1)
Balance at end of year	13	8
Accumulated depreciation		
Balance at beginning of year	2	1
Amortization charge for the year	3	2
Translation	—	(1)
Balance at end of year	5	2
Net book value	8	6
Total net book value	288	283

(a) The 2008 opening carrying value of goodwill amounting US\$322 million relates to the acquisition of ARMgold on September 22, 2003.

The net book value of goodwill has been allocated to the cash generating units:

Figures in million	2009	US DOLLAR 2008
Bambanani	29	29
Tshepong	72	72
Phakisa	172	170
Other — underground	7	6
	280	277

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- (b) The impairment of goodwill in 2008 relates to goodwill allocated to other underground segments. The related mining assets have also been impaired. Refer to note 5(g).
- (c) The amount relates to the acquisition of the Oracle ERP software implemented in December 2006, as well as additional acquisition and implementation costs for the Oracle ERP software during the year.

19 Restricted cash

Figures in million	2009	US DOLLAR 2008
Environmental guarantees call account (a)	15	—
Cash Management Account (b)	6	10
Total restricted cash	21	10

- (a) The amount relates to funds set aside for guarantees made to the Department of Mineral Resources in South Africa for environmental and rehabilitation obligations.
- (b) The amount relates to funds set aside by the international operations for performance bonds related to guarantees in Australia for environmental obligations.

20 Restricted investments

Figures in million	2009	US DOLLAR 2008
Held-to-maturity financial assets		
Investments held by Environmental Trust Funds (a)	207	206
Investments held by Social Trust Fund (b)	5	5
	212	211
Disposal groups classified as held-for-sale	—	(23)
Total restricted investments	212	188

- (a) The environmental trust funds are irrevocable trusts under the Group’s control. Contributions to the trust are invested in interest-bearing short-term investments. The costs of these investments approximate their fair value. These investments provide for the estimated cost of rehabilitation during and at the end of the life of the Group’s mines. Income earned on the investments are restricted in use and may only be used to fund the Group’s approved rehabilitation costs.

Figures in million	2009	US DOLLAR 2008
Reconciliation of the movement in the Environmental Trust Funds:		
Balance at beginning of year	206	198
Interest income	21	21
Disposal of business	(20)	(4)
Contributions made	—	11
Translation	—	(20)
	207	206
Disposal groups classified as held-for-sale	—	(23)
Balance at end of year	207	183

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- (b) The social trust fund is an irrevocable trust under the Group’s control. The Group has undertaken to donate over a period of 10 years to The Harmony Gold Mining Group Social Plan Trust in terms of an agreement signed on November 3, 2003. An initial donation of US\$2.7 million was made during the 2004 year. The balance will be donated in installments of US\$0.45 million per annum with the final installment to be made in 2013. The purpose of the Trust is to fund the social plan to reduce the negative effects of restructuring on the Group’s workforce, to put measures in place to ensure that the technical and life skills of the Group’s workforce are developed and to develop the Group’s workforce in such a manner to avoid or minimize the effect of job losses and a decline in employment through turnaround or redeployment strategies.

Figures in million	2009	US DOLLAR 2008
Reconciliation of the movement in the Social Trust Fund:		
Balance at beginning of year	5	5
Contributions made*	—	1
Claims paid*	—	(1)
Balance at end of year	5	5

* Please note that for 2009 when these amounts were translated into US dollars, the amounts were less than US\$0.5 million and were rounded down, resulting in no movement being shown for the year.

21 Investment in financial assets

Figures in million	2009	US DOLLAR 2008
Balance at beginning of year	9	361
Additions	8	20
Disposals	(4)	(362)
Mark-to-market of available-for-sale investments	(3)	(8)
Fair value movement of ARM investment (refer to note 10(a))	—	5
Translation	(3)	(7)
Balance at end of year	7	9

The carrying amount consists of the following:

Available-for-sale financial assets		
Investment in Alloy Resources (a)	—	—
Investment in Dioro Exploration NL (b)	—	8
Investment in Avoca Resource Limited (c)	5	—
Investment in other unlisted shares (d)	2	1
Total available-for-sale financial assets	7	9

- (a) On April 3, 2006, Big Bell Gold Operations (Proprietary) Limited, a subsidiary of Harmony Australia, received 5 000 000 shares, valued at A\$0.20 per share, in Alloy Resources, as partial consideration for the sale of Comet tenements.

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The market value of the listed investments was US\$0.1 million (A\$0.025 per share) on June 30, 2009 (2008: US\$0.3 million) (A\$0.05 per share). On March 30, 2009, the investment was considered to be permanently impaired, resulting in a cumulative loss amounting to US\$0.4 million net of tax recognized in other reserves being reclassified from equity to profit or loss.

Subsequent to the impairment, a gain of US \$0.04 million was recognized in other comprehensive income. Tax on this revaluation amounted to US \$0.01 million, which has been charged directly to equity.

- (b) On December 5, 2007, the Group concluded an agreement with Doro Exploration NL (“**Doro**”) to sell its South Kal operation (Australia) in exchange for 11 428 571 shares in Doro, constituting an investment of 17.6% in Doro’s issued share capital. At that date the shares were valued at US\$18.9 million, being A\$1.75 (R11.80) per share. The shares are listed on the Australian Securities Exchange. At June 30, 2008, the shares were valued at A\$0.74, resulting in a US\$8.1 million loss being recognized in other comprehensive income, net of tax.

At December 31, 2008, as a result of a significant and prolonged decline in market value, an impairment in value was recognized, resulting in a cumulative loss of US\$7.7 million net of tax, previously recognized in other reserves, being recognized in the income statement.

Subsequent to this impairment, gains relating to the increase in the fair value of the investment amounting to US\$1.5 million were recognized in other comprehensive income. Tax of US\$0.1 million relating to these gains were charged directly to equity. These gains and the related tax were recognized in the income statement on disposal of the investment (see below).

On April 17, 2009, the Group disposed of its investment in exchange for shares in Avoca Resources Limited (“**Avoca**”). This was in terms of an offer made by Avoca to exchange every 3 Doro shares held for 1 Avoca share. The market value on that day was US\$4.2 million.

- (c) On April 17, 2009, the Group received 3 809 524 shares, valued at A\$1.50 per share, or US\$4.2 million, in Avoca as consideration for its Doro shares. The market value of the investment was US\$5.4 million (A\$1.75 per share) on June 30, 2009, with an increase of US\$0.5 million, net of tax, since acquisition being reflected as other comprehensive income. A portion of these shares were sold during September and October 2009. Refer to note 39.
- (d) These investments have been valued by the directors by performing independent valuations on an annual basis to ensure that no permanent impairment in the value of the investments has occurred. The directors’ valuation is consistent with the stated value above. During the financial year under review, the Group did not receive any income from these investments (2008: Nil).

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Figures in million	2009	US DOLLAR 2008
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22 Investment in associates

Balance at beginning of year	19	1
Shares acquired at cost (a)	—	46
Subsidiary becoming associate (b)	25	—
Elimination of unrealized profits	—	(5)
Share of profit/(loss) after tax	1	(11)
Impairment of share in associate	(14)	(12)
Translation	12	—
Balance at end of year	43	19

The carrying amount consists of the following:

Pamodzi Gold Limited (a)	—	19
Rand Uranium (Proprietary) Limited(b)	43	—
Total investment in associates	43	19

- (a) On February 27, 2008, Pamodzi Gold Limited (Pamodzi) bought the Orkney operations from the Group for a consideration of 30 000 000 Pamodzi shares. This resulted in Harmony owning 32.4% of Pamodzi. On the purchase date the value of the investment was US\$46.5 million being US\$1.54 per share. Pamodzi was listed on the JSE and has interests in operating gold mines in South Africa.
- An impairment of the investment in associate of US\$12.3 million was recognized at June 30, 2008, as the market value of the share had decreased to US\$0.62 per share The fair value of the investment was US\$18.6 million. For the four months to June 30, 2008, the Group recognized US\$10.6 million as its share of losses from associates.
- On September 30, 2008, an impairment test was performed and an impairment of US\$13.5 million was recorded. After taking into account the Group’s share of losses of US\$3.7 million, the carrying value at December 31, 2008 was R0. Subsequently, the Group has not recognized its share of any further losses. During March 2009, Pamodzi was placed in liquidation and the trading of its shares on the JSE was suspended.
- The audited financial statements for the year ended December 31, 2008 and the financial information for the six months ended June 30, 2009 were not available at the time of this report being finalized. As a result, the unaudited summarized information for the nine months ended March 31, 2009 has been included. This information is not comparable with the four month period ended June 30, 2008, disclosed in prior years.

Figures in million	2009	US DOLLAR 2008
	100%	100%
Revenue	69	57
Production costs	(89)	(74)
Operating loss	(20)	(17)
Net loss	(40)	(34)

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Figures in million	2009	US DOLLAR 2008
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The financial position as at March 31, 2009 and June 30, 2008 is disclosed below:

Non-current assets	260	214
Current assets	18	21
Total assets	278	235
Current liabilities	241	170
Non-current liabilities	62	31
Total liabilities	303	201

- (b) The Group owns a 40% share of Rand Uranium, which is an unlisted company registered in South Africa, with gold mining operations in the Gauteng province of South Africa.
- The Group’s interest was obtained by the completion of two transactions, discussed below.
- On November 21, 2008, the Company’s wholly-owned subsidiary Randfontein Estates Limited disposed of its Randfontein Cooke assets to a newly formed wholly owned subsidiary, Rand Uranium, for a consideration of US\$328 million, settled with Rand Uranium shares. In a related transaction on the same date, 60% of these shares were sold to PRF for US\$197 million. US\$40 million was paid on the effective date and the balance of US\$157 million was paid on April 20, 2009. Interest was charged on the outstanding balance at 5% per annum, resulting in US\$3.3 million being recognized in the income statement. The interest was also received on April 20, 2009.
- The conditions precedent for the second part of the Rand Uranium transaction relating to the sale of the Old Randfontein assets to Rand Uranium were fulfilled on April 22, 2009. These assets were valued at US\$20 million. Additional shares were issued in settlement and 60% of these shares were sold to PRF in terms of the agreement. PRF paid its portion of the purchase price, US\$12 million, in cash on April 20, 2009.
- The shareholders’ agreement includes certain restrictions on the Group’s ability to dispose of its shares in Rand Uranium for a period of up to four years from the effective date, being November 21, 2008. In addition, PRF has the right, for a period of up to four years after the effective date, to have first claim on the proceeds, up to a specified amount, in the event of a disposal of the operations. Harmony has first right of refusal in such an event. However due to the contingent nature of the provision, the Group has made no adjustments to the associate’s carrying amount.
- The Group recognised a profit of US\$171 million (before tax) on these transactions. This profit is included in the profit from discontinued operations. Refer to note 15.
- During the seven months to June 2009, the Group recognized its share of the post acquisition profits of US\$5.1 million. The carrying value of the investment at June 30, 2009 is US\$42.6 million.

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Rand Uranium has a year end of June 30. At the time of finalization of this report, the audited financial statements for Rand Uranium were not available. The unaudited financial information of Rand Uranium for the period since acquisition of the investment to June 2009 and as at June 30, 2009 are as follows:

Figures in million	US DOLLAR 2009
	100%
Revenue	101
Production costs	(71)
Operating profit	30
Net profit	13
Non-current assets	577
Current assets	29
Total assets	606
Current liabilities	23
Non-current liabilities	91
Total liabilities	114

- (c) On June 21, 2006, Harmony acquired 37.8%, or 2 295 563 ordinary shares, of the issued share capital of Village Reef Gold Mining Company (1934) Limited at a total cost of US\$0.07 million. The equity stake was purchased from ARM at a price of US\$3 cents per share. Village is listed on the JSE Limited in the gold sector and has been dormant for some time without any operating mines.
- At June 30, 2008, the fair value of the investment was US\$0.09 million, calculated on a share price of US\$4 cents.
- During the twelve months to June 2008, the Group did not recognize its share of losses from the associate. This unrecognized share amounted to US\$0.08 million.
- On July 10, 2008, the Group disposed of its interest in Village Reef Gold Mining Company to To The Point Growth Specialists Investments 2 (Proprietary) Limited, for a consideration of US\$0.1 million.
- (d) On June 18, 2007, the Group disposed of 17% of its share in Orpheo by Harmony (Proprietary) Limited (“Orpheo”), which had been accounted for as a joint venture. After the transaction, the Group held a 34% interest in Orpheo.
- At June 30, 2008, the fair value of the investment was evaluated by management. It was determined that the carrying value exceeded the fair value and an impairment of US\$0.06 million was recognized. During the 12 months ended June 30, 2008, the Group’s share of post-acquisition profit was US\$0.04 million.
- On September 1, 2008, the Group disposed of its shares held in Orpheo to the remaining shareholders, in exchange for a consideration of US\$0.13.

23 Investment in Joint Venture

(a) Papua New Guinea (“PNG”) Partnership agreement (50%)

On April 22, 2008 Morobe Consolidated Goldfields Limited and Wafi Mining Limited, subsidiaries of Harmony Australia entered into a Master Purchase and Farm-in Agreement with Newcrest. This agreement provided for Newcrest to purchase a 30.01% participating interest (stage 1) and a further farm-in of an additional 19.99% participating interest in Harmony’s PNG gold and copper assets, giving them a 50% interest.

On July 16, 2008, the conditions to the Master Purchase and Farm-in agreement were finalized, which included regulatory and statutory approvals by the PNG Government. Stage 1 completion took place on July 31, 2008, and a total consideration of US\$229.8 million was received on August 7, 2008, of which US\$50 million was placed in a jointly controlled escrow account. This amount was subsequently released to Harmony following confirmation of approval of an exploration license during September 2008 by the PNG Mining authorities.

Harmony recognized a profit of US\$58 million on the completion of stage 1, which represented a sale of an undivided interest of 30.01% of Harmony’s PNG gold and copper assets and liabilities comprising the joint venture.

During the farm-in period, Harmony agreed to transfer a further 19.99% interest to Newcrest in consideration for an agreement by Newcrest to meet certain expenditure which would otherwise have to be undertaken by Harmony. The interest to be transferred were conditional on the level of capital expenditures funded by Newcrest at certain milestones, and by the end of February 2009, Newcrest acquired another 10% through the farm-in arrangement. The final 9.99% was acquired by June 30, 2009.

At the date of completion of each party’s obligations under the farm-in arrangement, Harmony derecognized the proportion of the mining assets and liabilities in the joint venture that it has sold to Newcrest, and recognized its interest in the capital expenditure at fair value. The difference between the net disposal proceeds and the carrying amounts of the asset disposed of during the farm-in arrangement amounted to a gain of US\$54 million, which has been included in the consolidated income statements for 2009.

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The following are the Group’s effective share of income, expenses, assets and liabilities, which are included in the 2009 consolidated financial statements:

Figures in million	US DOLLAR 2009
	50%
Revenue	—
Production costs	—
Gross profit	—
Other costs	(12)
Net loss	(12)
Non-current assets	185
Current assets	44
Total assets	229
Non-current liabilities	161
Current liabilities	36
Total liabilities	197

(b) Healthshare Health Solutions (Proprietary) Limited

The Group held a joint venture interest in Healthshare Health Solutions (Proprietary) Limited (“**Healthshare**”) (45%). On January 1, 2008, the Group disposed of its interest to the remaining shareholders of Healthshare at a loss of US\$0.3 million and derecognized its share in assets and liabilities.

For the six months ending December 31, 2007, the Group’s share of the joint venture profit or losses amounted to a profit of US\$0.4 million.

24 Trade and other receivables

Figures in million	2009	US DOLLAR 2008
Current		
Financial assets:		
Trade receivables (gold)	33	30
Other trade receivables (a)	34	44
Provision for impairment	(15)	(17)
Trade receivables — net	52	57
Loans to associates and joint ventures (b)	15	—
Interest and other receivables	11	9
Employee receivables	2	3
Insurance claims receivable	—	—
Non-financial assets:		
Prepayments	10	5
Value added tax	25	38
Total current trade and other receivables	115	112
Non-current		
Financial assets:		
Loans to associates (c)	24	13
Other loans receivable (d)	2	7
Provision for impairment (e)	(16)	(2)
Total non-current trade and other receivables	10	18

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- (a) Included in other trade receivables is an amount of US\$9.1 million owed by Rand Uranium.
- (b) Included in this balance is an amount of US\$4.8 million due from Rand Uranium for services and goods supplied in terms of the service level agreements entered into between the Group and Rand Uranium. Also included is an amount of US\$9.7 million due to Harmony’s Australian operations, being the Newcrest’s portion of the Group’s loan to the PNG joint venture companies.
- (c) Included in this balance is a loan of US\$8.5 million to Rand Uranium. The loan bears interest at a rate equal to the 91 Day JIBAR plus 250 basis points and is repayable within seven years. The loan has been subordinated. Also included in this balance is a loan of US\$15.0 million (2008: US\$13.2 million) owed by Pamodzi. The loan bore interest at prime rate until March 2009 when Pamodzi was placed into liquidation. Harmony is a concurrent creditor in the Pamodzi Orkney liquidation.
- (d) Loans comprise various loans, which have been valued by the directors. These loans are unsecured and bear interest at rates set out in the individual loan agreements. The repayment terms are also stipulated in the contracts and may vary from each other. Included in this balance is a loan of US\$1.1 million (2008: US\$1.0 million) due from Ubuntu Small Scale Mining (Proprietary) Limited (“**Ubuntu**”). The loan bears interest at prime less 3% with no fixed repayment terms.
- (e) Included in this balance is the amount of US\$15.0 million (2008: US\$0) relating to the loan owed by Pamodzi and an amount of US\$1.1 million (2008: US\$1.0 million) relating to the loan owed by Ubuntu. Interest of US\$1.5 million was charged on impaired loans in 2009 (2008: US\$0).

The movement in the provision for impairment of trade receivables during the year was as follows:

Figures in million	2009	US DOLLAR 2008
Balance at beginning of year	17	3
Provision for impairment of receivables	4	14
Unused amounts reversed	(6)	—
Receivables written off during the year	—	—
Balance at end of year	15	17

The movement in the provision for impairment of loans receivables during the year was as follows:

Balance at beginning of year	2	2
Provision for impairments of loans	13	1
Loans written off during the year	(1)	(1)
Translation	2	—
Balance at end of year	16	2

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Figures in million	2009	US DOLLAR 2008
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The ageing of trade receivables at the reporting date was:

	Gross	Impairment
June 30, 2009		
Fully performing	35	—
Past due by 1 to 30 days	14	—
Past due by 31 to 60 days	1	—
Past due by 61 to 90 days	1	—
Past due by more than 90 days	7	6
Past due by more than 361 days	9	9
	67	15
June 30, 2008		
Fully performing	51	—
Past due by 1 to 30 days	3	—
Past due by 31 to 60 days	—	—
Past due by 61 to 90 days	1	—
Past due by more than 90 days	13	11
Past due by more than 361 days	6	6
	74	17

The ageing of loans receivable at the reporting date was:

	Gross	Impairment
June 30, 2009		
Fully performing	10	—
Past due by 1 to 30 days	—	—
Past due by 31 to 60 days	—	—
Past due by 61 to 90 days	—	—
Past due by more than 90 days	2	2
Past due by more than 361 days	14	14
	26	16
June 30, 2008		
Fully performing	18	—
Past due by 1 to 30 days	—	—
Past due by 31 to 60 days	—	—
Past due by 61 to 90 days	—	—
Past due by more than 90 days	2	2
Past due by more than 361 days	—	—
	20	2

Based on past experience, the Group believes that no impairment allowance is necessary in respect of fully performing receivables as the amount relates to customers that have a good track record with the Group. Similarly, the loans and receivables noted above, other than those provided for, are fully performing and considered to be a low credit risk.

During the 2008 financial year, the balance of US\$6 million due from Ogoerion Construction CC for the purchase of the Deelkraal surface assets was impaired. In the 2009 financial year, the deal was renegotiated and the Deelkraal plant was excluded from the transaction.

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During the year 2009 and 2008 there was no renegotiation of the terms of any receivable, other than as discussed above.

As at June 30, 2009, there was no collateral pledged or held for any of the receivables. At June 30, 2008, the Group held the Deelkraal surface assets as collateral for the amount owed by Ogoerion Construction CC.

25 Inventories

Figures in million	2009	US DOLLAR 2008
Gold in lock-up	37	26
Gold in process, ore stockpiles and bullion on hand	43	17
Stores and materials at weighted average cost	54	46
Total inventories	134	89

Gold in-process at the following operations is valued at net realizable value:

Doornkop	30	—
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During the year, US\$0.6 million (2008: US\$1.4 million) was provided for slow moving stock. The total provision at June 30, 2009 was US\$3.6 million (2008: US\$3.3 million).

26 Cash and cash equivalents

Figures in million	2009	US DOLLAR 2008
Cash at bank and short term deposits	253	53
Disposal groups classified as held-for-sale	—	—
Total cash and cash equivalents	253	53

27 Share capital

Authorized

- 1 200 000 000 (2008: 1 200 000 000) ordinary shares of SA 50 cents each
- 10 958 904 (2008: 10 958 904) redeemable convertible preference shares of SA 50 cents each

Issued

425 986 836 (2008: 403 253 756) ordinary shares of SA 50 cents each. All issued shares are fully paid.

Included in the total of issued shares is an amount of 2 314 shares held by Lydenburg Exploration Limited, a wholly owned subsidiary of the Company.

On December 1, 2008, Harmony issued 3 364 675 shares to Rio Tinto Limited. The Harmony shares were issued to cancel the Rio Tinto royalty rights over Wafi-Golpu in Papua New Guinea. The value of issued shares was US\$23 million at R71.98 per share.

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Harmony engaged in capital raising by issuing two tranches of shares following the resolution passed by shareholders at the Annual General Meeting held on November 24, 2008. The first tranche was issued into the open market between November 25, 2008 and December 19, 2008. In this tranche, 10 504 795 Harmony shares were issued at an average subscription price of R93.20, resulting in US\$97.9 million before costs being raised. The cost of the issue was US\$1.9 million, or 1.5%, of the value of shares issued.

A second tranche of shares was issued for cash into the open market between February 10, 2009 and March 6, 2009. This tranche consisted of 7 540 646 Harmony shares at an average subscription price of R124.45, resulting in US\$93.5 million before costs being raised. The cost of the issue was US\$1.6 million or 1.6% of the value of shares issued. The combined share issue amounts to US\$192 million, or 4.5%, of the issued share capital as at September 30, 2008.

The unissued shares are under the control of the directors until the forthcoming annual general meeting. Note 36 set out details in respect of the share option scheme and shares held in trust for employees of the Group.

The Company has a general authority to purchase its shares up to a maximum of 10% of the issued share capital in any one financial year. This is in terms of the annual general meeting of shareholders on November 24, 2008. The general authority is subject to the Listings Requirements of the JSE Securities Exchange South Africa and the Companies Act no 61 of 1973 of South Africa, as amended.

28 Other reserves

Figures in million	2009	US DOLLAR 2008
Foreign exchange translation reserve (a)	(111)	(216)
Mark-to-market of available-for-sale financial assets (b)	4	(2)
Equity component of convertible bond (c)	41	41
Acquisition of non-controlling interest in subsidiary (d)	(57)	(57)
Share-based payments (e)	55	42
Other	(4)	(4)
Total other reserves	(72)	(196)

The different categories of other reserves are made up as follows:

Foreign exchange translation reserve		
Balance at beginning of year	(216)	30
Realized portion reclassified through profit or loss	(53)	—
Current year’s foreign exchange movement	158	(246)
Balance at end of year	(111)	(216)

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		US DOLLAR
Figures in million	2009	2008
Mark-to-market of available-for-sale financial assets		
Balance at beginning of year	(2)	(44)
Impairment recognized in profit or loss	12	—
Tax on impairment	(3)	—
Realized portion reclassified through profit or loss	(2)	47
Tax on realized portion	—	—
Mark-to-market — unrealized	(3)	(9)
Tax on mark-to-market	1	4
Translation	1	—
Balance at end of year	4	(2)
Equity component of convertible bond		
Balance at beginning/end of year	41	41
Acquisition of non-controlling interest in subsidiary		
Balance at beginning/end of year	(57)	(57)
Share-based payments		
Balance at beginning of year	42	36
Share-based payments expensed	13	6
Balance at end of year	55	42
Other reserves		
Balance at beginning/end of year	(4)	(4)

- (a) The balance of the foreign exchange translation reserve movement represents the cumulative translation effect of the Company’s off-shore operations as well as the translation effect from Rand to US dollar.

The realised portion reclassified through profit or loss relates to the repayment of the loans from Harmony Australia and PNG. Refer to note 7(a) for further detail.
- (b) The balance of the mark-to-market reserve represents the movement in the fair value of the available-for-sale financial assets. For details on the movement, refer to note 21.
- (c) On May 24, 2004, the Group issued a convertible bond. The amount representing the value of the equity conversion component is included in other reserves, net of deferred income taxes. The equity conversion component is determined on the issue of the bonds and is not changed in subsequent periods. Refer to note 29(a) for more detail.
- (d) On March 15, 2004 Harmony announced that it had made an off market cash offer to acquire all the ordinary shares, listed and unlisted options of Abelle, held by non-controlling interests. The excess of the purchase price of US \$86.5 million (A\$123 million) over the carrying amount of the non-controlling interest acquired, amounting to US\$55 million, has been accounted for under other reserves.

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- (e) The Group issues equity-settled instruments to certain qualifying employees under an Employee Share Option Scheme to purchase shares in the Company’s authorised but unissued ordinary shares. Equity share-based payments are measured at the fair value of the equity instruments at the date of the grant. Share-based payments are expensed over the vesting period. During 2009 a share-based payment expense of US\$12.6 million (2008: US\$5.9 million was charged to the income statement. (Refer to note 36 for more detail).

29 Borrowings

Figures in million	2009	US DOLLAR 2008
Unsecured borrowings		
Convertible unsecured fixed rate bonds (a)	—	—
Principal amount	—	218
Equity conversion component, net of deferred tax liability	—	(41)
Deferred tax liability on initial recognition	—	(9)
Liability component on initial recognition	—	168
Unwinding of time value of money portion	—	40
Less: amortized bond issue costs	—	(1)
Translation	—	1
	—	208
Less: current portion	—	(208)
Africa Vanguard Resources (Proprietary) Limited (b)	4	4
Total unsecured long-term borrowings	4	4
Secured borrowings		
Nedbank Limited (c)	—	—
Liability amount	29	25
Less: current portion	(29)	(25)
Westpac Bank (d)	10	27
Liability amount	14	33
Less: current portion	(4)	(6)
Nedbank Limited (e)		
Principal amount	—	256
Less: amortized issue costs	—	(1)
	—	255
Less: current portion	—	(255)
Total secured long-term borrowings	10	27
Total long-term borrowings	14	31
Total current portion of borrowings	33	494
Total borrowings	47	525

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- (a) On May 21, 2004, Harmony issued an international unsecured fixed rate convertible bond in an aggregate principal amount of US \$251.9 million. The bonds mature five years from the issue date at their nominal value of R1 700 million unless converted into the company’s ordinary shares. The bonds are convertible at the option of the bondholders at any time on or after July 1, 2004 and up to and including May 15, 2009, unless previously redeemed, converted or purchased and cancelled, into fully paid ordinary shares, at nominal value Rand 0.50 per share. The number of ordinary shares to be issued at such a conversion shall be determined by dividing the principal amount of each bond by the conversion price in effect on the relevant conversion date. The initial conversion price is R121 per ordinary share subject to certain standard anti-dilutive provisions such as a rights offering, that are designed to maintain the value of the conversion option. No bond holders elected to convert their bonds into ordinary shares by May 15, 2009, and as a result all the fixed rate convertible bonds were redeemed on May 20, 2009.

Interest at a rate of 4.875% per annum is payable semi-annually in arrears on May 21 and November 21 of each year, commencing November 21, 2004. The fair values of the liability component and the equity conversion component were determined on the issue of the bond. The fair value of the liability component, included in borrowings, was calculated using a market interest rate for an equivalent non-convertible bond (10%). The residual amount, representing the value of the equity conversion component, is included in accumulated other comprehensive income net of deferred income taxes. In subsequent periods, the liability component continues to be presented on the amortized cost basis, until extinguished on conversion or maturity of the bonds. The equity conversion component is determined on the issue of the bonds and is not changed in subsequent periods. The bonds were listed on the London Stock Exchange for Bonds. The terms and conditions of the bonds prohibit Harmony and its material subsidiaries from creating any encumbrance or security interest over any of its assets to secure any relevant debt (or any guarantee or indemnity in respect of any relevant debt) without according the same security to the bondholders or without obtaining the prior approval of the bondholders. Included in the amortization charge as per the income statement is US\$0.9 million (2008: US \$1.2 million for amortization of the bond issue costs).

- (b) The loan to Africa Vanguard Resources (Doornkop) (Proprietary) Limited (“**AVRD**”) from its holding company African Vanguard Resources (Proprietary) Limited remained unchanged from the previous year. In 2005 AVRD borrowed an additional US\$2.3 million to service working capital commitments. This increased the initial loan of US\$1.8 million to US\$4.1 million. The loan is unsecured and interest free, with no fixed terms of repayment over the short term. Refer to note 29(c).

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- (c) On July 30, 2003, AVR D entered into a term loan facility of US\$19.1 million with Nedbank Limited for the purpose of partially funding AVR D’s purchase of an undivided 26% share of the Mining titles, to be contributed to the Doornkop South Reef project. Interest at a variable rate equal to JIBAR plus 2% shall be repayable to the extent that the AVR D received a portion of profit from the project. Unpaid interest shall be capitalized and repaid with the loan amount. Initially, the loan amount and any interest accrued was repayable on July 30, 2008, but the repayment date has been extended and negotiations are underway to further extend repayment to the date that conditions precedent on the sale of the 26% interest back to the Group are fulfilled. Refer to note 17(b). Interest accrued and capitalized during the year ended June 30, 2009 amounted to US\$3.3 million (2008: US\$4.1 million).
- The facility from Nedbank to AVR D is guaranteed by Harmony and certain of its subsidiaries. As a result of this guarantee and other factors, the Company is required to consolidate AVR D and has therefore included the loans from Nedbank and Africa Vanguard Resources (Proprietary) Limited in its consolidated borrowings.
- (d) In July 2007, Morobe Consolidated Goldfields (“MCG”) entered into a finance lease agreement with Westpac Bank for the purchase of mining fleet to be used on the Hidden Valley project.
- During the current year, MCG sold 50% of the finance lease liability to Newcrest in terms of the Master Purchase and Farm-In agreement.
- Interest is charged at US — LIBOR plus 1.25% per annum. Interest is accrued monthly and lease installments are repayable quarterly terminating June 30, 2013. The mining fleet financed is used as security for these loans.
- The future minimum lease payments are as follows:

Figures in million	2009	US DOLLAR 2008
Due within one year	4	7
Due between one and two years	5	7
Due between two and five years	6	23
	15	37
Future finance charges	(1)	(4)
	14	33

- (e) On September 28, 2007, the Company entered into a term loan facility of US \$283.9 million with Nedbank Limited, for the purpose of partially funding capital expenditure in respect of projects, as well as to repay the short term bridging loan amounting to US \$68.6 million. Interest accrues on a day to day basis over the term of the loan at a variable interest rate, which is fixed for three month periods, equal to the JIBAR plus 2.75% plus banking costs. Amortization bond cost for the year amounted to US\$1.2 million (2008: US\$1.5 million).
- Interest was repayable quarterly commencing on September 28, 2007. The loan was repaid in several tranches during the 2009 year with the final payment on April 21, 2009.

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The exposure of the Group’s borrowings to changes in interest rates and contractual repricing is as follows:

Figures in million	2009	US DOLLAR 2008
Variable	10	27
Current	33	494
Between 1 to 2 years	—	—
Between 2 to 5 years	—	—
Over 5 years	4	4
Total borrowings	47	525
Variable	21.6%	5.1%
Current	69.6%	94.1%
Between 1 to 2 years	0.0%	0.0%
Between 2 to 5 years	0.0%	0.0%
Over 5 years	8.8%	0.8%
Total borrowings	100.0%	100.0%

The maturity of borrowings is as follows:

Current	33	494
Between 1 to 2 years	4	6
Between 2 to 5 years	6	21
Over 5 years	4	4
Total borrowings	47	525

The effective interest rates at the balance sheet date were as follows:

Convertible unsecured fixed rate bonds (a) *	0.0%	10.0%
Africa Vanguard Resources (Proprietary) Limited (b)	0.0%	0.0%
Nedbank Limited (c)	11.9%	13.4%
Westpac Bank (d)	2.0%	4.1%
Nedbank Limited (e) *	0.0%	14.5%

* Loan repaid in full

Other borrowings

The level of the Harmony’s borrowing powers, as determined by its Articles of Association, shall not, except with the consent of the Harmony’s general meeting, exceed the greater of R40 million or the aggregate from time to time of the issued and paid-up share capital of the Company, together with the aggregate of the amounts standing to the credit of all distributable and non-distributable reserves (including minority interests in subsidiary companies and provisions for deferred taxation) and any share premium accounts of the Group. At year end, total borrowings amounted to US \$47 million (2008: US \$525 million).

30 Provision for environmental rehabilitation

The Group’s mining and exploration activities are subject to extensive environmental laws and regulations. These laws and regulations are continually changing and are generally becoming more restrictive. The Group has made, and expects to make in the future, expenditures to comply with such laws and regulations, but cannot predict the full amount of such future expenditures. Estimated future reclamation costs are based principally on legal and regulatory requirements. The following is a reconciliation of the total liability for environmental rehabilitation:

Figures in million	2009	US DOLLAR 2008
<i>Provision raised for future rehabilitation</i>		
Balance at beginning of year	196	192
Disposal of assets	(32)	(16)
Change in estimate — Balance sheet	27	12
Change in estimate — Income statement	—	1
Inflation present value adjustment and time value of money component	13	22
Translation	(6)	(15)
Balance at end of year	198	196
Disposal groups classified as held-for-sale	—	(51)
Total provision for environmental rehabilitation	198	145

While the ultimate amount of rehabilitation costs to be incurred in the future is uncertain, the Group has estimated that, based on current environmental and regulatory requirements, the total cost for the mines, in current monetary terms, is approximately US\$285 million (2008: US\$269 million). Refer to note 3.4 for the estimations and judgments used in the calculations.

Included in the charge to the income statement is an amount US\$4 million (2008: US\$6 million) relating to the time value of money.

Figures in million	2009	US DOLLAR 2008
<i>Future net obligations</i>		
Ultimate estimated rehabilitation cost	285	269
Amounts invested in environmental trust funds (Refer to note 20)	(207)	(206)
Total future net obligations	78	64

The Group intends to finance the ultimate rehabilitation costs from the money invested in environmental trust funds, ongoing contributions, as well as the proceeds on sale of assets and gold from plant clean-up at the time of mine closure.

31 Retirement benefit obligation and other provisions

Figures in million	2009	US DOLLAR 2008
Non-current		
Retirement benefit obligation (Refer to note 34)	20	17
Other	2	1
Total non-current provisions	22	18

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32 Trade and other payables

Figures in million	2009	US DOLLAR 2008
<i>Financial liabilities:</i>		
Trade payables	63	86
Other liabilities	8	8
<i>Non-financial liabilities:</i>		
Payroll accruals	39	37
Leave liabilities	31	27
Shaft related accruals	20	16
Other accruals	27	21
Value added tax	1	6
Total trade and other payables	189	201

Leave liability

Employee entitlements to annual leave are recognized on an ongoing basis. An accrual is made for the estimated liability for annual leave as a result of services rendered by employees up to the balance sheet date. The movement in the liability recognized in the balance sheet is as follows:

Figures in million	2009	US DOLLAR 2008
Balance at beginning of year	29	36
Benefits paid	(27)	(36)
Movement due to sale of business	(2)	(2)
Translation	(1)	(1)
Total expense per income statement	32	32
	31	29
Disposal groups classified as held-for-sale	—	(2)
Balance at end of year	31	27

33 Cash generated by operations

All amounts disclosed include discontinued operations.

Figures in million	2009	US DOLLAR 2008	2007
Reconciliation of profit/(loss) before taxation to cash generated by operations:			
Profit before taxation	405	33	90
<i>Adjustments for:</i>			
Amortization and depreciation	167	123	163
Impairment of assets	61	36	38
Loss/(gain) on financial instruments	—	1	(6)
Profit on sale of mining assets	(287)	(15)	(25)
Net increase/(decrease) in provision for post retirement benefits	1	1	(2)
Net increase/(decrease) in provision for environmental rehabilitation	—	2	(1)
(Profit)/loss from associates	(1)	11	3
Impairment of investment in associate	14	12	—
Share-based payments	13	6	6
Fair value loss/(gain) on financial instrument	10	(4)	(15)
Loss on sale of listed investments	—	63	3
Profit on sale of investment in associate	—	—	(33)
Dividends received	—	(5)	(3)
Interest received	(51)	(38)	(25)
Interest paid	26	76	66
Cost on closure of hedge positions	—	—	(80)
Provision for doubtful debts	11	13	1
Bad debts written off	3	—	—
Other non cash transactions	—	(13)	(16)

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Figures in million	2009	US DOLLAR 2008	2007
<i>Effect of changes in operating working capital items:</i>			
Receivables	(15)	4	(27)
Inventories	(20)	7	(30)
Accounts payable and accrued liabilities	(18)	(45)	57
Cash generated by operations	319	268	164

Additional cash flow information

The income and mining taxes paid in the statement of cash flow represents actual cash paid less refunds received.

Acquisitions and disposals of Subsidiaries / Businesses:

For the year ended June 2009

- (a) Disposal of Village
- On July 10, 2008, the Group disposed of its 37.8% interest in Village to To The Point Growth Specialists Investments 2 (Proprietary) Limited, for a consideration of US\$0.1 million. The investment in Village as at June 30, 2009 had a fair value of US\$0.09 million.
- (b) Disposal of Orpheo
- On September 1, 2008, the Group disposed of its 34% interest in Orpheo for a consideration of US\$0.13. The investment had been fully impaired on the date of sale.
- (c) Disposal of Randfontein Cooke Assets
- During the year, the Group disposed of its Cooke and Old Randfontein assets to Rand Uranium, a wholly owned subsidiary. In a related transaction, 60% of Rand Uranium shares were disposed of to PRF in two tranches. For detail, refer to note 22 (b).
- The aggregate fair value of the assets and liabilities sold were:

Figures in million	2009	US DOLLAR 2008	2007
<i>Transaction one</i>			
Property, plant and equipment	42	—	—
Environmental trust fund	3	—	—
Rehabilitation liability	(4)	—	—
Other costs	(2)	—	—
Foreign exchange movements	5	—	—
Profit on disposal	153	—	—
Proceeds received in cash	197	—	—
<i>Transaction two</i>			
Property, plant and equipment	1	—	—
Environmental trust fund	8	—	—
Rehabilitation liability	(13)	—	—
Foreign exchange movements	(2)	—	—
Profit on disposal	18	—	—
Proceeds received in cash	12	—	—

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(d) Profit on disposal of property, plant and equipment-PNG Joint Venture

During the year Harmony and Newcrest entered into a joint venture agreement, which provided that Newcrest would purchase a 30.01 participating interest and a further buy-out of an additional 19.99% participating interest in Harmony’s PNG gold and copper assets.

The aggregate fair value of the assets and liabilities sold were:

Figures in million	2009	US DOLLAR 2008	2007
<i>Stage 1: 30.01% Participating interest</i>			
Property, plant and equipment	185	—	—
Trade and other receivables	6	—	—
Inventory	1	—	—
Long-term loans	(10)	—	—
Rehabilitation liability	—	—	—
Foreign exchange movements	(11)	—	—
Profit on disposal	58	—	—
Proceeds received in cash	229	—	—
<i>Stage 2: 10% Participating interest</i>			
Property, plant and equipment	52	—	—
Trade and other receivables	1	—	—
Inventory	1	—	—
Long-term loans	(3)	—	—
Trade and other payables	(5)	—	—
Rehabilitation liability	—	—	—
Profit on disposal	44	—	—
Disposal proceeds	90	—	—
Proceeds received in cash	—	—	—
Proceeds received by way of the farm-in agreement	90	—	—
<i>Stage 3: 9.99% Participating interest</i>			
Property, plant and equipment	72	—	—
Trade and other receivables	2	—	—
Inventory	3	—	—
Long-term loans	(3)	—	—
Trade and other payables	(6)	—	—
Rehabilitation liability	(3)	—	—
Profit on disposal	10	—	—
Disposal proceeds	75	—	—
Proceeds received in cash	(6)	—	—
Proceeds received by way of the farm-in agreement	69	—	—

The principal non-cash transactions for the year were the acquisition of PNG royalty agreement (refer to note 17(c)), share-based payments (refer to note 36) and share exchange of Dioro for Avoca (refer to note 21(b) and(c)).

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For the year ended June 2008

- (a) On December 6, 2007, the Group disposed of its assets and liabilities in South Kal Mine to Dioro. The aggregate fair value of the assets and liabilities sold were:

Figures in million	2009	US DOLLAR 2008	2007
Property, plant and equipment	—	50	—
Consumables	—	3	—
Shares	—	3	—
Rehabilitation liability	—	(8)	—
Loss on disposal	—	(12)	—
Disposal proceeds	—	36	—
Proceeds received by way of shares	—	(18)	—
Proceeds received in cash	—	18	—

- (b) On February 27, 2008, the Group disposed of its assets and liabilities in its Orkney operations to Pamodzi Gold Limited. The aggregate fair value of assets and liabilities sold were:

Figures in million	2009	US DOLLAR 2008	2007
Property, plant and equipment	—	38	—
Environmental trust fund	—	4	—
Leave liability	—	(2)	—
Rehabilitation liability	—	(7)	—
Profit on disposal	—	13	—
Disposal proceeds	—	46	—
Proceeds received by way of shares	—	(46)	—
Cash and cash equivalent at disposal	—	—	—

The principal non-cash transactions for the year were the acquisition of the PNG royalty agreement (refer to note 17(c)), share-based payments (refer to note 36) and the purchase of assets under finance lease (refer to note 29).

For the year ended June 2007

- (a) On May 28, 2007, the Group disposed of 17% of its 50% share in a joint venture with Orpheo to AngloGold Ashanti Limited. The aggregate fair value of the assets acquired and liabilities assumed, and subsequently disposed of, were :

Figures in million	2009	US DOLLAR 2008	2007
Property, plant and equipment	—	—	1
Investment in associate	—	—	(1)
Total purchase price	—	—	—
Proceeds received by way of accounts receivable	—	—	—
Cash and cash equivalents at disposal	—	—	—

The principal non-cash transactions for the year were the share-based payments (refer to note 36) and the disposal of the investment in associate in Western Areas (note 9).

34 Retirement benefit obligations

- (a) **Pension and provident funds:** The Group contributes to several pension and provident funds governed by the Pension Funds Act, 1956 for the employees of its South African subsidiaries. The pension funds are multi-employer industry plans. The Group's liability is limited to its annually determined contributions.
- The provident funds are funded on the "money accumulative basis" with the member's and employer's contributions having been fixed in the constitution of the funds.
- The Australian group companies make contributions to each employee's Superannuation (pension) funds in accordance with the Superannuation Guarantee Scheme (SGS). The SGS is a Federal Government initiative enforced by law which compels employers to make regular payments to regulated funds providing for each employee on their retirement. The SGS were set at a minimum of 9% of gross salary and wages for the 2009 year (2008: 9%). The fund is a defined contribution plan.
- Substantially all the Group's employees are covered by the above mentioned retirement benefit plans. Funds contributed by the Group for the 2009 financial year amounted to US\$39.8 million (2008: US\$46.5 million).
- (b) **Post-retirement benefits other than pensions:** Most of the supervisory and managerial workers in South Africa participate in the Minemed medical scheme, as well as other medical schemes. The Group contributes to these schemes on behalf of current employees and retired employees who retired prior to December 31, 1996 (Minemed scheme). The annual contributions for these retired employees are fixed. The Group's contributions to these schemes on behalf of current employees amounted to US\$8.6 million for 2009 and US\$9.8 million for 2008.
- With the exception of some Freegold employees included from date of acquisition, no post-retirement benefits are available to other current workers. No liability exists for employees who were members of these schemes who retired after the date noted above. The medical schemes pay certain medical expenses for both current and retired employees and their dependents. Current and retired employees pay an annual fixed contribution to these schemes.
- Assumptions used to determine the liability relating to the Minemed medical scheme included, a discount rate of 10%, no increases in employer subsidies (in terms of the agreement) and mortality rates according to the SA "a mf" tables and a medical inflation rate of 7.8%. It is also assumed that all members will retire at the age of 60 and will remain on the current benefit option.

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The liability is based on an actuarial valuation conducted during the year ended June 30, 2009, using the projected unit credit method. The next actuarial valuation will be performed on June 30, 2010.

Figures in million	2009	US DOLLAR 2008
Present value of unfunded obligations	20	17
Movement in the liability recognized in the balance sheet		
Balance at beginning of year	17	15
Contributions paid	—	—
Other expenses included in staff costs/current service cost	1	1
Interest cost	2	1
Net actuarial loss recognized during the year	—	2
Translation	—	(2)
Balance at end of year	20	17

The principal actuarial assumptions used for accounting purposes were:

Figures in million	2009	US DOLLAR 2008
Discount rate	10.0%	12.0%
Healthcare inflation rate	7.8%	9.8%
Normal retirement age	60	60

The net liability of the defined benefit plan is as follows:

Present value of defined benefit obligation	20	17
Fair value of plan assets	—	—
Net liability	20	17

The present value of the defined benefit obligation was US\$15.2 million in 2007, US\$14.9 million in 2006 and US\$13.3 million in 2005.

The effect of a one percentage point increase and decrease in the assumed medical cost trend rates is as follows:

Figures in million	2009	US DOLLAR 2008
	1% Increase	1% Increase
Effect on:		
Aggregate of service cost and interest cost	—	—
Defined benefit obligation	3	3
	1% Decrease	1% Decrease
Effect on:		
Aggregate of service cost and interest cost	—	—
Defined benefit obligation	3	2

The Group expects to contribute approximately US\$0.5 million to its benefit plan in 2010.

35 Employee benefits

Figures in million	2009	US DOLLAR 2008
Number of permanent employees as at 30 June:		
South African operations*	37,028	36,839
International operations**	48	873
Total number of permanent employees	37,076	37,712

Figures in million	2009	US DOLLAR 2008
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Aggregated earnings

The aggregate earnings of employees including directors were:

Salaries and wages and other benefits	509	591
Retirement benefit costs	40	47
Medical aid contributions	9	10
Total aggregated earnings	558	648

- * There was no employees attributable to the discontinued operations at June 30, 2009 (2008: 3 618).
- ** The total employees at Australian operations at June 30, 2009 was 48 (2008: 873). Of this total, no employees (2008: 0) were attributable to the discontinued operations. The employee numbers reduced primarily due to the disposal of 50% of the PNG assets to Newcrest. Our attributable portion of the JV employees is 425.

During the 2009 year, US\$2 million (2008: US\$0.7 million) was included in the payroll cost for termination costs. This excludes the cost for voluntary retrenchment process (refer to note 5).

Directors’ remuneration

During the fiscal 2009, the directors received remuneration of US\$1.1 million, comprising of US\$0.74 million for salaries, US\$0.03 million for retirement contributions and US\$0.33 million for bonuses. The non-executive directors received US\$0.4 million in directors’ fees. The aggregate of remuneration received by senior management was US\$2.7 million].

During the fiscal 2008, the directors received remuneration of US\$1.2 million, comprising of US\$0.4 million for salaries, US\$0.5 million for retirement contributions and US\$0.3 million for bonuses. The non-executive directors received US\$0.3 million in directors’ fees. The aggregate of remuneration received by senior management was US\$2.7 million.

36 Share option scheme

The Group currently has the 2001, 2003 schemes and the 2006 share plan that are active. The objective of these schemes is to recognize the contributions of senior staff to the Group’s financial position and performance and to retain key employees.

The options granted under the 2001 and 2003 schemes

A fifth of the options granted under the 2001 and 2003 schemes are exercisable annually from the grant date with an expire date of 10 years from the grant date. The offer price of these options equaled the closing market price of the underlying shares on the trading date immediately preceding the granting of the options.

On resignation and retirement, share options which have not yet vested will lapse and share options which have vested may be taken up at the employee’s election before the last day of service. Payment of shares forfeited will therefore not be required. On death, all options vest immediately and the deceased estate has a period of twelve months to exercise these options.

Following the introduction of the 2006 share plan, no further options are expected to be allocated under these two schemes.

<i>Number of share options relating to the 2001 and 2003 option schemes</i>	<i>2009</i>	<i>2008</i>
Share options granted	28,442,420	28,442,420
Exercised	18,570,971	17,249,668
Vested but not exercised	1,791,215	1,792,796
Unvested	1,059,343	2,735,443
Forfeited and lapsed	7,020,891	6,664,513
<i>Vesting periods of unvested shares</i>		
Within one year	1,059,343	1,367,722
One to two years	—	1,367,721
Total number of shares unvested	1,059,343	2,735,443

No options were granted in the 2008 and 2009 years for the 2001 and 2003 option schemes.

<i>Activity on share options granted but not yet exercised</i>	<i>Shares</i>	<i>Weighted average option price (SA Rand)</i>
For the year ended June 30, 2009		
Balance at beginning of year	4,528,239	49.14
Options exercised	(1,321,303)	51.42
Options forfeited and lapsed	(356,378)	53.12
Balance at end of year	2,850,558	47.58
For the year ended June 30, 2008		
Balance at beginning of year	8,129,669	48.38
Options exercised	(1,764,132)	49.16
Options forfeited and lapsed	(1,837,298)	45.77
Balance at end of year	4,528,239	49.14

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<i>List of options granted but not yet exercised (listed by grant date)</i>	<i>At 30 June 2009</i>	<i>Option price (SA Rand)</i>	<i>Remaining life (years)</i>
April 24, 2001	17,000	36.50	1.8
November 20, 2001	177,701	49.60	2.4
September 23, 2002	13,647	66.00	3.2
March 27, 2003	125,300	91.60	3.7
August 10, 2004	576,558	66.15	5.1
April 26, 2005	1,940,352	39.00	5.8
Total option granted but not yet exercised	2,850,558		

The number of shares held by the Harmony Share Trust at year end amounted to 63 500 (2008: 107 400). This trust is considered to be an SPE and is therefore consolidated in accordance with the Group’s accounting policies.

<i>List of options granted but not yet vested (listed by grant date)</i>	<i>2009</i>	<i>2008</i>
August 10, 2004	316,498	817,660
April 26, 2005	742,845	1,917,783
Total options granted but not yet vested	1,059,343	2,735,443

<i>Figures in million</i>	<i>US DOLLAR 2009</i>	<i>2008</i>
Average market price options traded during the year	11	22
Average fair value of share options vested during the year	14	41
Share based cost recognized	1	1

	<i>Option allocation August 10, 2004</i>	<i>April 26, 2005</i>
The share based cost is calculated using the binominal valuation model based on the following assumptions at grant date:		
Price at date of grant (SA Rand per share)	66.15	39
Risk-free interest rate:	9.9%	8.4%
Expected volatility:	40.0%	35.0%
Expected dividend yield:	0.0%	0.0%
Vesting period:	5 years	5 years

Share based payments are measured at the fair value of the equity instruments at the date of the grant. The cost is expensed over the vesting period, based on the Group’s estimate of the options that are expected to eventually vest.

The only vesting conditions for the 2001 and 2003 schemes is that the employees should be in the employment of the Group.

The volatility measured at the standard deviation of expected share price returns were based on statistical analysis of daily share prices over the last three years before grant date.

The shares granted under the 2006 share plan

The 2006 share plan consist of both performance shares (PS) and share appreciation rights (SARs). The PS will vest after three years from the grant date, if and to the extent that the performance conditions have been satisfied. The SARs will vest in equal thirds in year 3, 4 and 5 after grant date, subject to the performance conditions having been satisfied. The SARs have an expiry date of 6 years from the grant date and the offer price equals the closing market price of the underlying shares on the trading date immediately preceding the grant.

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The aggregate number of shares which may be allocated to the share plan on any day, when added to the total number of unexercised SARs, unvested performance shares, and restricted shares which have been allocated for SAR's and PS, and any other employee share scheme operating by the company, shall not exceed 14% of the number of issued ordinary shares of the company from time to time. On June 30, 2009, 3 718 127 PS and 5 284 500 SARs had been allocated to participating employees.

Termination of employees participation in the share plan is based on “No Fault” and “Fault” definitions.

In the case of SARs, if employment is terminated for No Fault reasons, then the value of the appreciation in all unvested and un-exercised SARs is settled in shares or cash at the option of the employer as at the date of termination of employment, after the deduction of any tax payable. The employer has no past practice of settling in cash.

In the case of PS, if employment is terminated for No Fault reasons, then

- First the maximum number conditionally awarded is pro-rated for the time period until the termination date;
- Then this adjusted number is reduced to a third on the assumption that Harmony’s performance was a median one with one third vesting;
- And then settled in cash or shares after the deduction of any tax payable.

In either case, if employment is terminated for Fault reasons, all unvested and un-exercised SARs and all PS not yet vested are lapsed and cancelled.

<i>Number of shares relating to the 2006 share plan at June 30,</i>	<i>2009</i>	<i>2008</i>
Shares granted	9,002,627	4,676,720
Unvested	7,854,749	4,236,938
Performance shares	3,302,163	1,341,444
Share appreciation rights	4,552,586	2,895,494
Shares forfeited	1,147,878	439,782
Performance shares	415,964	170,658
Share appreciation rights	731,914	269,124
<i>Vesting periods of unvested shares:</i>		
Within one year	503,589	—
One to two years	1,651,892	603,399
Two to three years	3,675,954	1,932,502
Three to four years	1,329,960	965,165
Four to five years	693,354	735,872
Total number of unvested shares	7,854,749	4,236,938

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	2009		2008	
		Weighted average option price (SA Rand)		Weighted average option price (SA Rand)
Activity on PS and SARs granted but not yet exercised	Shares		Shares	
Balance at beginning of year	4,236,938		1,468,510	
Performance shares	1,341,444	n/a	538,516	n/a
Share appreciation rights	2,895,494	81.04	929,994	112.64
Options granted	4,325,907		3,195,613	
Performance shares	2,206,026	n/a	973,586	n/a
Share appreciation rights	2,119,881	77.81	2,222,027	71.19
Options lapsed	(708,096)		(427,185)	
Performance shares	(245,306)	n/a	(170,658)	n/a
Share appreciation rights	(462,790)	92.79	(256,527)	110.27
Balance at end of year	7,854,749		4,236,938	
Performance shares	3,302,164	n/a	1,341,444	n/a
Share appreciation rights	4,552,585	79.38	2,895,494	81.04

List of shares granted but not yet exercised (listed by grant date)	At June 30, 2009	Strike price (SA Rand)	Remaining life(years)
Performance shares			
November 15, 2006	316,020	n/a	0.38
November 15, 2007	815,410	n/a	1.38
March 7, 2008	12,308	n/a	1.68
December 5, 2008	2,158,425	n/a	2.43
Share appreciation rights			
November 15, 2006	562,707	112.64	3.38
November 15, 2007	1,863,662	70.54	4.38
March 7, 2008	46,154	102.00	4.69
December 5, 2008	2,080,063	77.81	5.44
Total options granted but not yet exercised	7,854,749		

None of the allocations for the 2006 share plan have vested yet.

Figures in million	US DOLLAR	
	2009	2008
Share based cost recognized	12	5

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The share based cost is calculated using Monte Carlo simulation on the PS and Black-Scholes on the SARs, based on the following assumptions at grant date.

	Performance shares	SAR's
Price at date of grant (SA Rand per share)		
- November 15, 2006 share allocation	n/a	112.64
- November 15, 2007 share allocation (valuation date December 21, 2007)	n/a	68.44
- November 15, 2007 share allocation (valuation date April 21, 2008)	n/a	92.25
- March 7, 2008 share allocation	n/a	102.00
- December 5, 2008 share allocation (valuation date December 5, 2008)	n/a	77.81
- December 5, 2008 share allocation (valuation date February 16, 2009)	n/a	116.90
Risk-free interest rate:		
- November 15, 2006 share allocation	9.58%	8.79%
- November 15, 2007 share allocation (valuation date December 21, 2007)	10.81%	9.84%
- November 15, 2007 share allocation (valuation date April 21, 2008)	11.71%	10.68%
- March 7, 2008 share allocation	11.04%	10.44%
- December 5, 2008 share allocation (valuation date December 5, 2008)	8.55%	8.43%
- December 5, 2008 share allocation (valuation date February 16, 2009)	8.18%	8.30%
Expected volatility*:		
- November 15, 2006 share allocation	34.71%	26.37%
- November 15, 2007 share allocation (valuation date December 21, 2007)	46.32%	35.10%
- November 15, 2007 share allocation (valuation date April 21, 2008)	49.52%	41.72%
- March 7, 2008 share allocation	50.49%	54.50%
- December 5, 2008 share allocation (valuation date December 5, 2008)	56.62%	48.61%
- December 5, 2008 share allocation (valuation date February 16, 2009)	70.86%	49.03%
Expected dividend yield:		
- for all allocations	0.00%	0.00%
Vesting period (from grant date):		
- for all allocations	3 years	5 years

Share based costs are measured at the fair value of the equity instruments at the date of the grant as defined in IFRS 2. The grant date is the date at which the entity and counterparty have a shared understanding of the terms and conditions of the share-based payment arrangement. The cost is expensed over the vesting period, based on the Group's estimate of the options that are expected to eventually vest.

For November 15, 2006, November 15, 2007 and March 7, 2008 issue:

The performance criteria imposed by the board and which must be satisfied before settlement of any PS under these awards are linked to the Company's TSR in comparison to the Philadelphia XAU index of international gold and precious metal mining companies (50%) and the JSE Gold Mining index (50%).

The following performance criteria was imposed per the Harmony (2006) Share Plan which must be satisfied before the settlement of any SARs:

- that the Company's headline earnings per share have grown since the allocation date by a minimum of CPI plus 3%;
- that the Company's performance has since the allocation date been a satisfactory achievement in terms of the Company's sustainability index.

For December 5, 2008 issue:

The Performance Criteria imposed by the Board and which must be satisfied before the Settlement of any PS under this Award are linked to the Company's TSR (Total Shareholder Return) in comparison to the SA Gold Index (50%) and the SA Resource Index (50%);

The following performance criteria was imposed per the Harmony (2006) Share Plan which must be satisfied before the settlement of any SARs:

- that the Company's headline earnings per share have grown since the allocation date by more than the CPI.

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- For options granted during the year, the following fair values were used as a basis to recognize share-based payment cost:
- For options measured on December 5, 2008, the value is R50.47 and R48.12 per share for PS and SARs respectively.
 - For options measured on February 16, 2009, the value is R69.17 and R73.67 per share for PS and SARs respectively.
 - * The volatility is measured as an annualized standard deviation of historical share price returns, using an exponentially weighted moving average (EWMA) model, with a lambda of 0.99. The volatility is calculated on the grant date, and takes into account the previous three years of historical data.

37 Related parties

None of the directors or major shareholders of Harmony or, to the knowledge of Harmony, their families, had interest, direct or indirectly, in any transaction or in any proposed transaction that has affected or will materially affect Harmony or its subsidiaries since July 1, 2008, other than as stated below.

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the Group, directly or indirectly, being any director (whether executive or otherwise) of the Group.

Refer to note 35 for the details of the directors’ remuneration.

African Rainbow Minerals Limited (ARM) currently holds 15% of Harmony’s shares. Patrice Motsepe, Andre Wilkens and Frank Abbott are directors of ARM.

Harmony owns a 40% interest in Rand Uranium. Graham Briggs, Frank Abbott and Fikile de Buck are directors of Rand Uranium.

Material transactions with associates and joint ventures:

All transactions with related parties are conducted at arms-length.

Rand Uranium disposal

On November 21, 2008 the Group disposed of its Randfontein Cooke assets to Rand Uranium in exchange for a 100% interest in the company. On the same date the Group disposed of 60% of the interest held in Rand Uranium to PRF which resulted in a 40% interest held and Rand Uranium became an associate.

The conditions precedent for the second part of the Rand Uranium transaction relating to the sale of the Old Randfontein assets were fulfilled on April 22, 2009. Additional shares were issued in settlement and 60% of these shares were sold to PRF in terms of the agreement. PRF paid its portion of the purchase in cash on April 20, 2009. The total value of these transactions was US\$348 million. (Refer to note 22(b) for detail).

PNG disposal

On April 22, 2008 Morobe Consolidated Goldfields Limited and Wafi Mining Limited, subsidiaries of Harmony Gold (Australia) (Proprietary) Limited entered into a Master Purchase and Farm-in Agreement with Newcrest. This agreement provided for Newcrest to purchase a 30.01% participating interest (stage 1) and a further buy-out of an additional 19.99% participating interest in Harmony’s PNG Gold and copper assets, giving them a 50% interest. The total value of the transaction was US\$530 million. (Refer to note 23(a) for detail).

Figures in million	US DOLLAR	
	2009	2008
Sales and services rendered to related parties		
Associates	24	6
Joint Venture	—	—
	24	6

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Figures in million	US DOLLAR	
	2009	2008
Purchases and services acquired from related parties		
Associates	1	—
Outstanding balances due by related parties		
Associates	22	13
Joint Ventures	10	—
	32	13

Refer to note 24(a), (b) and (c) for detail on the items relating to the loans to associates and joint ventures. Refer to note 24 (e) for details on the provisions raised against these loans.

38 Commitments and Contingencies

Capital expenditure commitments		
Contracts for capital expenditure	32	149
Share of Joint Venture’s contract for capital expenditure	30	—
Authorized by the directors but not contracted for	95	221
Total capital commitments	157	370

This expenditure will be financed from existing resources and where appropriate, borrowings.

The Group is contractually obliged to make the following payments in respect of operating leases, including for land and buildings, and for mineral tenement leases:

Within one year	5	8
Between one year and five years	1	—
	6	8

This includes US\$0.9 million for the PNG Joint Venture. For details on the Group’s finance leases, refer to note 29.

Contingent liabilities		
Guarantees and suretyships	3	2
Environmental guarantees (i)	39	22
	42	24

(i) Included in the balance for 2009 is an amount of US\$16.8 million relating to guarantees provided for the Rand Uranium transaction. These guarantees will be cancelled once Rand Uranium puts its own guarantees in place. Also included is an amount of US\$14.5 million for which funds have been set aside. Refer to note 19.

Contingent liability

(a) *Class Action.* On 18 April 2008, Harmony Gold Mining Company Limited was made aware that it has been named or may be named as a defendant in a lawsuit filed in the U.S. District Court in the Southern District of New York on behalf of certain purchasers and sellers of Harmony’s American Depositary Receipts (“**ADRs**”) with regards to certain of its business practices. Harmony has retained legal counsel, who advise Harmony on further developments in the U.S.

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During January 2009, the plaintiff filed an Amended Complaint with the Court. Subsequently, the Company filed a Motion to Dismiss all claims asserted in the Class Action Case with the Court. The plaintiffs have filed an opposing response and the Company has since replied to that response. It is not possible to predict with certainty when the Court will rule on the Motion to Dismiss as the timing of the ruling is entirely within the discretion of the Court. It is currently not possible to estimate if there will be a financial effect, or what that effect might be.

- (b) The Group may have a potential exposure to rehabilitate groundwater and radiation that may exist where the Group has and/or continues to operate. In addition the Group may have an exposure in relation to obtaining a full closure certificate for the rehabilitation of these areas.

The ultimate outcome of the matter cannot presently be determined and no provision for any liability that may result has been made in the financial statements. It is further not certain that the Group would be held liable for any or all of these exposures.

Should the Group determine that any part of these contingencies require them being recorded and accounted for as liabilities, i.e. where they become quantifiable and probable, it could have a material impact on the financial status of the Group.

39 Subsequent events

Pamodzi Gold Free State (Proprietary) Limited (In Provisional Liquidation)

During June 2009, Harmony reported that the provisional liquidators for Pamodzi Gold Free State (Proprietary) Limited (In Provisional Liquidation) ("**Pamodzi Free State**") had chosen Harmony as the preferred bidder of Pamodzi Free State's assets. These assets consists of President Steyn 1 and 2 Shafts, Loraine 3 Shaft, Freddie 7 Shaft and Freddie 9 Shaft, a metallurgical gold plant, a waste rock dump and a dormant tailings storage facility.

Harmony's offer was accepted during July 2009, following the approval from the Industrial Development Corporation of South Africa and the relevant trade unions.

In September 2009, Harmony entered into four separate agreements to purchase Pamodzi Free State's assets. The Pamodzi Free State assets will be purchased free from all liabilities, save for all associated rehabilitation and environmental liabilities. The purchase consideration for these assets is US\$52.4 million.

The major conditions precedent that have to be fulfilled in order for the agreements to become unconditional are the conversion of the Pamodzi Free State mining rights and the consent for the cession thereof to Harmony by the Minister of Mines.

Dividends

On August 13, 2009, the Board of Directors approved a final dividend for the 2009 financial year of 50 SA cents per share. The dividend amounting to US\$28.6 million was paid on September 21, 2009. As this dividend was declared after the reporting date, it has not been reflected in the financial statements for the periods ended June 30, 2009.

PNG exploration acquisition

On 27 August 2009, Harmony acquired two new exploration projects, the Amanab and the Mount Hagen Projects, in PNG.

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Amanab project EL1708 was granted on July 6, 2009 and comprises of about 863 square kilometers of tenure. The tenement is located approximately 160km north of the OK Tedi copper-gold mine in the Sandaun Province and was pegged to target the bedrock source of the alluvial goldfield centered on the Yup River.

The Mount Hagen project comprises two contiguous tenements encompassing approximately 1 100 square kilometers of tenure. The tenements are located approximately 20km north-northeast of Mt Hagen and are readily accessible via the Highlands Highway connecting Lae and Porgera.

Harmony acquired 100% of the mineral rights for EL1596 from Frontier Resources for the cash consideration of A\$0.3 million (US\$0.25 million).

Harmony also acquired the rights to explore the adjacent tenement EL1611 over a four year period, with the condition that Harmony’s exploration program meets the minimum annual expenditure commitment. At any time during this period Harmony may exercise an option to purchase 100% of the tenement for a total cash consideration of US\$2.4 million.

Avoca Resources Limited

During September 2009 and October 2009, the Group disposed its Avoca Resources Limited shares for approximately A\$6 million (US\$5.2 million).

Big Bell Operations (Proprietary) Limited

During the September 2009 quarter, the board approved the sale of Big Bell Operations (Proprietary) Limited (BBGO), operations in Western Australia. A tender process was completed and a preferred bidder was identified. The share sale agreement is expected to be completed and executed during the December 2009 quarter. BBGO has been classified as held-for-sale.

40 Segment report

The Group has only one product, being gold. In order to determine operating and reportable segments, management reviewed various factors, including geographical location as well as managerial structure. It was determined that an operating segment consists of a shaft or a group of shafts managed by a single general manager and management team.

After applying the quantitative thresholds from IFRS 8, the reportable segments were determined as:

Tshepong, Phakisa, Bambanani, Masimong, Target, Doornkop, Elandskraal, Evander, Virginia, Cooke (held-for-sale and discontinued) and Papua New Guinea. All other operating segments have been grouped together under other — underground or other — surface, under their classification as either continuing or discontinued.

When assessing profitability, the chief operating decision maker (“**CODM**”) considers the revenue and cash production costs of each segment. The net of these amounts is the cash operating profit or loss. Therefore, cash operating profit has been disclosed in the segment report as the measure of profit or loss.

The CODM does not consider depreciation or impairment and therefore these amounts have not been disclosed in the segment report.

Segment assets consist of mining assets which can be attributed to the shaft or group of shafts. Items such as trade and other receivables and investments in financial assets are not allocated at a shaft level and therefore form part of the reconciliation to total assets.

The comparative segment reports have been restated to reflect Mount Magnet being classified as a continuing operation.

A reconciliation of the segment totals to the Group financial statements has been included in note 41.

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Segment report for the year ended June 30, 2009.

	Revenue US\$m	Cash production cost US\$m	Cash operating profit US\$m	Mining assets US\$m	Capital expenditure US\$m	Ounces produced* oz	Tons milled* t'000
Continuing operations							
South Africa							
Underground							
Tshepong	198	109	89	471	28	230,778	1,516
Phakisa	19	12	7	474	51	22,216	204
Bambanani	103	72	31	91	6	121,530	570
Doornkop	38	31	7	330	44	42,150	605
Elandsrand	158	117	41	352	47	174,321	1,061
Target	76	60	16	287	38	87,225	710
Masimong	135	73	62	86	14	154,034	981
Evander	168	111	57	122	24	190,075	1,241
Virginia	226	165	61	116	22	258,170	2,493
Other	56	41	15	31	6	65,684	566
Surface							
Other	100	59	41	18	9	114,648	9,778
Total South Africa	1,277	850	427	2,378	289	1,460,831	19,725
International							
Papua New Guinea	—	—	—	458	198	—	—
Other operations	—	—	—	34	—	—	—
Total international	—	—	—	492	198	—	—
Total continuing operations	1,277	850	427	2,870	487	1,460,831	19,725
Discontinued operations							
Cooke operations	69	50	19	—	10	80,377	1,419
Total discontinued operations	69	50	19	—	10	80,377	1,419
Total operations	1,346	900	446	2,870	497	1,541,208	21,144
Reconciliation of the segment information to the consolidated income statement and balance sheet (refer to note 41)							
	(69)	(50)		2,055			
	1,277	850		4,925			

* Production statistics are unaudited.

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Segment report for the year ended June 30, 2008

	Revenue US\$m	Cash production cost US\$m	Cash operating profit/(loss) US\$m	Mining assets US\$m	Capital expenditure US\$m	Ounces produced* oz	Tons milled* t'000
Continuing operations							
South Africa							
Underground							
Tshepong	223	125	98	404	27	265,914	1,649
Phakisa	4	2	2	312	40	4,024	34
Bambanani	128	102	26	98	15	154,879	912
Doornkop	35	31	4	273	48	44,038	494
Elandsrand	133	103	30	304	44	164,215	981
Target	69	51	18	275	35	79,602	686
Masimong	96	88	8	94	16	116,424	892
Evander	193	127	66	131	33	231,799	1,447
Virginia	204	180	24	107	20	247,820	2,349
Other	58	52	6	29	6	67,862	535
Surface							
Other	126	57	69	19	19	147,980	9,524
Total South Africa	1,269	918	351	2,046	303	1,524,557	19,503
International							
Papua New Guinea	—	—	—	580	197	—	—
Other operations	56	41	15	66	4	75,297	966
Total international	56	41	15	646	201	75,297	966
Total continuing operations	1,325	959	366	2,692	504	1,599,854	20,469
Discontinued operations							
Cooke operations	194	123	71	86	22	236,170	3,906
Other operations	59	66	(7)	—	16	74,433	1,048
Total discontinued operations	253	189	64	86	38	310,603	4,954
Total operations	1,578	1,148	430	2,778	542	1,910,457	25,423
Reconciliation of the segment information to the consolidated income statement and balance sheet (refer to note 41)							
	(253)	(189)		1,932			
	1,325	959		4,710			

* Production statistics are unaudited.

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Segment report for the year ended June 30, 2007.

	Revenue US\$m	Cash production cost US\$m	Cash operating profit US\$m	Mining assets US\$m	Capital expenditure US\$m	Ounces produced* oz	Tons milled* t'000
Continuing operations							
South Africa							
Underground							
Tshepong	203	112	91	442	26	319,192	1,824
Phakisa	—	—	—	303	32	—	—
Bambanani	126	115	11	105	17	197,084	1,283
Doornkop	37	25	12	247	38	56,810	597
Elandsrand	124	103	21	299	33	195,412	1,117
Target	91	53	38	287	16	142,653	904
Masimong	95	82	13	79	15	146,575	1,074
Evander	151	113	38	143	28	235,857	1,667
Virginia	172	147	25	67	19	264,890	2,507
Other	65	51	14	28	6	104,553	770
Surface							
Other	52	35	17	66	17	82,467	4,557
Total South Africa	1,116	836	280	2,066	247	1,745,493	16,300
International							
Papua New Guinea	—	—	—	320	73	—	—
Other operations	86	71	15	29	20	136,415	1,875
Total international	86	71	15	349	93	136,415	1,875
Total continuing operations	1,202	907	295	2,415	340	1,881,908	18,175
Discontinued operations							
Cooke operations	154	118	36	72	19	244,056	2,327
Other operations	133	109	24	96	22	207,436	2,338
Total discontinued operations	287	227	60	168	41	451,492	4,665
Total operations	1,489	1,134	355	2,583	381	2,333,400	22,840
Reconciliation of the segment information to the consolidated income statement and balance sheet (refer to note 41)							
	(287)	(227)		2,577			
	1,202	907		5,160			

* Production statistics are unaudited.

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41 Reconciliation of segment information to consolidated income statements and balance sheet:

The “reconciliation of segment data to consolidated financials” line item in the segment reports is broken down into the following elements, to give a better understanding of the differences between the income statement, balance sheet and the segment report.

Figures in million	2009	US DOLLAR 2008	2007
Revenue from:			
Discontinued operations	69	253	287
Production costs from:			
Discontinued operations	50	189	227
Reconciliation of cash operating profit to consolidated profit/(loss) before taxation and discontinued operations:			
Total segment revenue	1,346	1,578	1,489
Total segment production costs	(900)	(1,148)	(1,134)
Cash operating profit	446	430	355
Less discontinued operations	(19)	(64)	(60)
	427	366	295
Cost of sales items other than production costs	(254)	(203)	(177)
Amortization and depreciation of mining properties, mine development cost and mine plant facilities	(158)	(107)	(130)
Amortization and depreciation of other than mining properties, mine development cost and mine plant facilities (b)	(9)	(10)	(4)
Provision/(reversal of provision) for rehabilitation costs	(3)	(2)	6
Care and maintenance cost of restructured shafts	(6)	(10)	(8)
Employment termination and restructuring costs	(4)	(32)	—
Share-based payments	(13)	(6)	(6)
Impairment of assets	(61)	(35)	(37)
Provision for post retirement benefits	—	(1)	2
Gross profit	173	163	118
Corporate, administration and other expenditure	(40)	(33)	(31)
Exploration expenditure	(32)	(32)	(30)
Profit on sale of property, plant and equipment	116	18	25
Other expenses — net	(3)	(13)	—
Operating profit	214	103	82
Profit/(loss) from associates	1	(11)	(3)
Profit on sale of investment in associate	—	—	33
Impairment of investment in associate	(14)	(12)	—
Fair value (loss)/gain on financial instruments	(10)	5	15
Loss on sale of listed investments	—	(63)	(5)
Investment income	49	39	27
Finance cost	(24)	(71)	(66)
Profit/(loss) before taxation and discontinued operations	216	(10)	83

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Figures in million	2009	US DOLLAR 2008	2007
Reconciliation of total segment assets to consolidated assets includes the following:			
Non-current assets			
Property, plant and equipment not allocated to specific segments	744	906	1,026
Intangible assets	288	283	328
Restricted cash	21	10	1
Restricted investments	212	188	195
Investment in financial assets	7	9	8
Investments in associates	43	19	1
Deferred tax asset	222	190	216
Trade and other receivables	10	18	8
Current assets			
Inventories	134	89	105
Investment in financial assets	—	—	353
Trade and other receivables	115	112	130
Income and mining taxes	6	11	9
Restricted cash	—	—	39
Cash and cash equivalents	253	53	101
Assets of disposal groups classified as held-for-sale	—	44	57
Total assets	2,055	1,932	2,577

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<FILENAME> u07679exv4w25.htm
<DESCRIPTION> Deed of Extinguishment of Royalty (Wafi-Golpu Project)
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HARMONY GOLD MINING COMPANY LIMITED
WAFI MINING LIMITED

DEED OF EXTINGUISHMENT OF ROYALTY — WAFI-GOLPU PROJECT

DEED OF EXTINGUISHMENT OF ROYALTY — WAFI-GOLPU PROJECT

THIS DEED is made this 16th day of February 2009

BETWEEN:

- 1. **HARMONY GOLD MINING COMPANY LIMITED**, a company incorporated in the Republic of South Africa and having its registered office at Randfontein Office Park, Corner Main Reef Road and Ward Avenue, Randfontein, Gauteng, South Africa (“**Harmony**”)

and
- 2. **WAFI MINING LIMITED (1-11452)**, a company incorporated in the Independent State of Papua New Guinea and having its registered office at c/- Blake Dawson Waldron Lawyers, Level 4, Mogoru Moto Building, Champion Parade, Port Moresby, Papua New Guinea (“**Wafi**”).

RECITALS:

- A. Pursuant to the Royalty Deed:
 - (i) Wafi agreed to pay to Rio Tinto a royalty for ounces of gold to be produced by Wafi from the Wafi-Golpu Project in Papua New Guinea; and
 - (ii) Pursuant to subsequent amendments, Abelle became a party to the Royalty Deed and guaranteed the due and punctual performance of the obligations of Wafi under the Royalty Deed and indemnified Rio Tinto.
- B. Pursuant to the Agreement of Sale:
 - (i) Harmony acquired the Royalty Interest from Rio Tinto and inter alia;
 - (ii) Harmony agreed to pay US\$10,000,000 to Rio Tinto in the event that Wafi makes a Decision to Mine (as defined in the Agreement for Sale) (“the Contingent Balance”), and

Pursuant to the Deed of Assignment, Assumption and Release:

 - (ii) Rio Tinto, Harmony and Wafi agreed to release and discharge Abelle from all obligations and liabilities whatever under the Royalty Deed.
- C. Harmony and Wafi are now the only parties to the Royalty Deed.
- D. Wafi wishes to acknowledge its liability to Harmony to pay to it the Contingent Balance.
- E. Harmony has agreed to assign and transfer to Wafi the Royalty Interest and, therefore the parties wish to terminate the Royalty Deed and be released from all obligations and liabilities under the Royalty Deed on the terms of this document.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this document (including the Recitals), the following definitions apply unless the context requires otherwise:

“Abelle Limited” means Abelle Limited ACN 087 480 902.

“Agreement of Sale” means the Agreement of Sale of Interest in Royalty Deed dated 10 November 2008 between Rio Tinto, Harmony, Wafi and Abelle.

“Deed of Assignment, Assumption and Release” means the Deed between Rio Tinto, Harmony, Wafi and Abelle dated 4 December 2008.

“Payment Date” means that date which is within 6 months from the date of this Deed.

“Payment Sum” means the aggregate sum of:

- (a) US\$24,000,000.00;
- (b) any stamp duty and legal costs paid by Harmony on or in relation to this transaction.

“Rio Tinto” means Rio Tinto Limited ACN 004 458 404.

“Royalty Deed” means the Royalty Deed dated 26 June 2003 between Rio Tinto, Wafi and Abelle.

“Royalty Interest” means all of Harmony’s rights, interests and obligations in and under the Royalty Deed including the royalty interest as the owner of gold to be produced by Wafi from the Wafi-Golpu Project in Papua New Guinea.

2. ASSIGNMENT AND TERMINATION

In consideration for the payment by Wafi to Harmony of the Payment Sum on or before the Payment Date:

- (a) Harmony assigns to Wafi absolutely all its Royalty Interest and Wafi confirms acceptance of the assignment of the Royalty Interest; and
- (b) the parties agree to terminate the Royalty Deed.

For clarity, this document takes effect on and from the date of execution of this document.

3. ACKNOWLEDGMENT

- (a) The parties acknowledge and agree that all the rights and obligations of the parties under, or arising out of, the Royalty Deed (of whatever nature and however arising) are fully, unconditionally and irrevocable terminated with effect from the date of this document.
- (b) Notwithstanding any other provisions of this Deed, Wafi acknowledges and agrees it is liable to pay to Harmony the Contingent Balance by way of reimbursement within 30

days of Harmony advising Wafi of the payment by Harmony of the Contingent Balance to Rio Tinto.

4. RELEASE

With effect on and from the date of this document, and without need for any further act or document, the parties release and discharge each other party from:

- (a) all its duties, obligations and liabilities under or in connection with the Royalty Deed; and
- (b) all actions, claims, proceedings and demands which any party has or might (but for this deed) have had against any other party in connection with the Royalty Deed (whether arising at common law, in equity, under statute or otherwise).

Otherwise than to the acknowledgement by Wafi made in clause 3(b) above, the release extends to any present or future claim whether or not the facts or law giving rise to such actual or potential claim are known to either party or have been discussed between them.

5. INDEMNITY

- (a) Each party indemnifies each of the other parties against any claims or actions brought by the first party arising out of or in any way connected to the Royalty Deed.
- (b) Each party may plead this deed in bar to any claim or action brought by the other party or any person claiming through it in connection with the Royalty Deed.

6. GENERAL

6.1 Governing Law

- (a) This document is governed by the laws of the State of Queensland, Australia.
- (b) Each party submits to the jurisdiction of the courts of that State and of any court that may hear appeals from any of those courts, for any proceedings in connection with this document.

6.2 Costs

- (a) Subject to paragraph (b), each party must pay its own expenses incurred in negotiating and executing this document.
- (b) Wafi must indemnify each other party against, and must pay each other on demand the amount of, any duty or registration fee that is payable on or in relation to this document and the transaction that it contemplates.

6.3 Giving Effect to this Deed

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

6.4 Operation of this Document

- (a) Subject to paragraph (b), this document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and this document has no further effect.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

6.5 Counterparts

This Deed may be executed in counterparts.

EXECUTED as a Deed

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

EXECUTED for and on behalf of)
HARMONY GOLD MINING)
COMPANY LIMITED by its duly)
authorised officer, in the presence of:)

Signature of Officer

GRAHAM PAUL BRIGGS

Print Name

Signature of Witness

NOKURHANYA YVONNE MALULEKE

Print Name

THE COMMON SEAL
MINING LIMITED was duly affixed in
the presence of:

Director/Secretary

DAVID LIGHTON

Print Name

Director

Aubrey TESTA

Print Name

WAFI MINING LIMITED

WAFI

Seal of

(DRISEANE SEAL)

☆☆

<DOCUMENT>
<TYPE> EX-4.26
<FILENAME> u07679exv4w26.htm
<DESCRIPTION> Master Purchase and Farmin Agreement
<TEXT>

Master Purchase and Farmin Agreement

Morobe Consolidated Goldfields Limited

Wafi Mining Limited

Morobe Exploration Limited

Newcrest PNG 1 Limited

Newcrest PNG 2 Limited

Newcrest PNG 3 Limited

Blake Dawson
Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
Australia
T 61 7 3259 7000
F 61 7 3259 7111

Reference

RAF MMR 07 1427 3151

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Annexure

A	PARENT COMPANY GUARANTEE
B	DETAILED STAGE 2 OPERATING PROGRAM

MASTER PURCHASE AND FARMIN AGREEMENT

DATE 22 May 2008

PARTIES

Morobe Consolidated Goldfields Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(MCG)**

Wafi Mining Limited, a company incorporated PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(Wafi)**

Morobe Exploration Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(MEL)**

Newcrest PNG 1 Limited, a company incorporated in PNG, the registered office of which is Level 5, Pacific Place, corner of Musgrave Street and Champion Parade, Port Moresby **(Newcrest 1)**

Newcrest PNG 2 Limited, a company incorporated in Papua New Guinea, the registered office of which is Level 5, Pacific Place, corner of Musgrave Street and Champion Parade, Port Moresby **(Newcrest 2)**

Newcrest PNG 3 Limited, a company incorporated in Papua New Guinea, the registered office of which is Level 5, Pacific Place, corner of Musgrave Street and Champion Parade, Port Moresby **(Newcrest 3)**

RECITALS

- A. MCG is the applicant for or the registered holder of certain Tenements in the JV Area of the proposed Hidden Valley Joint Venture.
- B. MCG and Farminee intend to enter into the Hidden Valley JVA to establish an unincorporated joint venture for the development of the Mineral Products in the JV Areas of the Hidden Valley Joint Venture.
- C. Wafi is the applicant for or the registered holder of certain Tenements in the JV Area of the proposed Wafi-Golpu Joint Venture.
- D. Wafi and Farminee intend to enter into the Wafi-Golpu JVA to establish an unincorporated joint venture for the development of the Mineral Products in the JV Area for the Wafi-Golpu Joint Venture.
- E. MCG and Wafi are the applicants for or the registered holders of certain Tenements in the JV Area of the proposed Exploration Portfolio Joint Venture.
- F. Each of MCG and Wafi propose to transfer all its right, title and interest in the Tenements referred to in Recital E and its Participating Interest in the Exploration Portfolio to MEL as soon as practicable after execution of this document.
- G. MCG, Wafi, MEL and Farminee intend to enter into the Exploration Portfolio JVA to establish an unincorporated joint venture for the development of Mineral Products in the JV Area for the Exploration Portfolio JVA.
- H. MCG, Wafi, MEL and Farminee enter into this document to record the terms and conditions under which Farminee will acquire (through a combination of purchase and farmin) a Participating Interest in each Joint Venture from MCG, Wafi and MEL respectively and,

subject to certain conditions, MCG, Wafi and MEL will transfer such Participating Interest to Farminee.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Actual Harmony Expenditure has the meaning given to it in clause 5.7(e).

Adjustment Amount is the amount calculated in accordance with clause 5.7(f).

Affiliate means, in relation to a body corporate, each of:

- (a) that body’s related corporations;
- (b) that body’s directors; and
- (c) the persons who have a substantial holding in that body.

Assign means to sell, transfer, assign, make a gift of, lease, license or part possession with declare a trust over, or in any other way dispose of, deal with or create an interest in a party’s interest or to agree to do any of those things other than by creating an Encumbrance.

Authorisation means:

- (a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any compensation agreement, mining title, development approval, environmental approval and any renewal or amendment of any of them.

Budget means the annual budget for the Operating Program determined in accordance with the relevant provisions of each JVA.

Business Day means:

- (a) for determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and
- (b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Port Moresby, PNG and Melbourne, Australia.

Change of Control has the meaning set out in clause 11.1(b).

Claim means, in relation to a person, any claim, cause of action, proceeding, Liability, suit or demand made against the person concerned howsoever arising in respect of or in

connection with this document or the Joint Ventures (including the conduct of the Operating Program) and whether it is present or future, fixed or unascertained, actual or contingent.

Commissioned means MCG having poured a total of 15,000 ounces of gold from the Hidden Valley Mine.

Companies Act means the *Companies Act 1997*.

Contamination of land means the presence in, on or under the land of a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.

Contract means any contract or agreement which is or is to be included as Joint Venture Property in respect of any Joint Venture.

Cross Charge means the cross charge to be granted by each Venturer in accordance with the terms of each JVA.

Data Room means the Project Wildfire on-line data room located at <http://www.wildfire.blakedawson.dataroom.com.au/> and the data on the portable hard disk provided to Farminee on 5 December 2007.

Disclosure Material means the information set out or described in Schedule 3.

Effective Date means the last day of the month in which the last of the conditions precedent which are to be satisfied or waived is satisfied or waived.

Encumbrance means a mortgage, charge, pledge, lien, hypothecation or title retention, arrangement, a right to set off or right to withhold payment of a deposit or other money, a notice under section 356 of the *Income Tax Act 1959* or any similar legislation or any easement, restrictive covenant, caveat or similar restriction over property or an agreement to create any of them or to allow any of them to exist.

End Date means 30 September 2008 or any other date agreed between the parties.

Expenditure Balance means the total undeducted balance of the following for each of MCG, Wafi and MEL, as defined in the Tax Act:

- (a) allowable capital expenditure;
- (b) allowable exploration expenditure; and
- (c) exploration expenditure.

Expert means a person appointed to act as an expert in accordance with clause 5.7(g).

Exploration Portfolio JVA means the Joint venture agreement entered into between MCG, Wafi, MEL and Newcrest 3 with respect to the Exploration Portfolio Joint Venture on or about the date of this document.

Exploration Portfolio Joint Venture means the unincorporated joint venture constituted by the Exploration Portfolio JVA.

Exploration Portfolio Project means the Joint Venture Property of the proposed Exploration Portfolio Joint Venture.

Farminee means each of Newcrest 1, Newcrest 2 and Newcrest 3 and all of them.

Farmin Milestone means the milestone set out in clause 6.1(c).

Farmin Period means the period on and from the Stage 1 Completion to the earlier of:

- (a) the date on which Farminee achieves the Farmin Milestone; and
- (b) the date of termination of this document.

Final Expenditure Statement has the meaning given to it in clause 5.7(d).

Force Majeure Event means any occurrence or omission (other than an occurrence or omission which is a breach or default under this document on the part of the party concerned) as a direct or indirect result of which the party relying on it is prevented from or delayed in performing any of its obligations under this document (other than a payment obligation) and that is beyond the reasonable control of that party or its Affiliates, including disputes hindering access to the relevant JV Area, civil unrest, riots or disturbance, forces of nature, industrial action, inability to obtain equipment or materials due to a supplier claiming force majeure and action or inaction by a Government Agency.

Forecast Expenditure Statement has the meaning given to it in clause 5.7(b).

Government Agency means:

- (a) a government or government department or other government body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

GST means a goods and services tax or similar value added tax levied or imposed under the GST Law or otherwise on a supply.

GST Law means the *Goods and Services Tax Act 2003*.

Harmony means Harmony Gold Mining Company Limited.

Harmony Estimated Expenditure has the meaning given to it in clause 5.7(c).

Harmony Expenditure means the amount of capital and operating expenditure incurred or accrued by Wafi, MCG and MEL in respect of the Hidden Valley Project, the Wafi-Golpu Project and the Exploration Portfolio Project from 1 January 2008 until the Effective Date determined in accordance with clause 5.7 and on a basis consistent with the principles set out in Schedule 6 and also including the amounts referred to as such in clause 13.

Hidden Valley Joint Venture means the unincorporated joint venture constituted by the Hidden Valley JVA.

Hidden Valley JVA means the joint venture agreement entered into between MCG and Newcrest 1 with respect to the Hidden Valley Joint Venture on or about the date of this document.

Hidden Valley Mine means the mine currently under development in respect of Mining Lease 151.

Hidden Valley Project means the Joint Venture Property of the proposed Hidden Valley Joint Venture.

Initial Expenditure Statement has the meaning given to it in clause 5.7(a).

Initial Project Value means \$600 million.

Insolvency Event means, for a person, being in liquidation or provisional liquidation or under administration, having a receiver (as defined in the Companies Act) or analogous person appointed to it or any of its property, being taken under the Companies Act to have failed to comply with a statutory demand referred to in section 337 of the Companies Act, being unable to pay its debts or otherwise insolvent, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the laws of any applicable jurisdiction.

Joint Account with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

Joint Venture means each of the Hidden Valley Joint Venture, Wafi-Golpu Joint Venture and the Exploration Portfolio Joint Venture.

Joint Venture Committee with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

Joint Venture Expenditure means the expenditure incurred (whether of a capital or operating nature) relating to the activities and operations of each of the Joint Ventures.

Joint Venture Facilities with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

Joint Venture Intellectual Property with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

Joint Venture Property with respect to each Joint Venture, has the same meaning given to that term in the relevant JVA.

JVA means each of the Hidden Valley JVA, Wafi-Golpu JVA and Exploration Portfolio JVA.

JV Area with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

JV Non-Competition Area means the area identified as such on the map attached at Schedule 5.

Legal Requirements means obligations arising under present or future legislation, laws or Authorisations, including notices requiring the carrying out of any works.

Liability means a claim, demand, proceeding, cost, loss, obligation, expense and liability, arising under statute or at common law or in equity, and arising in contract or in tort or otherwise.

Loss means a damage, loss, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Master Lease Agreement means the Master Lease Facility Agreement dated 14 June 2007 between Westpac and MCG.

Mineral Products means minerals, ores and metals that contain mineral matter or substances.

Mining Act means the *Mining Act 1992*.

MOA means the agreement entered into on 5 August 2005 between the Independent State of Papua New Guinea, Morobe Provincial Government, MCG, Nakuwi Association Inc., The Wau Rural Local Level Government, The Watut Rural Local Level Government and the Wau Bulolo Urban Local Level Government on the matters relating to the development of certain Tenements in the JV Area of the Hidden Valley Joint Venture.

Monthly Expenditure Statement has the meaning given to it in clause 5.7(a).

Operating Program means all the activities undertaken for each Joint Venture to achieve its Objects (as defined in the relevant JVA).

Operator with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

Parent Company Guarantee means a document in the form of the document set out as Annexure A.

Participating Interest with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

Permitted Encumbrance means:

- (a) any Encumbrance existing at the date of this document including the Encumbrance in relation to the Wafi-Golpu Royalty;
- (b) an Encumbrance expressly permitted pursuant to clause 25.2 (or any other provision) of a JVA;
- (c) an Encumbrance which arises after the date of this document by operation of law; and
- (d) a lien that arises by operation of law in the ordinary course of ordinary business, where the amount secured is not overdue or is being diligently contested in good faith.

Pollution means the release, emission or discharge into the environment of a substance which directly or indirectly causes or has the potential to cause damage or harm to any aspect of the Environment, and includes:

- (a) pollution of air;
- (b) pollution of waters;
- (c) noise; and
- (d) pollution of land.

Stage 1 Completion means completion of the sale, purchase and transfer to Farminee of a 30.01% Participating Interest in the Joint Ventures in accordance with clause 5.

Stage 1 Completion Date means the day which is 5 Business Days after the Effective Date.

Stage 1 Purchase Price means the amount in US dollars calculated in accordance with the following formula:

$(30.01\% \times \text{the Initial Project Value}) + (30.01\% \times \text{Harmony Estimated Expenditure})$ which is to be apportioned in accordance with Schedule 1.

Stage 2 Operating Program means the program for the development, mining, processing, plant construction, maintenance, expansion or other operations of the Joint Ventures a summary of which is set out in Schedule 2 and the detailed program is set out in Annexure B.

Stage 2 Expenditure means the amount in US dollars calculated in accordance with the following formula:

$\{(Stage\ 1\ Purchase\ Price / 0.3001 \times 0.5) - Stage\ 1\ Purchase\ Price\} \times 2,$

provided that for the purposes of this definition, the Stage 1 Purchase Price will be adjusted to be the amount that would have been the Stage 1 Purchase Price if at the time of payment of the Stage 1 Purchase Price, Harmony Expenditure was equal to Actual Harmony Expenditure.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or a Government Agency, together with any related interest, penalty, fine or other charge.

Tax Act means the *Income Tax Act 1959*.

Tax Notice means a notice to be given jointly by MCG and Farminee (or Wafi and Farminee, or MEL and Farminee, as applicable) to the Commissioner General of Internal Revenue that complies with, and to the extent permissible under, section 155L of the Tax Act in respect of the Expenditure Balance of MCG, Wafi and MEL and the disposal of their interests in the Tenements.

Tenements with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA but in the event that an application for renewal of a Tenement is refused by the applicable Government Agency having jurisdiction with respect to that application then from that time the area comprised in that application shall cease to form part of the Tenements for the purposes of this document.

Tenements Information with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

Transaction Documents means this document, each JVA, any Priority Deed, each Cross Charge and any document that the parties agree in writing is to be a Transaction Document and any document that is entered into under the provisions of any of the above.

Venturer with respect to each Joint Venture, means each party to the JVA, once executed for the Joint Venture.

Wafi-Golpu Joint Venture means the unincorporated joint venture constituted by the Wafi-Golpu JVA.

Wafi-Golpu JVA means the joint venture agreement entered into between Wafi and Newcrest 2 with respect to the Wafi-Golpu Joint Venture on or about the date of this document.

Wafi-Golpu Project means the Joint Venture Property of the proposed Wafi-Golpu Joint Venture.

Wafi-Golpu Royalty has the meaning given to it in clause 13.

Warranties means the representations and warranties set out in clause 8.1 and Schedule 4.

Westpac means Westpac Bank PNG Limited.

1.2 Rules for Interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) anything (including a right, obligation or concept) includes each part of it;
 - (vi) a lease, licence, permit or other authority for prospecting, exploration or mining purposes, or a provision of any of them, is to that lease, licence, permit or authority or provision as renewed, extended, amended, supplemented, replaced or novated;
 - (vii) dollars or \$ is to currency of the United States of America; and
 - (viii) MCG or Wafi (other than in clause 13) includes a reference to MEL to the extent it holds or is entitled to MCG and Wafi's right, title and interest to the Tenements described in Recital E and MCG and Wafi's Participating Interest in the Exploration Portfolio JVA.
- (b) A singular word includes the plural, and vice versa.
- (c) A word that suggests one gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (Including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) Mentioning anything after **includes, including** or similar expressions does not limit what else might be included.
- (g) The schedules and annexures to this document are incorporated into and form part of this document
- (h) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.

- (i) The terms **relevant interest** and **related corporation** have the same meaning as in the Companies Act.
- (j) A person has a **substantial holding** in a body corporate if the total votes attached to the voting shares in the body in which it or its associates have a relevant interest is 5% or more of the total number of votes attached to the voting shares in the body.
- (k) A reference to a month means to a calendar month.
- (l) For the purposes of this document, an entity **controls** a second entity if:
 - (i) the first entity:
 - (A) has the capacity to determine the outcome of decisions about the second entity's financial and operating policies; or
 - (B) has the capacity to influence decisions about the second entity's financial and operating policies; and is under a legal obligation to exercise that capacity for the benefit of someone other than the first entity's members; or
 - (ii) the first entity and an Affiliate has a relevant interest in at least 50% of the voting shares of the second entity.In determining whether the first entity has this capacity:
 - (i) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered;
 - (ii) any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust); and
 - (iii) the first entity has voting power of at least 50% in the second entity.The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity's financial and operating policies.
- (m) A reference to **applicable law** includes a reference to all laws of all jurisdictions applicable to the Joint Ventures within and outside Papua New Guinea including regulations, policies, statutory duties, guidelines, official directives or requests of or by any Government Agency, whether or not having the force of law.
- (n) The words used In this document with respect to liability to pay or otherwise relating to GST, that have a defined meaning in the GST Law, have the same meaning as in the GST Law, except where the context makes it clear that a different meaning is intended to apply.

1.3 Business Days

If the day on or by which a person must do something under this document is not a Business Day, the person must do it on or by the next Business Day.

1.4 Multiple parties

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party, then unless otherwise specified in this document:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking relates to each of them separately.

1.5 The rule about “contra proferentem”

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision of it or because that party relies on a provision of this document to protect itself.

1.6 Allocation between parties comprising Farminee

Without limiting the obligations and liabilities of Farminee under this document, each party comprising Farminee may acquire a Participating Interest for one Joint Venture under this document.

1.7 Currency

All payments to be made under this document will be made in US dollars, unless otherwise agreed by all parties.

2. OPERATION OF THIS DOCUMENT

- (a) Subject to clause 3, the rights and obligations under this document begin on the date of execution and continue until the earlier of:
 - (i) completion of the transfer of the additional 19.99% Participating interest in the Joint Ventures to Farminee under clause 7 following achievement by Farminee of the Farmin Milestone under clause 6.1;
 - (ii) termination of this document under clause 11; and
 - (iii) any other date agreed by the parties in writing.
- (b) For the duration of this document, the provisions of this document prevail in the event and to the extent of any inconsistency between this document and the relevant JVA.

3. CONDITIONS

3.1 Conditions precedent

The provisions of this document other than this clause and clauses 1 (Interpretation), 5.7 (Harmony Expenditure) 13.1 (Wafi-Golpu Royalty), 14 (Confidentiality), 18 (Assignment and Amendment), 19 (Notices), and 20 (General) do not become binding unless and until:

- (a) this document, each of the transfers of a 30.01% undivided interest as tenant in common in each of the Tenements in favour of Farminee as contemplated under Stage 1 Completion and each of the JVAs are approved unconditionally by the Minister for Mining;
- (b) each Farminee obtains certification under the *Investment Promotion Act 1992* on terms that permit them to enter into and carry out the transactions contemplated by the Transaction Documents;
- (c) the shareholder of Wafi, MCG and MEL approves the transactions contemplated by the Transaction Documents as a major transaction for the purposes of section 110 of the Companies Act; and
- (d) this document and the transactions contemplated under it are approved in writing by Westpac pursuant to the Master Lease Agreement on terms acceptable to Farminee and MCG (acting reasonably).

3.2 Waiver of conditions precedent

- (a) The following conditions referred to in clause 3.1 are for the benefit of the following party or parties:

Condition	Party
clause 3.1(a) — (d) inclusive	MCG, Wafi and Farminee
(b) If a condition referred to in clause 3.1 has been included for the benefit of one party only, only that party may, in its sole and absolute discretion, rely on or waive the breach or non fulfilment of the condition (except that a party must not waive a condition if it would result in a breach of law).	
(c) If a condition has been included for the benefit of more than one party, the breach or non fulfilment of the condition may be waived only by the consent of all those parties.	
(d) The breach or non fulfilment of a condition may only be waived in writing but if clause 3.4(c) applies and MCG complies with its obligations under clause 3.4(c), the condition precedent referred to in clause 3.1 (e) will be taken to be waived by each of MCG, Waft and Farminee.	

3.3 General obligation to satisfy conditions precedent

The parties must:

- (a) file all necessary notices and applications in relation to each of the conditions in clause 3.1 with the relevant Government Agencies, as soon as practicable;
- (b) use their respective reasonable endeavours (other than waiver) to ensure that each condition referred to in clause 3.1 is satisfied within the time limit specified for that condition;
- (c) promptly give the other party all information reasonably requested by that party in connection with any application required to satisfy a condition;
- (d) keep each other informed of any circumstances which may result in any of those conditions not being satisfied in accordance with its terms; and

(e) promptly advise the other party of the satisfaction of a condition.

3.4 Result of non-satisfaction of conditions precedent

- (a) If all of the conditions referred to in clause 3.1 are not satisfied or waived under clause 3.2 on or before the End Date then any party may before satisfaction or waiver of those conditions, terminate this document by giving written notice to the other.
- (b) If this document is terminated in accordance with clause 3.4(a), then all rights and obligations under this document other than:
 - (i) this clause 3 and clauses 1 (Interpretation), 13 (Confidentiality), 19 (Notices), and 20 (General);
 - (ii) any clause which is expressed to survive termination of this document; and
 - (iii) rights that accrue before the date on which the notice is given,terminate on the day of the notice.
- (c) In the event that the condition referred to in clause 3.1 (d) is not satisfied or waived by the date which is 45 days after the date of this document, then MCG must terminate the Master Lease Agreement (and all lease facilities with Westpac pursuant to the Master Lease Agreement) and pay all amounts due as a consequence to Westpac on or before the Effective Date, in which case such amounts will be deemed to be Harmony Expenditure.

3.5 EL 1316 (Mumeng)

MCG and Wafi must procure that:

- (i) a transfer of the entire beneficial interest in Exploration Licence 1316 in favour of the Venturers in proportion to their Participating Interests under the Wafi-Golpu JVA as Joint Venture Property is approved and registered under the Mining Act free of any Encumbrance (other than an Encumbrance which is a Permitted Encumbrance within the meaning of paragraphs (a), (c) or (d) of the definition of Permitted Encumbrance) within 18 months after the date of this document, unless the Minister for Mining refuses to approve a renewal of this licence before that date; and
- (ii) prior to any such transfer, Harmony Gold (PNG Services) Pty Limited and any other related corporation of Harmony having any interest in Exploration Licence 1316, complies with the terms and conditions of Exploration Licence 1316.

3.6 Alluvial mining leases

MCG must negotiate with the owners of Mining Lease 292 and Mining Lease 212 (being the two alluvial leases which overlay part of Mining Lease 151) for the surrender of the two alluvial leases. Any payment to the owners of the two alluvial leases as compensation for their surrender will be Harmony Expenditure to the extent the payment is made after 1 January 2008. MCG must not otherwise deal with the two alluvial leases or the owners of them in any way which prejudices the Hidden Valley Joint Venture.

4. AGREEMENT TO PURCHASE AND EARN-IN

Farminnee agrees to:

- (a) Stage 1 — purchase a 30.01 % Participating Interest; and
 - (b) Stage 2 — earn an additional 19.99% Participating Interest,
- In all the Joint Ventures in accordance with the terms of this document.

5. STAGE 1 — PURCHASE

5.1 Purchase

MCG and Wafi agree to sell to Farminee, and Farminee agrees to purchase from MCG and Wafi, a 30.01% Participating Interest in each Joint Venture free from any Encumbrance (other than any Permitted Encumbrance within the meaning of paragraph (a), (c) or (d) of the definition of Permitted Encumbrances) for the Stage 1 Purchase Price.

5.2 Stage 1 Completion

- (a) MCG, Wafi and Farminee must effect Stage 1 Completion at the office of Blake Dawson, Level 4, Mogoru Moto Building, Champion Parade, PNG commencing at 10.00 am on the Stage 1 Completion Date.
- (b) Subject to satisfaction of clause 5.2(c), Stage 1 Completion will be effected as follows:
 - (i) MCG and Wafi must execute and deliver to Farminee unstamped, dated and registrable transfers of a 30.01% undivided interest as tenant in common in each of the Tenements in favour of the relevant Farminee subject to any Permitted Encumbrance (other than any Permitted Encumbrance within the meaning of paragraph (b) of the definition of Permitted Encumbrance);
 - (ii) MCG and Wafi must each execute and deliver, in a form approved by Farminee, a Tax Notice for the maximum amount permitted under the Tax Act (but not exceeding 30.01% of its Expenditure Balance as at the Stage 1 Completion Date);
 - (iii) MCG and Wafi must procure that:
 - (A) 50 B class shares are issued to Newcrest 1, Newcrest 2 and Newcrest 3 in the relevant Operator for the Hidden Valley Joint Venture, the Wafi-Golpu Joint Venture and the Exploration Portfolio Joint Venture; and
 - (B) nominees of Farminee are appointed as directors of Hidden Valley Services Limited, Wafi-Golpu Services Limited and Morobe Exploration Services Limited; and
 - (iv) MCG, Wafi and MEL, as necessary and Farminee must execute each Transaction Document that has not already been executed; and
 - (v) Farminee delivers to MCG, Wafi and MEL the Parent Company Guarantee duly executed by Newcrest Mining Limited, unless it has been previously delivered by Farminee to MCG, Wafi and MEL.

- (c) At Stage 1 Completion and subject to clause 5.8, Farminee must pay the Stage 1 Purchase Price to MCG and Wafi apportioned as set in Schedule 1 and in the following manner.
 - (i) by delivering an unendorsed bank cheque at the place, or by direct transfer of cleared funds to the credit of the account, that MCG and Wafi nominate at least 1 Business Day before the payment is made; and
 - (ii) without any set-off or counterclaim and (to the extent permitted by law) free and clear of, and without deduction or withholding for or on account of, any Taxes.

5.3 Deductions and withholdings

If at any time an applicable law obliges Farminee to make a deduction or withholding in respect of Taxes from a payment to MCG and Wafi under this document, Farminee:

- (a) must notify MCG and Wafi of the obligation promptly after Farminee becomes aware of it;
- (b) must ensure that the deduction or withholding does not exceed the minimum amount required by applicable law;
- (c) must pay to the relevant Government Agency on time the full amount of the deduction or withholding and promptly deliver to MCG and Wafi a copy of any receipt, certificate or other proof of payment; and
- (d) must indemnify MCG and Wafi against the deduction or withholding by paying to the MCG and Wafi, at the time that the payment to MCG and Wafi is due, an additional amount that ensures that, after the deduction or withholding is made, MCG and Wafi receives a net sum equal to the sum that it would have received if the deduction or withholding had not been made.

5.4 Currency indemnity

If, for any reason (including as a result of a judgment or order), an amount payable by Farminee under or in respect of this document (**Relevant Amount**) is received by MCG and Wafi in a currency (**Payment Currency**) that is not the currency in which the amount is expressed to be payable under this document (**Required Currency**) then Farminee, as an independent obligation, must indemnify MCG and Wafi against, and must pay MCG and Wafi on demand the amount of, any shortfall between:

- (a) the amount of Required Currency which MCG and Wafi receives on converting the amount it received in the Payment Currency into an amount in the Required Currency in accordance with its usual practice; and
- (b) the relevant amount in the Required Currency.

5.5 Conduct prior to Stage 1 Completion Date

Prior to the Stage 1 Completion Date, except as provided for in the Stage 2 Operating Program, the Budget for the Stage 2 Operating Program or consented to in writing by Farminee, MCG and Wafi must:

- (a) manage and conduct their activities in relation to property which is to form part of Joint Venture Property for the Joint Ventures in the ordinary and usual course, which includes the maintenance of all existing insurance policies;

- (b) not enter into any commitment which does or will involve expenditure relating to property which is to form part of Joint Venture Property in excess of \$500,000;
- (c) except for disposals in the ordinary and usual course of business, not dispose of or grant any Encumbrance over any property which is to form part of Joint Venture Property with respect to any Joint Venture; and
- (d) not enter into or terminate any Contract or alter or waive any of their material rights or obligations under any Contract where the value of the Contract, alteration or waiver is in excess of \$500,000.

5.6 Farminee termination right prior to Stage 1 Completion Date

Prior to the Stage 1 Completion Date, Farminee may terminate this document by notice to MCG and Wafi if:

- (a) MCG or Wafi (or both of them) does not comply with its obligations set out in clause 5.5 in any material respect;
- (b) any Warranty given by MCG or Wafi is or becomes inaccurate or misleading in any material respect; or
- (c) there is a material adverse change caused by an event which results in the physical destruction of or damage to assets held by MCG or Wafi or devastation of or damage to land subject to the Tenements, the repair or remediation of which would cost more than \$45 million.

If Farminee terminates this document pursuant to paragraph (c) of this clause, it has no Claim against MCG, Wafi or their Affiliates relating to that termination or that relevant event or circumstance.

5.7 Harmony Expenditure

- (a) Within 10 Business Days after the date of this document, MCG and Wafi must provide Farminee with a monthly management report of Harmony Expenditure for the period from 1 January 2008 to the end of the month immediately before the month in which the date of this document falls (**Initial Expenditure Statement**). Thereafter, by the 10th Business Day of every following month, MCG and Wafi must provide Farminee with a monthly management report of Harmony Expenditure for the previous month including a reconciliation of any amounts for which an accrued provision was made in and included in the monthly management report for any previous month and for which payment has since been made (including taking account of payment discounts, credits or other allowances actually received in respect of such previously accrued amounts) (**Monthly Expenditure Statement**).
- (b) At least 5 Business Days prior to the Stage 1 Completion Date, Wafi and MCG must provide Farminee with an estimate of Harmony Expenditure for the period from the beginning of the month in which a Monthly Expenditure Statement was most recently provided to Farminee to the Effective Date (**Forecast Expenditure Statement**).
- (c) The aggregate of the amounts of Harmony Expenditure set out in the Initial Expenditure Statement, each Monthly Expenditure Statement provided under clause 5.7(a) and the Forecast Expenditure Statement shall be the Harmony Estimated Expenditure for the purposes of calculating the Stage 1 Purchase Price.

- (d) Within 10 Business Days after the Stage 1 Completion Date, Wafi and MCG must provide Farminee with a statement (**Final Expenditure Statement**) showing the actual amount of Harmony Expenditure for the period for which the Forecast Expenditure Statement was prepared.
- (e) Actual Harmony Expenditure shall be the aggregate of the actual amount of Harmony Expenditure for the period to which the Final Expenditure Statement relates (which has been agreed by Farminee or determined by the Expert) and the actual amount of Harmony Expenditure for all of the previous months from 1 January 2008 (which amount has been agreed by Farminee or determined by the Expert).
- (f) The Adjustment Amount is the amount calculated as follows:
(Actual Harmony Expenditure — Harmony Estimated Expenditure) x 30.01%.
 - (i) If the Adjustment Amount is positive, Farminee must pay the Adjustment Amount to MCG and Wafi;
 - (iii) If the Adjustment Amount is negative, Harmony must pay the Adjustment Amount to Farminee.
 - (iv) If the Adjustment Amount is zero, no Adjustment Amount is payable.
- (g) Each monthly management report or expenditure statement prepared for the purposes of clause 5.7 must be prepared by MCG and Wafi in accordance with the principles set out in Schedule 6 and MCG and Wafi must:
 - (i) provide or ensure the provision of all information and documentation which may be reasonably requested by Farminee; and
 - (ii) permit Farminee to have access to and take extracts from or copies of any books, correspondence, accounts or other records relating to the Wafi-Golpu Project, the Hidden Valley Project and the Exploration Portfolio Project, to the extent those documents or records are relevant to the preparation or verification of any expenditure statement,to enable Farminee to verify the accuracy of each expenditure statement.
 - (ii) Farminee must notify MCG and Wafi within:
 - (A) 15 Business Days of receiving the Initial Expenditure Statement;
 - (B) 10 Business Days of receiving a Monthly Expenditure Statement; and
 - (C) 10 Business Days of receiving the Final Expenditure Statement,whether it disputes the relevant statement. If it disputes a statement it must also provide MCG and Wafi with a notice setting out details of the dispute (**Dispute Notice**).
 - (iii) Within 5 Business Days after Farminee having delivered a Dispute Notice to MCG and Wafi, Farminee, MCG and Wafi must meet in order to attempt to resolve the dispute. If the dispute is not resolved within 5 Business Days of this meeting, the dispute must be promptly submitted for determination by an Expert.

- (iv) The Expert must be selected by agreement between Wafi or MCG (on the one hand) and Farminee (on the other hand) or failing agreement between them within 5 Business Days after they commence to discuss selection of the Expert, selected by the President for the time being of the Institute of Chartered Accountants of Australia (or his or her nominee).
- (v) The disputed matters must be referred to the Expert by written submissions of MCG and Wafi (on the one hand) and Farminee (on the other hand) and must include only:
 - (A) the relevant monthly management report or expenditure statement (together with any supporting documentation);
 - (B) an extract of the relevant provisions of this document; and
 - (C) the submissions of MCG and Wafi (on the one hand) and Farminee (on the other hand) in relation to the matters in dispute.
- (vi) The Expert must be instructed to decide the matters in dispute and finish its determination and provide it to MCG, Wafi and Farminee no later than 10 Business Days after submission of the dispute to the Expert.
- (vii) MCG, Wafi and Farminee must promptly provide the Expert with any information, assistance and co-operation requested in writing by the Expert in connection with its determination.
- (viii) The Expert must be instructed to apply the principles set out in Schedule 6.
- (ix) Other than as agreed by MCG and Wafi (on the one hand) and Farminee (on the other hand), the Expert will decide the procedures to be followed by the Expert.
- (x) The Expert must act as an expert and not an arbitrator. The Expert's written determination will be final and binding on the parties in the absence of manifest error and the relevant expenditure statement will be deemed to be amended as directed by the Expert.
- (xi) The cost of a determination by an Expert must be borne by the parties in such manner as the Expert determines (having regard to the merits of the dispute) or, failing such determination, equally by MCG and Wafi (on the one hand) and by Farminee (on the other hand).
- (h) Farminee will have no liability for, and MCG and Wafi must indemnify Farminee against any liability for or in respect of:
 - (i) any amounts of Harmony Expenditure that are accrued or incurred prior to the Effective Date; or
 - (ii) any other expenditure accrued or incurred by Wafi and MCG in relation to the Hidden Valley Project, the Wafi-Golpu Project and the Exploration Portfolio Project prior to 1 January 2008,but which have not been paid by MCG or Wafi on or before Stage 1 Completion.

5.8 Renewal of Exploration Licence 440

- (a) If Exploration Licence 440 is not renewed by the relevant Government Agency responsible for its renewal on or prior to the Stage 1 Completion Date, at Stage 1 Completion Farminee must pay \$50 million of the Stage 1 Purchase Price to an escrow account or agent agreed between MCG and Wafi (on one hand) and Farminee (on the other hand) to be held in escrow in accordance with this clause 5.8 (and otherwise on escrow terms agreed between MCG and Wafi (on one hand) and Farminee (on the other hand)).
- (b) The parties will procure that the amount so held in escrow (together with all interest (if any) earned on that amount, less any applicable fees or charges payable in respect of the agreed escrow arrangements) under paragraph (a) will be paid:
 - (i) to MCG and Wafi (or as MCG and Wafi may direct by notice to Farminee) if Exploration Licence 440 is renewed by the relevant Government Agency responsible for its renewal within 5 years after the Stage 1 Completion Date; or
 - (ii) to Farminee if Exploration Licence 440 is not renewed by the relevant Government Agency responsible for its renewal within 5 years after the Stage 1 Completion Date or if, prior to the expiry of that period, MCG or Wafi receives notification from the relevant Government Agency responsible for the renewal of Exploration Licence 440 that it will not renew Exploration Licence 440,

and if paragraph (b)(ii) applies the Stage 1 Purchase Price will be taken to be reduced by that amount of \$50 million and, for the avoidance of doubt, such reduction will not reduce or vary Stage 2 Expenditure.

- (c) If clause 5.8(b)(ii) applies and subsequently MCG, Wafi or Farminee obtains rights to an exploration licence that comprises materially all of the mineral potential of Exploration Licence 440 within 7 years after the Stage 1 Completion Date (**Replacement Tenement**), the parties will do all things necessary for the Replacement Tenement to become Joint Venture Property of the Wafi-Golpu Joint Venture. On that Replacement Tenement becoming Joint Venture Property of the Wafi-Golpu Joint Venture, Farminee must pay MCG and Wafi the amount of \$50 million. This obligation does not apply if at that relevant time the Farminee is no longer a Venturer.
- (d) If a Replacement Tenement is not obtained by a party within the time referred to in paragraph (c), the area of Exploration Licence 440 is excised from the JV Area and the JV Non-Competition Area in the Wafi-Golpu Joint Venture.

5.9 Employee entitlements

If an employee of MCG, Wafi, Farminee or their related corporations becomes an employee of an Operator, on or after the Stage 1 Completion Date, then the parties must procure that the relevant employer pays that Operator an amount equal to 70% of the aggregate value of the accrued but unpaid entitlements of that employee to salary or wages, sick leave, annual leave and long service leave up to the date on which the employee becomes an employee of an Operator. For the avoidance of doubt, this obligation does not affect section 6 or Schedule 6 which provides that Harmony Expenditure includes employee entitlements which accrue between 1 January 2008 and Stage 1 Completion.

6. STAGE 2-FARMIN

6.1 Farminee's rights and obligations — Stage 2

- (a) Commencing from Stage 1 Completion, Farminee must, subject to clause 6.1(c), contribute the full amount of Stage 2 Expenditure in accordance with this document.
- (b) Farminee must make the contributions referred to in clause 6.1(a):
 - (i) during the Farmin Period, and more particularly, but subject to clause 6.2, as and when called upon to do so by the Operators of the respective Joint Ventures in accordance with the procedure defined in clauses 12, 13 and 14 of the relevant JVA;
 - (ii) as to the proportion corresponding to the Participating Interest of Farminee, on its own behalf to the Operator of the respective Joint Venture for the benefit of the Joint Account;
 - (iii) as to the proportion corresponding to the Participating Interest of MCG and Wafi, to the Operator of the respective Joint Venture for the benefit of the Joint Account as payment at the direction of MCG and Wafi of the amounts for which MCG and Wafi are liable under the relevant JVA; and
 - (iv) in accordance with clause 10.
- (c) The Farmin Milestone is the earlier of:
 - (i) the date on which Farminee has contributed Stage 2 Expenditure in full;
 - (ii) the date on which the Hidden Valley mine is Commissioned; and
 - (iii) 30 June 2009.
- (d) On achieving the Farmin Milestone:
 - (i) Farminee becomes entitled to a further 19.99% Participating Interest in all the Joint Ventures;
 - (ii) the provisions of clause 7 apply; and
 - (iii) if sub-paragraphs 6.1(c)(ii) or (iii) apply, Farminee must pay, at the direction of MCG or Wafi to:
 - (A) MCG and Wafi in aggregate, 50%; or
 - (B) the Operators of the Joint Ventures in aggregate, for the benefit of MCG or Wafi, 50%,
of the difference between Stage 2 Expenditure and the amount which Farminee has paid to the Operators under clause 6.1(b).

6.2 MCG and Wafi's right to vary the Operating Program or Budget

- (a) Notwithstanding any other provision of this document and each JVA, during the Farmin Period, the Operator may advise the Joint Venture Committee to vary the

Stage 2 Operating Program or Budget for the Stage 2 Operating Program (or both) at any time and in any way during the term of this document provided that the aggregate variations in respect of the Stage 2 Operating Program or the Budget must not be variations which, in aggregate cost, are greater than 25% in any 2 month period, without written approval of Farminee.

- (b) Any amendment to the Budget or Stage 2 Operating Program under clause 6.2(a) does not affect in any way Farminee's obligation to make contributions under clause 6.1(a), and, for the avoidance of uncertainty, does not increase the aggregate amount of Stage 2 Expenditure to be contributed by Farminee under clause 6.1(a).
- (c) For the avoidance of doubt, any amendment to the Budget or Stage 2 Operating Program outside the parameters specified in clause 6.1(a) requires approval in accordance with the provisions of the JVAs.

6.3 Contribution by Farminee is sole contribution — Stage 2

During the Farmin Period, and despite any provision to the contrary in any JVA:

- (a) MCG, with respect to the Exploration Portfolio Joint Venture and the Hidden Valley Joint Venture; and
- (b) Wafi, with respect to the Exploration Portfolio Joint Venture and the Wafi-Golpu Joint Venture,

are not required to make any payments in respect of their contributions to Joint Venture Expenditure which is Stage 2 Expenditure for which they are otherwise liable under the relevant JVA, except by way of a payment made at their direction in accordance with clause 6.1(b)(iii).

6.4 Credit for first gold

MCG must account to Farminee for that proportion of the actual proceeds of sale of the first 15,000 ounces of gold poured from the Hidden Valley Mine (on normal commercial terms) as is equal to the Participating Interest (expressed as a percentage) of Farminee on the expiration or termination of this document.

7. TRANSFER OF LEGAL INTEREST

- (a) On Farminee achieving the Farmin Milestone:
 - (i) MCG, Wafi and Farminee must do all things reasonably necessary including, but not limited to:
 - (A) executing all necessary documentation; and
 - (B) applying for all necessary Authorisations and registrations under the Mining Act,to effect the transfer of the additional 19.99% Participating Interest in the Joint Ventures to Farminee subject to any Permitted Encumbrance existing at the time of the transfer (other than a Permitted Encumbrance within the meaning of paragraph (b) of the definition of Permitted Encumbrance) to Farminee or as Farminee may otherwise validly direct; and

- (ii) MCG and Wafi must each execute and deliver to Farminee, in a form approved by Farminee, a Tax Notice for an amount which is the aggregate of 19.99% of its Expenditure Balance as at the Stage 1 Completion Date and 19.99% (or such greater or lesser percentage necessary to ensure that MCG or Wafi (on one hand) and Farminee (on the other hand) as at the date on which the Farmin Milestone is achieved share equally the total accumulated Expenditure Balances as at that date) of the Stage 2 Expenditure on its Tenements, or if the Tax Act prevents the Tax Notice being for that amount then for the greatest amount up to that amount as is permitted under the Tax Act.

(b) On:

- (i) the Participating Interests in the Joint Ventures being transferred to Farminee; and
- (ii) Farminee, MCG and Wafi making any adjustment required under clause 5.7,

this document terminates and each Joint Venture operates independently in accordance with its respective JVA.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and warranties by Wafi and MCG

Wafi and MCG represent and warrant to Farminee that:

- (a) they are companies limited by shares under the Companies Act;
- (b) they have full legal capacity and power to:
 - (i) own their property and to carry on their business; and
 - (ii) enter into this document and the relevant Transaction Documents and to carry out the transactions that these documents contemplate;
- (c) they have taken all corporate action that is necessary or desirable to authorise their entry into this document and the relevant Transaction Documents and their carrying out the transactions that these documents contemplate;
- (d) they hold each Authorisation that is necessary or desirable to:
 - (i) enable them to properly execute this document and the relevant Transaction Documents and to carry out the transactions that these documents contemplate;
 - (ii) ensure that this document and the relevant Transaction Documents are legal, valid, binding and admissible in evidence,

and they are complying with any conditions to which any of these Authorisations is subject; and

- (e) this document and the relevant Transaction Documents constitute their legal, valid and binding obligations, enforceable against them in accordance with their terms

(except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration; and

- (f) each of the Warranties is true and correct.

8.2 Representations and warranties by Farminee

Farminee represents and warrants that:

- (a) it is a company limited by shares under the Companies Act;
- (b) it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enter into this document and the other Transaction Documents and to carry out the transactions that this document and the relevant Transaction Documents contemplate;
- (c) it has taken all corporate action that is necessary or desirable to authorise its entry into this document and the relevant Transaction Documents and its carrying out the transactions that this document and the relevant Transaction Documents contemplate;
- (d) it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and the relevant Transaction Documents and to carry out the transactions that these documents contemplate;
 - (ii) ensure that this document and the relevant Transaction Documents are legal, valid, binding and admissible in evidence,and it is complying with any conditions to which any of these Authorisations is subject; and
- (e) this document and the relevant Transaction Documents constitute its legal, valid and binding obligations, enforceable against it in accordance with their terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration.

8.3 Repetition of representations and warranties

The Warranties are taken to be repeated only if so stated in Schedule 4 on the basis of the facts and circumstances as at that date.

8.4 Reliance on representations and warranties

- (a) Farminee acknowledges that both MCG and Wafi have executed this document and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made in clause 8.2.
- (b) MCG and Wafi acknowledge that Farminee has executed this document and agreed to take part in the transactions that this document contemplates in reliance on the Warranties that are made or repeated in accordance with clauses 8.1 and 8.3.

8.5 Disclosures

Each of the Warranties is subject to the matters fairly and accurately disclosed in the Disclosure Material.

8.6 Exceptions to Warranties

The Warranties are not breached by, and each representation in the Warranties is qualified by:

- (a) **(information provided)** anything disclosed or referred to in any information relating to the Hidden Valley Project, Wafi-Golpu Project or Exploration Portfolio Project which has been made available to Farminee or to any related corporation of Farminee (or any of their respective officers) by MCG or Wafi or by any of their related corporations or their advisers in respect of these Projects before Farminee enters this document;
- (b) **(disclosed in this document)** anything disclosed or referred to in the Data Room or the Disclosure Material or elsewhere in this document or in any annexure or exhibit;
- (c) **(actual knowledge)** anything which the Farminee or Newcrest Mining Limited or any of its related corporations actually knows before entering this document;
- (d) **(changes in law)** anything arising from any change after the date of this document in any Tax or in any applicable law or in its interpretation (whether or not with any retrospective effect); or
- (e) **(consent or agreement)** anything to the extent that it is caused by or contributed to by any act, omission, transaction, or arrangement:
 - (i) of, by or on behalf of, Farminee or any related corporation of Farminee; and
 - (ii) of, by or on behalf of MCG and Wafi, or any other person, at the request or with the express written consent of Farminee.

8.7 No further Warranties

Except for the Warranties or except as otherwise expressly provided in this document or in any other Transaction Document, MCG and Wafi makes no express or implied representation or warranty at all, including:

- (a) **(the future)** as to future matters, including future costs, revenues or profits; or
- (b) **(forecasts)** as to the accuracy, completeness or reasonableness of any mine plans, projection, forecast or forward looking information, or of any assumptions on which they are based.

8.8 Exclusion of implied obligations

To the maximum extent permitted by law and except as otherwise provided in this document or in any other Transaction Document, every condition, warranty, term, provision, representation or undertaking (express, implied, written, oral, collateral, statutory or otherwise) except the Warranties is excluded.

8.9 Quality of information

The Farminee acknowledges to and agrees with MCG and Wafi (on behalf of itself and as trustee for each of their Affiliates) that the discussions about Hidden Valley Project, Wafi-

Golpu Project or Exploration Portfolio Project and the provision of information relating to the Hidden Valley Project, Wafi-Golpu Project or Exploration Portfolio Project were made by MCG and Wafi and accepted by the Farminee, and this document is entered into, on the basis and condition that, except for MCG and Wafi and then only to the extent of the Warranties:

- (a) **(information not warranted)** neither MCG nor Wafi has made or makes any representation or warranty as to the accuracy or completeness of any information;
- (b) **(no duty of care)** neither MCG nor Wafi accepts any duty of care for the provision of any information to the Farminee or to any Affiliates of the Farminee or to any provider of finance or to any other person; and
- (c) **(no reliance)** neither the Farminee nor any of its Affiliates relies on any Related Person or upon MCG or Wafi to provide complete information or information that is not misleading.

8.10 No liability if loss is otherwise compensated for

Farminee may only recover once for the same Loss, and cannot bring a Claim for an amount or Loss to the extent that the same amount or Loss has been recovered in another Claim, or is made good or is compensated for without cost to Farminee.

8.11 Limitation on Claims

Any Claim is excluded to the extent that it is for indirect or consequential loss or loss of profit or economic loss, however it arises or for punitive or exemplary damages.

8.12 Warranties are personal

- (a) **(personal rights)** The rights of Farminee to make a Claim based on a Warranty are personal to Farminee and may not be Assigned to any other person.
- (b) **(if Farminee on sells)** Neither Farminee nor a person deriving title from Farminee can make a Claim based on a Warranty if Farminee has after Stage 1 Completion ceased to own or ceased to hold a Participating interest in any Joint Venture.

8.13 Threshold for Claims

Farminee cannot make any Claim for breach of any Warranty that is otherwise permitted by this document for less than \$1,000,000.

8.14 Cap on Claims

The liability of MCG and Wafi for Claims for breach of any Warranty is limited to the amount equal to the total of the Stage 1 Purchase Price plus the amount contributed by Farminee as Stage 2 Expenditure as at the date on which the Claim is finally resolved or otherwise disposed of. This clause 8.14 operates to the fullest extent permitted by law.

8.15 Time limits for bringing Claims

Farminee cannot make any Claim for breach of any Warranty, and the liability of MCG and Wafi for such a Claim is absolutely barred, unless within 2 years after the date on which the Farmin Milestone is achieved, Farminee gives to MCG and Wafi notice of the Claim specifying in detail the matter which gives rise to the Claim, the nature of the Claim, the amount claimed, and how the amount is calculated.

8.16 Construction

Each Warranty is to be construed independently of the others and is not limited by reference to any other Warranty.

9. FORCE MAJEURE

9.1 Notice and suspension of obligations

If a party is affected, or likely to be affected, by a Force Majeure Event:

- (a) that party must immediately give the other party prompt notice of that fact including:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;
 - (iii) the obligations affected by it and the extent of its effect on those obligations; and
 - (iv) the steps taken to rectify it; and
- (b) the obligations under this document of the party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

9.2 Effort to overcome

A party claiming a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a party to:

- (a) settle any industrial dispute in any way it does not want to; or
- (b) enter into any agreement relating to the rights of landowners or a nominee of the Independent State of Papua New Guinea on terms not acceptable to it for the sole purpose of removing the Force Majeure Event.

9.3 Alternative supply

During any period in which a party is not performing obligations because of a claimed Force Majeure Event, the other party may make alternative arrangements for the performance, whether by another person or otherwise, of any obligation which the party claiming the Force Majeure Event is not performing without incurring any liability to that party.

10. PAYMENTS TO OPERATOR

10.1 How payments must be made

Farminee must make each payment under clause 6 of this document:

- (a) by delivering an unendorsed bank cheque at the place, or by direct transfer of cleared funds to the credit of the account, that the Operator nominates at least 5 Business Day before the payment is made; and
- (b) without any set-off or counterclaim and (to the extent permitted by law) free and clear of, and without deduction or withholding for or on account of, any Taxes.

10.2 Deductions and withholdings

If at any time an applicable law obliges Farminee to make a deduction or withholding in respect of Taxes from a payment to the Operator under this document, Farminee:

- (a) must notify MCG and Wafi of the obligation promptly after Farminee becomes aware of it;
- (b) must ensure that the deduction or withholding does not exceed the minimum amount required by applicable law;
- (c) must pay to the relevant Government Agency on time the full amount of the deduction or withholding and promptly deliver to the Operator a copy of any receipt, certificate or other proof of payment; and
- (d) must indemnify the Operator against the deduction or withholding by paying to the Operator (for the benefit of the Joint Account), at the time that the payment to the Operator is due, an additional amount that ensures that, after the deduction or withholding is made, the Operator receives a net sum equal to the sum that it would have received if the deduction or withholding had not been made.

10.3 Interest

- (a) Farminee must pay Interest on each amount that is not paid when due, from (and including) the due date to (but excluding) the day on which it is paid in full, at the rate calculated in accordance with clause 10.3(b). Farminee must pay this interest on demand.
- (b) Interest on an unpaid amount accrues each day at a rate equal to the sum of the indicator lending rate charged by Westpac on overdrafts of K100,000 for that day and 3% per annum, and is capitalised (if not paid) every 5 Business Days.
- (c) Clause 10.3(a) does not affect Farminee's obligation to pay each amount under this document when due.

10.4 Currency indemnity

If, for any reason (including as a result of a judgment or order), an amount payable by Farminee under or in respect of this document (**Relevant Amount**) is received by the Operator in a currency (**Payment Currency**) that is not the currency in which the amount is expressed to be payable under this document (**Required Currency**) then Farminee, as an independent obligation, must indemnify the Operator against, and must pay the Operator (for the benefit of the Joint Account) on demand the amount of, any shortfall between:

- (a) the amount of Required Currency which the Operator receives on converting the amount it received in the Payment Currency into an amount in the Required Currency in accordance with its usual practice; and
- (b) the relevant amount in the Required Currency.

11. DEFAULT

11.1 What is a Default Event?

- (a) Each of these events or circumstances is a Default Event during the Farmin Period:
 - (i) if Farminee fails to pay any amount that is due and payable by it under this document (in particular under clauses 5.1 and 6.1);
 - (ii) if a party breaches a material term or condition of any JVA;
 - (iii) if a party Assigns any of its right or interest in this document or any other Transaction Document in breach of clause 18 or that other Transaction Document;
 - (iv) if an Insolvency Event occurs in respect of a party other than as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other parties; or
 - (v) if there is a Change of Control of a party.

For the purposes of clause 11.1(a)(iv), an Insolvency Event which occurs in respect of:

- (A) Harmony will be deemed to be an Insolvency Event occurring in respect of Wafi and MCG; and
 - (B) Newcrest Mining Limited will be deemed to be an Insolvency Event occurring in respect of Farminee.
- (b) For the purposes of clause 11.1(a), Change of Control occurs in relation to a body corporate or entity **(the body)** where:
 - (i) an entity that controls the body ceases to control the body; or
 - (ii) an entity that does not control the body comes to control the body.

No Change of Control occurs if:

- (A) the entity that ceases to control the body under clause 11.1(b) was, immediately beforehand, controlled by a body corporate that controls the body; or
 - (B) the entity that comes to control the body under clause 11.1(b) is, immediately afterward, a wholly-owned subsidiary of a body corporate that previously controlled and continues to control the body; or
 - (C) it results from a Change in Control of a listed entity.

11.2 Defaulting Party to notify of Default Event and remedy

A party must notify the other parties immediately after:

- (a) it commits a Default Event or a Default Event occurs in respect of it; or
- (b) it remedies a Default Event,

and the notice must set out full details of the Default Event or how the Default Event has been remedied (as the case may be).

11.3 Operator to notify of Default Event and remedy

The Operator must notify the parties immediately it becomes aware:

- (a) of anything which, in the Operator's reasonable opinion, is likely to result in a party committing a Default Event or a Default Event occurring in respect of a party;
- (b) that a party has committed a Default Event or a Default Event has occurred in respect of a party; or
- (c) that a Default Event has been remedied by a party.

11.4 Giving of Default Notice

If following Stage 1 Completion a Default Event is committed by or occurs in respect of a party (the **Defaulting Party**), another party (a **Non-Defaulting Party**) may, within 25 Business Days after becoming aware of the Default Event, give the Defaulting Party a notice (**Default Notice**) that:

- (a) identifies it as a notice under this clause 11.4;
- (b) states the Default Event that has been committed or occurred and specifies all details of it that the Non-Defaulting Party, is aware of; and
- (c) if the Default Event:
 - (i) is not an Insolvency Event and is capable of remedy, requires the Defaulting Party to remedy the Default Event within 15 Business Days; or
 - (ii) is an Insolvency Event, requires the Defaulting Party to remedy the Default Event within 10 Business Days, after the Defaulting Party receives the Default Notice (**Remedy Period**).

11.5 Rights of Non-Defaulting Party

- (a) If a Default Notice is given and is in respect of a Default Event which is not an Insolvency Event, and, in the case of a Default Event that can be remedied, the Default Event is not remedied within the Remedy Period, the Non-Defaulting Party may within 10 Business Days after:
 - (i) for a Default Event that cannot be remedied, the Default Notice is given; or
 - (ii) for a Default Event that can be remedied, the end of the Remedy Period,
 give a notice to the Defaulting Party terminating this document with effect from the date specified in the notice, being a date at least 10 Business Days after the date of the notice.
- (b) If a Default Notice is given and is in respect of a Default Event which is an Insolvency Event and the Default Event is not remedied within the Remedy Period, the Non-Defaulting Party may give a notice to the Defaulting Party terminating this document with immediate effect.
- (c) In the event of termination referred to in clause 11.5(a) or 11.5(b):

- (i) each Joint Venture operates independently in accordance with its respective JVA;
- (ii) if prior to the occurrence of the Farmin Milestone the Defaulting Party is Farminee, Wafi and MCG must transfer to Farminee a 10% Participating Interest in each Joint Venture after full payment of the first 50% portion of Stage 2 Expenditure (in aggregate) paid to the Operators after the Stage 1 Completion Date;
- (iii) if the Defaulting Party is MCG or Wafi and the Default Event is an Insolvency Event, MCG and Wafi must within 5 Business Days of receipt of a notice from Farminee, transfer a 19.99% Participating Interest in each Joint Venture to Farminee on payment by Farminee to MCG and Wafi (or to the Operators for the benefit of the Joint Account and to be to the credit of MCG and Wafi if so directed by MCG and Wafi) of 50% of the amount (if any) by which the Stage 2 Expenditure exceeds the aggregate amounts already paid by Farminee to the Operators under clause 6 (failing which, the total amount already paid by Farminee to the Operators under clause 6 will be an amount immediately due and payable by MCG and Wafi to Farminee);
- (iv) if the Defaulting Party is MCG or Wafi and the Default Event is not an Insolvency Event, MCG and Wafi must within 5 Business Days of receipt of a notice from Farminee, transfer a 19.99% Participating interest in each Joint Venture to Farminee on payment by Farminee to MCG and Wafi (or to the Operators for the benefit of the Joint Account and to be to the credit of MCG and Wafi if so directed by MCG and Wafi) of 50% of the amount (if any) by which the Stage 2 Expenditure exceeds the aggregate amounts already paid by Farminee to the Operators under clause 6.

11.6 Withdrawal of Default Notice

A Default Notice is withdrawn, or taken to be withdrawn, by a Non-Defaulting Party if it:

- (a) withdraws the Default Notice by notice to the Defaulting Party; or
- (b) does not give a notice under clause 11.5 within the period specified in the clause.

11.7 Option to purchase

If the Defaulting Party is Farminee and the relevant Default Event is that referred to in sub-paragraphs 11.1(a)(iv) or (v), in addition to MCG and Wafi's rights under clause 11.5, in the circumstances described in that clause and within 20 Business Days of receipt by Farminee of a notice under clause 11.5(a) or 11.5(b) from MCG or Wafi, MCG and Wafi may also give a notice to Farminee requiring Farminee to sell to MCG and Wafi (or to their nominees) all, but not part, of Farminee's Participating Interest acquired under this document free from any Encumbrance (other than a Permitted Encumbrance) and at a price equal to the Stage 1 Purchase Price plus an amount equal to:

- (a) 30.01%; or
- (b) if Farminee has acquired or is entitled to be transferred an additional 10% Participating Interest pursuant to clause 11.5(c)(ii), 40%,

of the payments made by Farminee to the Operators under clause 6.1 (**Agreed Price**).

11.8 Time for completion

The parties must complete the sale and purchase of Farminee's Participating Interest under clause 11.7 within 40 Business Days of the notice under clause 11.7.

11.9 What is to be done at completion

At completion of the sale of Farminee's Participating Interest under clause 11.7:

- (a) MCG or Wafi or both of them must pay (or ensure its nominee pays) to Farminee, by unendorsed bank cheque, the Agreed Price;
- (b) MCG, Wafi and Farminee must do all things reasonably necessary including, but not limited to, executing all necessary documentation and applying for all necessary Authorisations and registration under the Mining Act, to effect the transfer of the Participating Interest free from any Encumbrance to MCG and Wafi or as MCG and Wafi may otherwise direct; and
- (c) Farminee must deliver to MCG and Wafi all Tenements Information in the possession of Farminee relevant to the Joint Ventures.

11.10 Power of Attorney

For the purposes of clause 11.9, Farminee irrevocably appoints MCG and Wafi severally as its attorney to do anything (including execute any document) necessary for the transfer of its Participating Interest under that clause.

11.11 Notices to be given to the Operator

If a party gives a notice under this clause 11, it must also give a copy of the notice to the Operator.

11.12 Entitlement to damages

- (a) Subject to clause 11.5, the Defaulting Party must compensate the Non-Defaulting Party for any Liability suffered or incurred by the Non-Defaulting Party as a consequence of the Default Event.
- (b) The compensation payable by the party under clause 11.12(a) extends to any Liability suffered or incurred by the other party during the term of this document, and the period after termination of this document.
- (c) All Default Events are essential terms of this document and the commission or happening of a Default Event and, where applicable, failure to remedy a Default Event within the period specified in clause 11.2, is deemed to be a breach of an essential term of this document.
- (d) A party's entitlement to damages is in addition to any other rights and remedies that party may have, including termination of this document.
- (e) The rights and remedies under this clause 11 are in addition to, and do not take away from, any other right or remedy a party may have at law or in equity.
- (f) Any valid exercise by a Non-Defaulting Party of the right to terminate under clause 11.5 is not a breach or repudiation of this document.

12. TERMINATION

12.1 Consequences of termination

On termination, this document is at an end as to its future operation, except for this clause and:

- (a) any Claim or enforcing any other right which arises on, or has arisen before, termination; and
- (b) clauses 1 (Interpretation), 5.8 (Renewal of Exploration Licence 440), 6.4 (Credit for First Gold), 11 (Default), 13 (Hidden Valley and Wafi-Golpu Royalties), 14 (Confidentiality), 17 (GST), 19 (Notices), and 20 (General) and any other clause expressed to survive termination of this document; and
- (c) any other provisions of this document necessary for or incidental to the operation of those clauses.

13. HIDDEN VALLEY AND WAFI-GOLPU ROYALTIES

13.1 Wafi-Golpu Royalty

- (a) Farminee acknowledges that the production of Mineral Products from certain Tenements which are to form part of the Wafi-Golpu Joint Venture and the Exploration Portfolio Joint Venture are subject to an obligation to pay certain royalties to Rio Tinto Limited pursuant to the Royalty Deed between Rio Tinto Limited, Wafi and Aurora Gold Ltd dated 26 June 2003 (**Wafi-Golpu Royalty**).
- (b) The parties must use their reasonable endeavours to negotiate as soon as reasonably practicable and on terms acceptable to the parties (acting reasonably), the release or acquisition of the Wafi-Golpu Royalty and must procure that Farminee is a party to any such negotiations.
- (c) No party can enter into any agreement with Rio Tinto Limited (or any of its related corporations) in connection with the Wafi-Golpu Royalty without the written consent of the other parties (which must not be unreasonably withheld).
- (d) Consideration due under any agreement referred to in paragraph (c) will, if incurred:
 - (i) prior to the Effective Date, be deemed to be Harmony Expenditure provided that Wafi pays Farminee on demand 50% of that consideration up to a maximum of \$15 million;
 - (ii) on or after the Effective Date to the date on which the Farmin Milestone is achieved, be the sole liability of Wafi up to an amount equal to \$30 million minus two times the amount (if any) paid by Wafi under clause 13.1 (d)(i) (the **Wafi Liability**) with any consideration payable in excess of the Wafi Liability to be part of Stage 2 Expenditure; and
 - (iii) after the date on which the Farmin Milestone is achieved, be borne by Wafi and Farminee in proportion to their Participating Interests under the Wafi-Golpu JVA except that Wafi shall be solely liable for the first \$30 million of that consideration (minus an amount (if any) equal to:
 - (A) two times the amount paid by Wafi under clause 13.1 (d)(i); or

- (B) the amount paid by Wafi under clause 13.1 (d)(ii),
(whichever is applicable)).

- (e) If no agreement is reached under paragraph (c) and royalties become payable in connection with the Wafi-Golpu Royalty, Wafi will be liable for, and shall indemnify Farminee against any Claim in respect of, Farminee's share of the first \$30 million of any royalties that are payable by Wafi and Farminee.

13.2 Hidden Valley Royalty

- (a) Under an Agreement of Sale of Interest in Royalty Deed dated 2 March 2007 between Rio Tinto Limited, Rio Tinto Minerals (PNG) Limited (a company incorporated in PNG) (**RTM**), Harmony and MCG (**Agreement of Sale**), Rio Tinto Limited and RTM sold to Harmony all their rights, interests and obligations under a Royalty Deed relating to the Hidden Valley Project.
- (b) Under the Agreement of Sale, Harmony is free to assign and transfer all the Sale Assets (as defined in the Agreement of Sale), which includes a royalty interest in the ounces of gold to be produced by MCG from the Hidden Valley Mine in PNG (**Hidden Valley Royalty**), to any of its Related Bodies Corporate (as defined in the Agreement of Sale). The transfer of the Sale Assets to MCG extinguishes the royalty interest.
- (c) Harmony proposes to enter into a Deed of Extinguishment of Royalty — Hidden Valley Project with MCG (**Deed of Extinguishment**) to assign all its right, title and interest in the Sale Assets to MCG, so as to extinguish the royalty interest described above in consideration of a payment of \$22,500,000 which is deemed to be Harmony Expenditure (and which is the only amount to be included as Harmony Expenditure in respect of the Hidden Valley Royalty).
- (d) MCG undertakes to use its best endeavours to register the Deed of Extinguishment.
- (e) MCG is liable for and must indemnify Farminee and its Affiliates against any Liability in connection with the Deed of Extinguishment and the payment of the Hidden Valley Royalty.
- (f) Farminee holds the benefit of the indemnity in clause 13.2(e) for itself and on trust for each of its Affiliates.

14. CONFIDENTIALITY

A party must not disclose any information concerning the contents of, or the transactions contemplated by, this document to any person who is not a party, except to the extent that:

- (a) the disclosure is expressly permitted by this document;
- (b) the other parties consent to the disclosure;
- (c) the information is already in the public domain, unless it entered the public domain because of a breach of confidentiality by the party;
- (d) the disclosure is made on a confidential basis to the party's or any of its Affiliates' officers, employees, agents, financiers or professional advisers, and is necessary for the party's business or that of its Affiliates;

- (e) the disclosure is necessary to comply with any applicable law, or an order of a court or tribunal;
- (f) the disclosure is necessary to comply with a directive or request of any Government Agency or stock exchange (whether or not having the force of law) so long as a responsible person in a similar position would comply;
- (g) the disclosure is necessary or desirable to obtain an Authorisation from any Government Agency or stock exchange;
- (h) the disclosure is necessary or desirable in relation to any discovery of documents, or any proceedings before a court, tribunal, other Government Agency or stock exchange; or
- (i) the disclosure is made on a confidential basis to a prospective Assignee or financier of the party's Participating Interest, or to any other person who:
 - (i) proposes to enter into contractual relations with the party; and
 - (ii) agrees to keep the disclosure confidential in accordance with this clause 14.

15. PROHIBITION ON EMPLOYMENT

Each party agrees that it must not and must procure that none of its related corporations, without the written consent of the other parties, at any time solicit or entice any person, who is at that time, or at any time in the previous three months was, an employee of another party or any of its Affiliates, to become an employee of that party or any of its Affiliates.

16. DISPUTE RESOLUTION

16.1 Application

Any dispute or difference between the parties arising under or in connection with the document, including any dispute or difference as to the formation, validity, existence or termination of this document (**Dispute**) must be resolved as set out in this clause 16.

16.2 Notice of dispute or difference

- (a) If a Dispute arises a party must commence the process contained in this clause for its resolution by giving notice (**Dispute Notice**) to the other party. The party sending the Dispute Notice is the Referring Party.
- (b) The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 16.2;
 - (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;

- (B) references to any:
 - (I) provisions of the relevant document;
 - (II) information, whether written or in any other form; and
 - (III) acts or omissions of any person, relevant to the Dispute;
 - (C) the amount in dispute (whether monetary or any other commodity) and if not known, the best estimate available; and
- (iv) be given within 10 Business Days of the circumstances giving rise to the Dispute first occurring.

16.3 Negotiation between Representatives

- (a) Within 10 Business Days of the Referring Party giving a Dispute Notice, the representatives of the parties to the Dispute must meet to attempt to resolve the Dispute.
- (b) The meeting must take place in person. The parties are not permitted to delegate this function to any other person.
- (c) The parties to the Dispute must ensure that their representatives at this meeting make a genuine effort to resolve any Dispute.
- (d) If, and to the extent that, the Dispute is resolved, the representatives of the parties to the Dispute must immediately detail their agreement in writing. This document must clearly state which parts of the Dispute are resolved, and the agreed basis for its resolution.
- (e) If a written agreement is not produced pursuant to clause 16.3(d) in relation to all or part of the Dispute within 10 Business Days after the Dispute Notice has been given, the Dispute, or the part of the Dispute in respect of which there is no written agreement produced, is deemed to be unresolved.

16.4 Negotiation by senior management

- (a) If, 10 Business Days after the Dispute Notice has been given:
 - (i) the meeting required by clause 16.3 has not been held; or
 - (ii) the agreement has not been recorded in accordance with clause 16.3(d); or
 - (iii) the Dispute (or any part of it) is otherwise unresolved,

the Referring Party must give notice to the other party that it requires the Dispute (or the parts of it that have not been resolved or have not been recorded in accordance with clause 16.3(d)) to be referred to senior management for resolution in accordance with clause 16.4(b).

- (b) The notice referred to in clause 16.4(a) must:
 - (i) be in writing;
 - (ii) state that it is made pursuant to clause 16.4(a);

- (iii) annex a copy of the Dispute Notice (and any accompanying documents) given pursuant to clause 16.2 together with any documents which the Referring Party considers would further assist senior management in resolving the Dispute;
- (iv) if part of the Dispute has been resolved, annex a copy of the document prepared pursuant to clause 16.3(d); and
- (v) be given no later than 5 Business Days after the Dispute Notice has been given.
- (c) Within 20 Business Days of the Referring Party giving notice pursuant to clause 16.4(a), senior management representatives (**SMR**) from each of the parties to the Dispute (which shall include the chief executive officers of each of the parties to the dispute) must meet to attempt to resolve the Dispute. The parties are not permitted to delegate this function to any other persons.
- (d) The SMRs may meet more than once within the period referred to in clause 16.4(c) to resolve any Dispute. The SMRs may meet in person, via telephone, videoconference, internet-based instant messaging or any other means of instantaneous communication.
- (e) Each party to the Dispute must ensure that their SMR:
 - (i) has full authority to resolve the Dispute; and
 - (ii) makes a genuine effort to resolve the Dispute.
- (f) The outcome of the SMR meeting must be reduced to writing and signed by the SMR for both parties to the Dispute (**SMR Outcome Document**). The SMR Outcome Document must clearly state in respect of the Dispute or any part of the Dispute whether it is resolved or unresolved (clearly stating if the Dispute is only partly resolved, which part is resolved, and which part remains unresolved).
- (g) If:
 - (i) an SMR Outcome Document:
 - (A) is not produced or is not produced within whichever is the later to occur of:
 - (I) 20 Business Days of the notice being given pursuant to clause 16.4(a); or
 - (II) 35 Business Days of the Dispute Notice being given; or
 - (B) states that the Dispute (or any part of the Dispute) is unresolved; or
 - (C) is silent in respect of any part of the Dispute which was unresolved after the meeting held pursuant to clause 16.3(a); or
 - (ii) the Dispute or any part of the Dispute is otherwise unresolved within 35 Business Days of the Dispute Notice being given,

the Dispute or the relevant part of the Dispute is deemed to be unresolved and thereafter the Dispute or the relevant part of the Dispute is to be referred to arbitration in accordance with clause 16.5.

16.5 Arbitration

Any Dispute, or part of a Dispute that is deemed to be unresolved under clause 16.4(g) is to be resolved by arbitration in accordance with the UNCITRAL Rules which are current as at the date on which the Dispute Notice was given. The seat of the arbitration will be Brisbane, Australia and the language of the arbitration will be English.

16.6 Continuance of performance

Despite the existence of a Dispute, the parties must continue to perform their respective obligations under this document and the other Transaction Documents.

16.7 Summary or urgent relief

Nothing in this clause 16 prevents a party from instituting court proceedings to seek enforcement of any payment due under the document or to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

17. GST

17.1 Sale of a going concern

The parties agree that to the extent that Participating Interests comprise goods, the supply to Farminee of Participating Interests under this document is chargeable with GST at the rate of 0% under section 20 of the GST Law as a going concern, and Farminee is or will immediately become a registered person at the time of transfer.

17.2 Farminee Warranty

The Farminee warrants that it is or will immediately become a registered person at the time of transfer.

17.3 Joint Venture Warranties

MCG and Wafi warrant that for each supply of a Participating Interest:

- (a) all of the goods and services that are necessary for the continued operation of the taxable activity will be supplied to Farminee; and
- (b) MCG and Wafi will carry on the taxable activity up to the time of the transfer of the Participating Interest to Farminee.

17.4 Member of GST group

If a party is registered as part of a group of companies, references to GST which the party must pay and to input tax to which the party is entitled include GST which the representative member of the group of companies must pay and deductions of input tax credits to which the representative member is entitled.

17.5 GST exclusive amounts

All amounts payable under or in connection with this document are exclusive of GST unless indicated otherwise.

17.6 Payment of GST

- (a) A recipient of a taxable supply under or in connection with this document must pay to the supplier, in addition to the consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply.
- (b) The recipient must make that payment to the supplier as and when the consideration or part of it is provided, except that the recipient need not pay unless the recipient has received a tax invoice (or a credit note or debit note) for that taxable supply.

17.7 Reimbursements

Where a supplier incurs a cost or expense for which it may be reimbursed by, indemnified against, claim against or set-off against another party under this document, the amount to be paid or credited is the cost or expense (reduced by the deduction of input tax that the supplier is entitled to claim in relation to that cost or expense) plus the amount in relation to GST payable by the recipient as calculated under this clause.

17.8 Indemnities

- (a) If a release of an indemnity under or in connection with this document gives rise to a liability to pay GST, the indemnified amount must include that GST.
- (b) If a party has a Claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

18. ASSIGNMENT AND AMENDMENT

18.1 Amendment

This document can only be amended, supplemented, replaced or novated by another document signed by the parties.

18.2 Restrictions on Assignment

- (a) Subject to clause 18.2(b), no party is entitled to Assign its interest in this document without the prior written consent of the other parties.
- (b) A party (**Assignor**) may Assign its rights and interest under this document to a wholly-owned subsidiary (**Assignee**) on the conditions that:
 - (i) the Assignee agrees with the other parties to reassign the interest to the Assignor if for any reason the Assignee ceases to be a wholly owned subsidiary of the Assignor;
 - (ii) the Assignor agrees with the parties to accept the reassignment;
 - (iii) the Assignor enters into a deed of guarantee in a form satisfactory to the other parties (acting reasonably) under which the Assignor guarantees the Assignees' performance of Assignor's obligations under this document and undertakes to indemnify the other parties for any Liability they or any of their related corporations may suffer as a result of any act or omission of the Assignee in breach of the Assignor's obligations under this document;

- (iv) the proposed Assignee enters into a deed of covenant with the other parties agreeing to observe and perform the Assignor’s obligations under this document that the Assignee is assuming as if it was expressly named in this document in place of the Assignee; and
- (v) the Assignor pays all expenses (including stamp duty) incurred by the other parties in relation to the Assignment and any Assignment back.

19. NOTICES

19.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person’s address; or
 - (ii) sent by fax to that person’s fax number and the machine from which it is sent produces a report that states that it was sent in full.

19.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail — on actual receipt.

19.3 Address for notices

A person’s address and fax number are those set out below, or as the person notifies the sender:

Newcrest 1
Address: Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: +61 3 9521 3564
Attention: Bernard Lavery

Newcrest 2
Address: Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: +61 3 9521 3564
Attention: Bernard Lavery

Newcrest 3
Address: Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: +61 3 9521 3564
Attention: Bernard Lavery

Wafi
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

MCG
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

MEL
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

20. GENERAL

20.1 Governing law

- (a) This document is governed by the law in force in Papua New Guinea.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Papua New Guinea, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

20.2 Expenses and Stamp Duty

Each party must bear its own costs arising out of the negotiation, preparation and execution of this document and the Transaction Documents. All stamp duty (including fines, penalties and interest) that may be payable on or in connection with the transfer of any Participating Interest in the Joint Ventures to Farminee must be borne by Farminee.

20.3 Giving effect to this document

Each party must do anything (including execute any transfer or other document in blank), and must ensure that its employees and agents do anything (including execute any transfer or other document in blank), that any other party may reasonably require to give full effect to this document.

20.4 Waiver of rights

- A right may only be waived in writing, signed by the party giving the waiver, and:
- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
 - (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and

- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

20.5 Operation of this document

- (a) The Transaction Documents contain the entire agreement between the parties about their subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.
- (b) Any right or remedy that a person may have under this document is in addition to, and does not replace or limit, any other right or remedy that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.
- (d) Without limiting clauses 20.5(a) to (c), clauses 1 (Interpretation), 5.8 (Renewal of Exploration Licence 440), 6.4 (Credit for First Gold), 11 (Default), 13 (Hidden Valley and Wafi-Golpu Royalties), 14 (Confidentiality), 17 (GST), 19 (Notices) and 20 (General) remain in full force and continue to bind each party despite any transaction or other thing (including the expiry or termination of this document or a party ceasing to be a party).

20.6 Operation of Indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A person may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

20.7 Time is of the essence

Time is of the essence in respect of Farminee’s obligations under this document.

20.8 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), a party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
 - (b) agree or consent subject to conditions,
- unless this document expressly contemplates otherwise.

20.9 Inconsistencies

- (a) If this document is inconsistent with any other Transaction Document, this document prevails to the extent of the inconsistency.
- (b) If a schedule to this document is inconsistent with any provision of this document, the provision prevails to the extent of the inconsistency.

20.10 Counterparts

This document may be executed in counterparts.

20.11 Attorneys

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Schedule 1

APPORTIONMENT OF STAGE 1 PURCHASE PRICE

The Stage 1 Purchase Price shall be allocated between MCG, Wafi and MEL (**Seller**) and Farminee and to the various assets comprising the Joint Venture Property for all of the Joint Ventures (**Assets**) as follows:

1. Information in respect of allowable exploration expenditure, an amount equal to 30.01% of the balance of Allowable Exploration Expenditure at 30 June 2008.
2. Information in respect of allowable capital expenditure, an amount equal to 30.01% of the balance of Allowable Capital Expenditure.
3. Information in respect of allowable capital expenditure, an amount equal to 30.01% of the balance of Exploration Expenditure.
4. In respect of stores and consumables, an amount equal to 30.01% of the book value of those assets at 30 June 2008 to the extent that value is not included in the balance of Exploration Expenditure, Allowable Exploration Expenditure or Allowable Capital Expenditure in sections 1 to 3 above.
5. In respect of other assets of the Seller including working capital, an amount equal 30.01% of the Seller’s book value of those assets at 30 June 2008.
6. In respect of the balance of the Assets, being the acquisition of Tenements including the rights of Seller over the site or over the mineral deposits comprising the Seller’s Interest in the mining lease, ML 151, the amount remaining after deducting from the Stage 1 Purchase Price the sum of the amounts in sections 1 to 5 above.
7. As agreed between Seller and Farminee as to the various categories comprising the Assets as follows:
 - (a) Information comprising:
 - (i) Exploration Expenditure;
 - (ii) Allowable Capital Expenditure; and
 - (iii) Allowable Exploration Expenditure;
 - (b) Mining Lease ML151;
 - (c) Exploration Licences;
 - (d) stores and consumables; and
 - (e) all other assets comprising the Assets.

Schedule 2

STAGE 2 OPERATING PROGRAM

A summary of the Stage 2 Operating Program is set out on the following page, and the detailed Stage 2 Operating Program is contained in Annexure B.

Blake Dawson

	Plan Jun-08	Plan Jul-08	Plan Aug-08	Plan Sep-08	Plan Oct-08	Plan Nov-08	Plan Dec-08	Plan Jan-09	Plan Feb-09	Plan Mar-09	Plan Apr-09	Plan May-09	Plan Jun-09	Total
	24,971	38,754	37,247	37,665	36,748	32,502	34,922	33,460	28,313	24,247	15,914	12,480	370	481,282
	300	300	300	300	300	300	300	300	300	300	300	300	300	5,371
	25,271	39,054	37,547	37,965	37,048	32,802	35,222	33,760	28,613	24,547	16,214	12,780	670	486,653
	22,744	35,148	33,792	34,169	33,343	29,522	31,700	30,384	25,751	22,093	14,593	11,502	603	437,987
	135,387	35,148	68,941	103,110	136,453	165,975	197,674	228,059	253,810	275,903	290,495	301,997	302,600	
	Plan Jun-08	Plan Jul-08	Plan Aug-08	Plan Sep-08	Plan Oct-08	Plan Nov-08	Plan Dec-08	Plan Jan-09	Plan Feb-09	Plan Mar-09	Plan Apr-09	Plan May-09	Plan Jun-09	Total
	1,050	1,212	1,398	1,226	998	1,037	515	673	1,415	8,655	1,006	1,531	2,035	24,790
	945	1,091	1,259	1,103	898	933	463	606	1,274	7,789	906	1,378	1,831	22,311
	2,781	1,091	2,349	3,453	4,350	5,284	5,747	6,353	7,626	15,413	16,321	17,699	19,530	
	Plan Jun-08	Plan Jul-08	Plan Aug-08	Plan Sep-08	Plan Oct-08	Plan Nov-08	Plan Dec-08	Plan Jan-09	Plan Feb-09	Plan Mar-09	Plan Apr-09	Plan May-09	Plan Jun-09	Total
	1,358	1,673	1,844	1,862	1,984	1,986	1,939	1,952	2,037	1,941	1,792	1,991	1,891	30,181
	1,222	1,505	1,660	1,676	1,786	1,787	1,745	1,756	1,834	1,747	1,612	1,792	1,702	27,163
	6,561	1,505	3,165	4,841	6,627	8,414	10,159	11,916	13,749	15,496	17,108	18,901	20,603	

Master Purchase and Farmin Agreement 44

Schedule 3

DISCLOSURE MATERIAL

- 1. All information publicly available by inspecting the public records maintained by the Registrar of Companies (PNG) and the registries of the National Court and the Supreme Court of Papua New Guinea.
- 2. The information contained in the Data Room as at 18 April 2008.
- 3. MCG or Wafi has made application for grant of new exploration licences which have been allocated the following application numbers: 1590 (Wampit), 1612 (Zenag), 1629 (Garaina), 1630 (Waria) and 1631 (Biaru).
- 4. Applications for renewal are pending for Exploration Licence numbers 440 (Mt Wanion), 1103 (Zilani), 1105 (Mt Watut) and 1403 (Morobe Coast).

Schedule 4

WARRANTIES

Information

- 1. All information contained in the Data Room was as at 18 April 2008 to the knowledge of MCG, Wafi and MEL not misleading or false in any material respect.

Solvency

- 2. As at the date of this document and the Stage 1 Completion Date, no Insolvency Event has occurred or is occurring, or is pending or threatened, over or in respect of MCG, Wafi, MEL or Harmony.

Title

- 3. As at the date of this document and the Stage 1 Completion Date, none of MCG, Wafi and MEL has granted any option or right of pre-emption in respect of any of the Joint Venture Property for any Joint Venture to any other person and MCG, Wafi and MEL will be able to procure the transfer of a beneficial interest in all of the Joint Venture Property for each Joint Venture without first obtaining the consent of any other person.
- 4. The beneficial ownership of all of the Joint Venture Property for each Joint Venture will on Stage 1 Completion vest in Farminee and Wafi, MCG or MEL (as the case may be) free from any right or interest of any other person (including any Encumbrances) save for:
 - (a) the rights (if any) of the Landowners to up to a 5% Participating interest in the Hidden Valley Joint Venture under the MOA;
 - (b) the right of the Independent State of Papua New Guinea to acquire up to a 30% Participating interest in the Wafi-Golpu Joint Venture and the Exploration Portfolio Joint Venture; and
 - (c) any Permitted Encumbrance within the meaning of paragraph (c) or (d) of the definition of Permitted Encumbrance.

Tenements

- 5. As at the date of this document and the Stage 1 Completion Date, the Tenements are held by MCG, Wafi and MEL legally and beneficially free from any Encumbrances except for:
 - (a) the rights (if any) of the Landowners to up to a 5% Participating interest in the Hidden Valley Joint Venture under the MOA;
 - (b) the right of the Independent State of Papua New Guinea to acquire up to a 30% Participating Interest in the Wafi-Golpu Joint Venture and the Exploration Portfolio Joint Venture; and
 - (c) any Permitted Encumbrance within the meaning of paragraph (c) or (d) of the definition of Permitted Encumbrance.
- 6. As at the date of this document and the Stage 1 Completion Date, the Tenements are in good standing and are in full force and effect and MCG, Wafi and MEL are not aware of any facts, circumstances or unremedied breaches which could give rise to the early termination of any of the Tenements, or which might adversely affect the rights or benefits conferred by the Tenements, the renewal of any Tenement or the application by MCG, Wafi or MEL for the grant of any Tenement. Neither MCG, Wafi nor MEL nor any of their Affiliates have any right to, or interest in any mining title or any other lease, licence, permit

or other authority or tenement for mining purposes in the JV-Non Competition Area other than the Tenements.

Employees

- 7. As at the date of this document, there is no industrial dispute affecting the employees of MCG, Wafi or MEL.
- 8. As at the date of this document, none of the employees of MCG, Wafi or MEL has made a worker’s compensation claim that remains unresolved.
- 9. As at the date of this document, there are no collective bargaining agreements to which MCG, Wafi or MEL is a party with any trade union or similar organisation and which apply to any of the employees of MCG, Wafi or MEL.

Environment

- 10. **(Bond or security deposit)** As at the date of this document, MCG, Wafi and MEL have not given a bond or security deposit in favour of any Governmental Agency in connection with any environmental authorisation which relates to any of the Joint Ventures.
- 11. **(Third Party Claims)** As at the date of this document, there is no Claim in relation to any Tenement or the activities or omissions of MCG, Wafi or MEL in respect of Tenement by any person alleging liability (including, without limitation, potential liability for property damage or personal injury) arising out of, based on, or resulting from, the presence or release into the environment of Contamination or Pollution.

Legislative Requirements

- 12. As at the date of this document, neither MCG, Wafi nor MEL nor any of their Affiliates have knowledge of receipt of any notice advising it that it or they (as the case may be) have not, in connection with any Joint Venture Property, complied with any Legal Requirement.

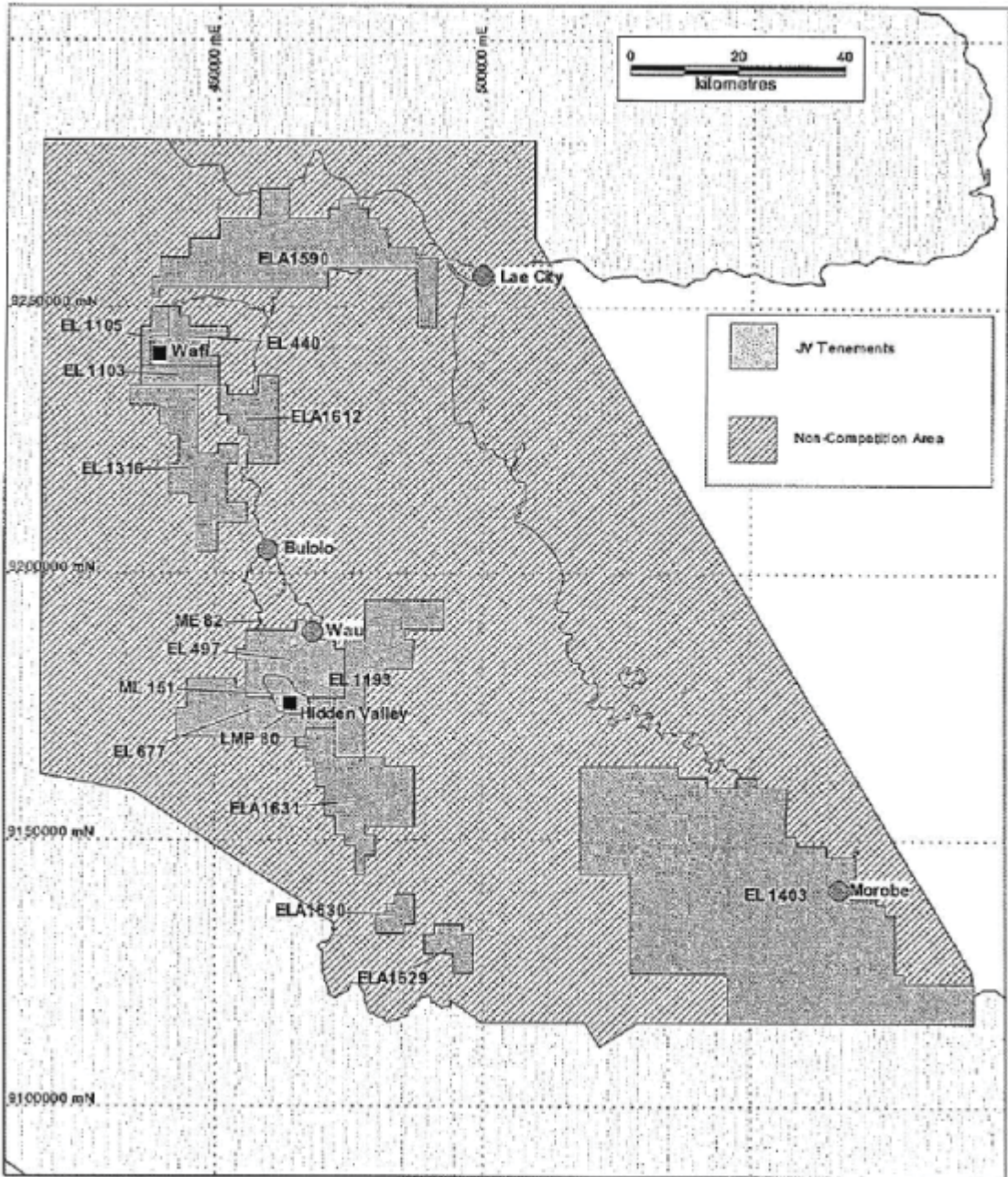
Litigation

- 13. As at the date of this document, MCG, Wafi and MEL have no knowledge of any litigation, prosecution, mediation, arbitration or other proceeding in respect of any Joint Venture Property and neither MCG, Wafi nor MEL have knowledge of any current civil, criminal or arbitration proceedings relating in any way to any Joint Venture Property.

Financial statements

- 14. The financial statements of MCG, Wafi and MEL for the year ended 30 June 2007 comply with Papua New Guinea generally accepted accounting practice and give a true and fair view of the matters to which they relate.

Schedule 5
MAP OF JV-NON COMPETITION AREA



Schedule 6

HARMONY EXPENDITURE PRINCIPLES

The following principles apply to the preparation of statements in respect of, and the determination of amounts to be included, as Harmony Expenditure:


1. Harmony Expenditure must be expressed in US dollars, and, where applicable conversions from other currencies must be calculated using the monthly average of the exchange rate used by MCG, Wafi or MEL (being mid rates quoted either by Westpac or on the Reuters monitor system and used consistently for that purpose for the month).
2. In respect of operating expenditure, office and other overhead costs outside Papua New Guinea are only to be included as Harmony Expenditure to the extent provided in the Operating Program.
3. Harmony Expenditure includes amounts which are accrued by Wafi, MCG and MEL in respect of the Hidden Valley Project, Wafi-Golpu Project and the Exploration Portfolio Project from 1 January 2008 to Stage 1 Completion (but excludes amounts which are accrued prior to 1 January 2008 but paid by Wafi, MCG or MEL after 1 January 2008).
4. Harmony Expenditure Includes prepayments made in the ordinary course of business in accordance with usual practice by MCG or Wafi in respect of the Hidden Valley Project, Wafi Golpu Project and the Exploration Portfolio Project prior to 1 January 2008 but only to the extent to which the prepayment relates to the period between 1 January 2008 and Stage 1 Completion.
5. Harmony Expenditure includes prepayments made in the ordinary course of business in accordance with usual practice by MCG, Wafi and MEL in respect of the Hidden Valley Project, Wafi Golpu Project and the Exploration Portfolio Project from 1 January 2008 to Stage 1 Completion in respect of periods after Stage 1 Completion.
6. Harmony Expenditure to include Employee entitlements which accrue between 1 January 2008 and Stage 1 Completion.


For the purposes of section 6 above, Employee means any employee of Wafi, MCG, MEL or any of their related corporations at the date of this document and who is to be employed by any of the Operators.

EXECUTED as an agreement.

THE COMMON SEAL of Morobe Consolidated Goldfields Limited was affixed with authority of the board of directors in the presence of:






Signature of director
JJ van Haerden


Signature of director/secretary
Gregory John Job

THE COMMON SEAL of Wafi Mining Limited was affixed with authority of the board of directors in the presence of:






Signature of director
JJ van Haerden
Name


Signature of director/secretary
Gregory John Job
Name

THE COMMON SEAL of Morobe Exploration Limited was affixed with authority of the board of directors in the presence of:




Signature of director
JJ van Haerden
Name

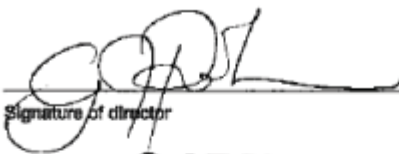

Signature of director/secretary
Gregory John Job
Name

SIGNED by Newcrest PNG 1 Limited by
its duly authorised officers:



Signature of director
I K SMITH

Name



Signature of director
G J ROBINSON


Name

SIGNED by Newcrest PNG 2 Limited by
its duly authorised officers:



Signature of director
I K SMITH

Name



Signature of director
G J ROBINSON

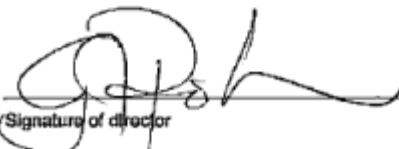
Name

SIGNED by Newcrest PNG 3 Limited by
its duly authorised officers:



Signature of director
I K SMITH

Name



Signature of director
G J ROBINSON

Name

MEMORIAL OF APPROVAL OF AN INSTRUMENT

I, Dr Puka Temu, Minister for Mining, by virtue of the powers conferred by the Mining Act 1992 and all other powers me enabling, and after considering the recommendation of the Mining Advisory Council, hereby approve this instrument.

DATED at this day of ,2008.

Hon Dr Puka Temu, CMG, MP
Minister for Mining

To be completed by the Registrar upon the Minister approving an instrument.

I, Stanley Nekitel, Registrar, pursuant to all powers conferred under the Mining Act 1992, certify that I have this day registered the instrument.

_____ (Registrar’s signature)

_____ (date)

Annexure A
PARENT COMPANY GUARANTEE

Deed of Parent Company Guarantee

Newcrest Mining Limited

Wafi Mining Limited

Morobe Consolidated Goldfields Limited

Morobe Exploration Limited

Blake Dawson

Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
Australia
T 61 7 3259 7000
F 61 7 3259 7111

Reference

RAF MMR 07 1427 3151

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Deed of Parent Company Guarantee

DATE

PARTIES

- Newcrest Mining Limited** ABN 20 005 683 625 a company registered in Victoria, the registered office of which is Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia (**Newcrest**)
- Wafi Mining Limited** a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby, PNG (**Wafi**)
- Morobe Consolidated Goldfields Limited** a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby, PNG (**MCG**)
- Morobe Exploration Limited** a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby, PNG (**MEL**)

RECITALS

- A. Newcrest is the ultimate holding company of each Subsidiary.
- B. MCG, Wafi, MEL and Newcrest wish MCG, Wafi and MEL and each Subsidiary to enter into the Master Purchase and Farmin Agreement to record the terms under which the Subsidiaries will acquire (through a combination of purchase and farmin) a Participating Interest in the Joint Ventures from MCG, Wafi and MEL.
- C. Newcrest wishes each Subsidiary to enter into the Master Purchase and Farmin Agreement and MCG, Wafi and MEL consent to this arrangement on the condition that Newcrest guarantees the performance of each of the Subsidiaries under the Master Purchase and Farmin Agreement.
- D. Newcrest is prepared to guarantee the obligations of the Subsidiaries in connection with the Master Purchase and Farmin Agreement for the benefit of MCG, Wafi and MEL in accordance with the terms of this document.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

- The following definitions apply in this document.
- Assign** means to sell, transfer, assign or make a gift of, lease, license or part with possession of, create an Encumbrance, declare a trust over or otherwise dispose of, deal with or create an interest in a party’s interest (or, if applicable, any interest in it) or to agree to do any of those things.
- Business Day** means:

- (a) for determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and
- (b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Port Moresby, PNG and Melbourne, Australia.

Claim means, in relation to a person, any claim, cause of action, proceeding, suit or demand made against the person concerned however arising in respect of or in connection with this document and whether it is present or future, fixed or unascertained, actual or contingent.

Companies Act means the *Companies Act 1997*.

Encumbrance means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set off or right to withhold payment of a deposit or other money, a notice under section 356 of the *Income Tax Act 1959* or any similar legislation, or an easement, restrictive covenant, caveat or similar restriction over property, or an agreement to create any of them or to allow any of them to exist.

Exploration Portfolio Joint Venture means the unincorporated joint venture constituted by the Exploration Portfolio JVA.

Exploration Portfolio JVA means the joint venture agreement entered into or to be entered into between MCG, Wafi, MEL and Newcrest PNG 3 Limited with respect to the Exploration Portfolio Joint Venture on or about the date of this document.

Exploration Portfolio Project means the Joint Venture Property as defined in the Exploration Portfolio JVA.

Farmin Completion Date means the date on which the Master Purchase and Farmin Agreement expires or is terminated.

GST means a goods and services tax or similar value added tax levied or imposed under the GST Law or otherwise on a supply.

GST Law means *Goods and Services Tax Act 2003*.

Guaranteed Money means all amounts that are payable by the Subsidiaries to MCG, Wafi or MEL or all of them, under the terms of the Master Purchase and Farmin Agreement but in no event is the amount, at any time, to exceed the limitations on Liability under clause 2.3.

Guaranteed Obligations means the obligations of the Subsidiaries to pay the Guaranteed Money and all their other obligations to either MCG, Wafi or MEL or all of them, (monetary or non-monetary, present or future, actual or contingent) under the Master Purchase and Farmin Agreement, however arising but in no event is the Liability, at any time, to exceed the limitations on Liability under clause 2.3.

Hidden Valley Joint Venture means the unincorporated joint venture constituted by the Hidden Valley JVA.

Hidden Valley JVA means the joint venture agreement entered into or to be entered into between MCG and Newcrest PNG 1 Limited with respect to the Hidden Valley Joint Venture on or about the date of this document.

Hidden Valley Project means the Joint Venture Property as defined in the Hidden Valley JVA.

Insolvency Event means, for a person, being in liquidation or provisional liquidation or under administration, having a receiver (as defined in the Companies Act) or analogous person appointed to it or any of its property, being taken under the Companies Act to have failed to comply with a statutory demand referred to in section 337 of the Companies Act, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the laws of any applicable jurisdiction.

Joint Venture means each of the Hidden Valley Joint Venture, the Wafi-Golpu Joint Venture and the Exploration Portfolio Joint Venture.

JVA means each of the Hidden Valley JVA, the Exploration Portfolio JVA and the Wafi-Golpu JVA each dated on or about the date of this document

Liability means any claim, demand, proceeding, cost, loss, expense, obligation and liability, arising under statute or at common law or in equity, and arising in contract or in tort or otherwise.

Master Purchase and Farmin Agreement means the agreement described in Recital B entered into between MCG, Wafi and the Subsidiaries on or about the date of this document

Participating Interest with respect to each Joint Venture, has the same meaning as given to that term in the relevant JVA.

PNG means Papua New Guinea.

Project means each of the Hidden Valley Project, the Exploration Portfolio Project and the Wafi-Golpu Project.

Stage 1 Completion has the same meaning in this document as given to that term in the Master Purchase and Farmin Agreement.

Stage 1 Purchase Price has the same meaning in this document as given to that term in the Master Purchase and Farmin Agreement.

Stage 2 Expenditure has the same meaning in this document as given to that term in the Master Purchase and Farmin Agreement.

Subsidiary means each of Newcrest PNG 1 Limited, Newcrest PNG 2 Limited and Newcrest PNG 3 Limited.

Wafi-Golpu Joint Venture means the unincorporated joint venture constituted by the Wafi-Golpu JVA.

Wafi-Golpu JVA means the joint venture agreement entered into or to be entered into between Wafi and Newcrest PNG 2 Limited with respect to the Wafi-Golpu Joint Venture on or about the date of this document.

Wafi-Golpu Project means the Joint Venture Property as defined in the Wafi-Golpu JVA.

1.2 **Rules for Interpreting this document**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted Assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) anything (including a right, obligation or concept) includes each part of it;
 - (vi) dollars or \$ is to currency of the United States of America.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (g) The words **holding company** and **related corporation** have the same meanings as in the Companies Act.

1.3 Business Days

If the day on or by which a person must do something under this document is not a Business Day, the person must do it on or by the next Business Day.

1.4 Multiple parties

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

1.5 The rule about “contra proferentem”

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision of it or because that party relies on a provision of this document to protect itself.

2. GUARANTEE

2.1 Obligations guaranteed

Newcrest guarantees to MCG, Wafi and MEL the due and punctual:

- (a) payment by the Subsidiaries of the Guaranteed Money; and
- (b) performance by the Subsidiaries of the Guaranteed Obligations.

2.2 Consequences if a Subsidiary defaults

Newcrest covenants with MCG, Wafi and MEL that:

- (a) if any Subsidiary defaults in the due and punctual payment of any Guaranteed Money, Newcrest must pay that money on demand to MCG, Wafi or MEL or to all of them, as that money is required to be paid by the applicable Subsidiary in accordance with the Master Purchase and Farmin Agreement;
- (b) if any Subsidiary defaults in the due and punctual payment of any Guaranteed Obligation, subject to clause 2.3, Newcrest:
 - (i) must procure:
 - (A) the immediate payment of the Guaranteed Money; and
 - (B) the due and punctual performance of the other Guaranteed Obligations;
 - (ii) must indemnify MCG, Wafi and MEL against all Liabilities (including legal expenses on a full indemnity basis) that MCG, Wafi and MEL incurs (directly or indirectly) as a result of that default; and
 - (iii) must pay the amount of the Liabilities referred to in clause 2.2(b) on demand to, or as directed by, MCG, Wafi and MEL.

2.3 Cap on Newcrest’s Liability

- (a) The Liability of Newcrest under or in connection with this document is limited to the amount equal to the difference between:
 - (i) the total of the Stage 1 Purchase Price plus the amount required to be contributed by the Subsidiaries as Stage 2 Expenditure; and
 - (ii) the total of the Stage 1 Purchase Price actually paid by the Subsidiaries to MCG, Wafi and MEL under clause 5 of the Master Purchase and Farmin Agreement plus the amount actually contributed by the Subsidiaries as Stage 2 Expenditure under clause 6 of the Master Purchase and Farmin Agreement,as at the date on which notice of the Claim is received by Newcrest.
- (b) This clause 2.3 operates to the fullest extent permitted by law.

2.4 Time limits for bringing Claims

Neither MCG, Wafi nor MEL can make any Claim under or in connection with this document and the Liability of Newcrest for such a Claim is absolutely barred, unless within 3 months immediately following the Farmin Completion Date, MCG, Wafi or MEL gives to Newcrest notice of the Claim under this document specifying in detail the matter which gives rise to the Liability, the nature of the Liability, the amount Claimed, and how the amount is calculated.

3. OBLIGATIONS OF NEWCREST

3.1 Continuity

This document is a continuing security, and unless and until this document is released in accordance with clause 8, this document remains in full force until the Guaranteed Obligations have been irrevocably paid and performed in full despite any transaction or other thing (including a settlement of account or intervening payment).

3.2 Nature of obligations and enforcement

Newcrest’s obligations in this document:

- (a) are principal obligations, and not ancillary or collateral to any other right or obligation; and
- (b) may be enforced against Newcrest without MCG, Wafi or MEL first being required to:
 - (i) exhaust any remedy it may have against a Subsidiary; or
 - (ii) enforce any security it may hold relating to the Guaranteed Obligations.

3.3 Preservation of Newcrest’s obligations

- (a) Newcrest’s obligations in this document are absolute, unconditional, and subject to clause 8, irrevocable.
- (b) The Liability of Newcrest under this document extends to and is not affected by any circumstance, act or omission which, but for this clause 3.3, might otherwise affect it at law or in equity including:
 - (i) the grant of any time, waiver or other indulgence or concession;
 - (ii) the discharge or release of a Subsidiary, Newcrest or any other person;
 - (iii) any transaction or arrangement that may take place between MCG, Wafi and MEL and any Subsidiary, Newcrest or any other person;
 - (iv) the occurrence of an Insolvency Event in relation to any Subsidiary, Newcrest or any other person;
 - (v) MCG, Wafi, MEL or any other person dealing or not dealing in any way with any other guarantee, security, document or agreement;
 - (vi) MCG, Wafi, MEL or any other person:
 - (A) exercising or not exercising any other guarantee or security or any right or remedy conferred on it by law or in equity or by any document or agreement; or

- (B) not recovering any money owing by the Subsidiary;
- (vii) any variation (including a variation which increases, or extends the duration of, the Guaranteed Money or the Guaranteed Obligations), replacement, extinguishment, unenforceability, failure, loss, abandonment or transfer of any document or agreement relating to the Guaranteed Obligations (including this document, the Master Purchase and Farmin Agreement and any other guarantee or security held by either MCG, Wafi or MEL from any person at any time);
 - (viii) the Guaranteed Obligations or the obligations of Newcrest or any other person under this document or any other document or agreement relating to the Guaranteed Obligations or this document (including any other guarantee or security) being or becoming illegal, void, voidable, unenforceable or disclaimed by a liquidator or trustee for creditors or in bankruptcy;
 - (ix) MCG, Wafi or MEL not giving Newcrest notice of any default by a Subsidiary or any other person;
 - (x) MCG, Wafi or MEL not disclosing any information to Newcrest;
 - (xi) any representation made or information given by either MCG, Wafi or MEL to Newcrest;
 - (xii) any change in the legal capacity, rights or obligations of, or other circumstance related to, a Subsidiary, Newcrest or any other person;
 - (xiii) any legal limitation, disability, incapacity or other circumstance related to a Subsidiary, Newcrest or any other person;
 - (xiv) any invalidity or irregularity in the execution of this document or any deficiency in the powers of a Subsidiary or Newcrest;
 - (xv) any Assignment by MCG, Wafi or MEL, with or without the knowledge of the relevant Subsidiary or Newcrest;
 - (xvi) any obligation of a Subsidiary being discharged by operation of law;
 - (xvii) any person who was intended to be bound as a guarantor or surety in relation to the Guaranteed Obligations not becoming bound or ceasing to be bound;
 - (xviii) any laches, acquiescence, delay, act, omission or mistake on the part of, or suffered by MCG, Wafi, MEL or any other person, in relation to this document or any other guarantee, security, document or agreement;
 - (xix) the receipt by either MCG, Wafi, MEL or any other person of any dividend or money after an Insolvency Event in relation to a Subsidiary, Newcrest or any other person;
 - (xx) any judgment or right which MCG, Wafi or MEL may have or exercise against any Subsidiary, Newcrest or any other person;
 - (xxi) the amendment of the constitution, trust deed or other constituent document of any Subsidiary or Newcrest;
 - (xxii) if a Subsidiary or Newcrest is a member of a partnership, firm, joint venture or association, any change in the structure, membership, name or business of that partnership, firm, joint venture or association; or

(xxiii) if a Subsidiary or Newcrest is a trustee of a trust, any breach or variation of the terms of that trust.

4. NEWCREST WAIVES RIGHTS

4.1 Limitations on Newcrest’s rights

Until the Guaranteed Obligations have been irrevocably paid and performed in full, Newcrest may not:

- (a) share in any guarantee, security or money received or receivable by MCG, Wafi or MEL in relation to the Guaranteed Obligations, or stand in the place of MCG, Wafi or MEL in relation to any guarantee, security or right to receive money;
- (b) take any steps to enforce a right or claim against the Subsidiary relating to any money paid by Newcrest to MCG, Wafi or MEL under this document;
- (c) have or exercise any rights as surety in competition with MCG, Wafi or MEL;
- (d) receive, claim or have the benefit of any payment (including a payment under a guarantee), distribution or security from or on account of the Subsidiary or any other person;
- (e) in reduction of its liability under this document, raise a defence, set off or counterclaim available to itself, a Subsidiary or a co-surety or co-indemnifier against MCG, Wafi or MEL or claim a set off or make a counterclaim against MCG, Wafi or MEL; or
- (f) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any agreement or document to which MCG, Wafi or MEL is a party.

4.2 No marshalling

None of MCG, Wafi or MEL is under any obligation to marshal or appropriate in favour of Newcrest or to exercise, apply, perfect or recover any security that MCG, Wafi or MEL holds at any time or any funds or property that MCG, Wafi or MEL may be entitled to receive or have a claim on.

4.3 Creditor not liable

None of MCG, Wafi or MEL is liable for any loss suffered by Newcrest as a direct or indirect result of:

- (a) MCG, Wafi or MEL’s exercise or attempted exercise of, or failure to exercise, any of its rights contained in this document; or
- (b) any release or dealing with any other guarantee or security (including any prejudice to or loss of Newcrest’s rights of subrogation).

5. EFFECT OF INSOLVENCY EVENT

5.1 Authority to prove

If a Subsidiary is wound up, then until the Guaranteed Obligations have been irrevocably paid and performed in full, Newcrest irrevocably authorises MCG, Wafi and MEL (who are not obliged to do this) to:

- (a) prove for all money that Newcrest has paid under this document; and
- (b) retain and carry to a suspense account and appropriate at MCG, Wafi and MEL's discretion any dividends and other money received in relation to the Guaranteed Money.

5.2 Payments in winding up

If an Insolvency Event has occurred in relation to a Subsidiary or Newcrest, any amount paid by the Subsidiary or Newcrest (as the case may be) within the preceding six months (**relevant payment**) will only be applied against any Guaranteed Obligations if:

- (a) MCG, Wafi or MEL forms the opinion in good faith (which will be conclusively binding on Newcrest) that it will not be required to pay the relevant payment to any person under any law relating to bankruptcy, winding up or the protection of creditors; or
- (b) a final judgment is given by a court of competent jurisdiction in favour of MCG, Wafi, MEL or any of them that it is not required to pay the relevant payment to any person under any law relating to bankruptcy, winding up or the protection of creditors.

5.3 Repayment by MCG, Wafi or MEL in winding up

if an amount is applied against any Guaranteed Obligations and MCG, Wafi or MEL forms the opinion in good faith that it is obliged to pay the relevant payment to any person under any law relating to bankruptcy, winding up or the protection of creditors:

- (a) MCG, Wafi or MEL's rights are to be reinstated and will be the same in relation to that amount as if the application, or the payment or transaction giving rise to it, had not been made; and
- (b) Newcrest must immediately do anything (including the signing of documents) reasonably required by MCG, Wafi or MEL to restore to MCG, Wafi or MEL as the case may be, any guarantee or security to which it was entitled immediately before that application or the payment or transaction giving rise to it.

5.4 Release can be re-opened

Any discharge or release between MCG, Wafi or MEL and Newcrest is subject to reinstatement of MCG, Wafi and MEL's rights under this subclause.

6. INDEMNITY BY NEWCREST

6.1 Indemnity

Newcrest unconditionally indemnifies MCG, Wafi and MEL jointly and severally against, and must pay MCG, Wafi and MEL on demand the amount of, any Liability that MCG, Wafi or MEL or all of them, as the case may be, may suffer or incur because:

- (a) the Guaranteed Obligations are unenforceable; or
- (b) the Guaranteed Money (or any money which, if recoverable, would have formed part of the Guaranteed Money) is or may not be recoverable from a Subsidiary or is repaid or restored after it has been recovered.

6.2 **Application of the indemnity**

The indemnity in clause 6.1 extends to any money that is not recoverable:

- (a) because of any legal limitation, disability or incapacity of or affecting a Subsidiary or any other person;
- (b) because any transaction relating to that money was void, illegal, voidable unenforceable;
- (c) whether or not MCG, Wafi or MEL knew or should have known any of the relevant matters or facts; and
- (d) because of any fact or circumstance.

7. **CURRENCY INDEMNITY**

If, for any reason (including as a result of a judgment or order), an amount payable by Newcrest under or in respect of this document (**Relevant Amount**) is received by MCG, Wafi or MEL or all of them, in a currency (**Payment Currency**) that is not the currency in which the amount is expressed to be payable under this document (**Required Currency**) then Newcrest, as an independent obligation, must indemnify MCG, Wafi and MEL against, and must pay MCG, Wafi and MEL on demand the amount of, any shortfall between:

- (a) the amount of Required Currency which MCG, Wafi or MEL, or all of them receives on converting the amount it or they received in the Payment Currency into an amount in the Required Currency in accordance with its or their usual practice; and
- (b) the relevant amount in the Required Currency.

8. **RELEASE**

8.1 **No release except as permitted**

This document may not be released except as expressly permitted by this document.

8.2 **Release of Newcrest by MCG, Wafi and MEL**

- (a) On:
 - (i) payment of all money due and payable by each Subsidiary in accordance with the terms of clause 5 of the Master Purchase and Farmin Agreement; and
 - (ii) satisfaction by the Subsidiaries of their obligations in accordance with the terms of clause 6 the Master Purchase and Farmin Agreement,

Newcrest will be released from all Liability whatever under this document.

9. **RECOVERY OF GST**

- (a) Unless otherwise indicated all amounts referred to in this document are exclusive of GST.

- (b) If MCG, Wafi or MEL makes a taxable supply under or in connection with this document for consideration that is exclusive of GST, Newcrest must:
 - (i) pay to MCG, Wafi, MEL or all of them an amount equal to any GST for which MCG, Wafi, MEL or all of them is liable in relation to that supply; and
 - (ii) make that payment as and when the consideration or part of it must be paid or provided.
- (c) If requested by Newcrest, MCG, Wafi or MEL, as the case may be, must issue a tax invoice for a taxable supply to the person to whom it made the supply.
- (d) Newcrest's obligation to reimburse MCG, Wafi or MEL, as the case may be, for an amount paid or payable to a third party (including an obligation to pay MCG, Wafi or MEL's reasonable legal costs) includes GST on the amount paid or payable to the third party except to the extent that each of MCG, Wafi and MEL is entitled to a deduction of input tax for that GST.

10. NOTICES

10.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.

10.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail:
 - (i) within Papua New Guinea — 3 Business Days after posting; or
 - (ii) to or from a place outside Papua New Guinea — 7 Business Days after posting.

10.3 Address for notices

A person’s address and fax number are those set out below, or as the person notifies the sender:

MCG
Address: Level 2,189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

Wafi
Address: Level 2,189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

MEL
Address: Level 2,189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

Newcrest
Address: Level 9,600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: +61 3 9521 3564
Attention: Bernard Lavery

11. AMENDMENT AND ASSIGNMENT

11.1 Amendment

This document can be amended, supplemented, replaced or novated by another document executed by Newcrest and MCG and Wafi.

11.2 Restrictions on Assignment

- (a) Subject to clause 11.2(b), no party is entitled to Assign its interest in this document without the prior written consent of the other parties.
- (b) MCG, Wafi or MEL or all of them (**Assignor**) may Assign its rights and interest under this document to a wholly-owned subsidiary to whom it has Assigned its rights and interests under the Master Purchase and Farmin Agreement (**Assignee**) by notice to Newcrest on the conditions that:
 - (i) the Assignee agrees with the other parties to reassign the interest to the Assignor if for any reason the Assignee ceases to be a wholly owned subsidiary of the Assignor; and
 - (ii) the Assignor agrees with the parties to accept the reassignment.

12. GENERAL

12.1 Governing law

- (a) This document is governed by the law in force in Papua New Guinea.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Papua New Guinea, and any court that may hear appeals from any

of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

12.2 Liability for expenses

Each party must pay its own expenses incurred in negotiating, executing, stamping and registering this document.

12.3 Giving effect to this document

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

12.4 Waiver of rights

A right may only be waived in writing, signed by any of MCG, Wafi or MEL and:

- (a) no other conduct of MCG, Wafi or MEL or any related corporation (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

12.5 Operation of this document

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

12.6 Operation of Indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

12.7 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

12.8 Counterparts

This document may be executed in counterparts.

Blake Dawson

EXECUTED as a deed.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Annexure B
DETAILED STAGE 2 OPERATING PROGRAM

Confidential													
Hidden Valley Project													
an -08	Plan Jun-08	Plan Jul-08	Plan Aug-08	Plan Sep-08	Plan Oct-08	Plan Nov-08	Plan Dec-08	Plan Jan-09	Plan Feb-09	Plan Mar-09	Plan Apr-09	Plan May-09	Plan Jun-09
350	1,250	1,559	1,217	1,193	1,415	1,343	1,368	1,648	—	—	—	—	(6,399)
235	4,081	10,657	10,102	10,815	7,398	5,750	5,284	4,050	3,000	1,085	2,000	2,000	402
768	4,375	8,265	5,000	4,250	2,500	1,000	1,000	—	—	—	—	—	—
—	500	1,283	1,925	2,281	4,287	4,355	5,959	6,172	5,265	3,924	2,290	1,225	—
558	1,116	2,612	2,621	2,621	2,621	2,446	3,145	3,145	2,097	2,097	1,922	1,838	—
32	2,596	3,171	3,071	2,360	2,010	3,340	3,340	3,021	2,823	2,140	2,140	1,155	140
513	1,526	1,628	1,773	2,250	3,089	1,946	2,398	2,629	2,805	2,501	—	—	—
74	4,319	6,467	6,607	6,811	6,880	7,218	7,621	7,801	7,973	8,169	—	—	—
340	191	413	62	395	1,646	(197)		—	—	—	—	—	—
76	1,559	1,599	1,600	1,600	1,600	1,600	1,600	1,500	950	970	1,000	800	700
85	190	287	435	432	420	595	595	585	490	470	390	370	369
700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	977	—	—
596	600	603	607	610	613	617	620	624	627	631	634	638	641
—	—	—	—	—	—	—	—	—	—	—	—	—	—
208	205	203	200	197	195	192	189	187	184	181	—	—	—
40	40	40	40	40	40	40	40	40	40	40	40	40	40
500	500												
74	24,749	36,487	36,980	37,355	38,414	32,143	34,562	33,101	27,953	23,868	11,393	8,084	(4,107)

Confidential												
Hidden Valley Project												
Plan Jun-08	Plan Jul-08	Plan Aug-08	Plan Sep-08	Plan Oct-08	Plan Nov-08	Plan Dec-08	Plan Jan-09	Plan Feb-09	Plan Mar-09	Plan Apr-09	Plan May-09	Plan Jun-09
										7,377	7,377	7,377
										774	785	768
										25	26	25
										110	110	112
—	—	—	—	—	—	—	—	—	—	8,286	8,277	8,282

Confidential

[illegible]

Hidden Valley Project

Confidential

Administrative Costs		Actual	Actual	Actual	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan
		Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09
Administration	AS																254,700	254,700	254,700
Construction	AS																30,000	30,000	47,377
Supply and Logistics	AS																1,169,304	1,169,304	1,169,304
Travel and Accommodation	AS																201,178	201,178	201,258
IT	AS																10,000	10,000	10,000
Safety/Security	AS																40,000	40,000	40,000
HR	AS																24,000	24,000	24,000
Corp. Services	AS																274,000	274,000	274,000
Landmarks	AS																40,000	40,000	40,000
Community Affairs	AS																40,000	40,000	40,000
Business Development	AS																40,000	40,000	40,000
Security	AS																40,000	40,000	40,000
PMO/Other Overhead	AS																174,540	174,540	174,540
Total	AS																2,516,200	2,516,200	2,516,200

Hidden Valley Project

Confidential

Initiative/Action	Actual Jan-08	Actual Feb-08	Actual Mar-08	Plan Apr-08	Plan May-08	Plan Jun-08	Plan Jul-08	Plan Aug-08	Plan Sep-08	Plan Oct-08	Plan Nov-08	Plan Dec-08	Plan Jan-09	Plan Feb-09	Plan Mar-09	Plan Apr-09	Plan May-09	Plan Jun-09
Waste Dump Rehab	AS000															15	15	15
Sed Debris	AS000															5	5	5
Plant Site Rehab	AS000																	
TSP Closure Spillway, Cover TSP	AS000																	
PS Closure	AS000																	
Monitoring	AS000																	
Total	AS000															20	20	20

Wafi Detailed Summary

Wafi Expenditure 'A8	Actual Jan-08	Actual Feb-08	Actual Mar-08	Plan Apr-08	Plan May-08	Plan Jun-08	Plan Jul-08	Plan Aug-08	Plan Sep-08	Plan Oct-08	Plan Nov-08	Plan Dec-08	Plan Jan-09	Plan Feb-09	Plan Mar-09	Plan Apr-09	Plan May-09	Plan Jun-09	Total
Golpu Project																			
Feasibility Decline																			
Decline Access Road												100,000	100,000		-	-	-	-	200,000
Portal Stabilisation												-	-	312,600	312,600	-	-	-	625,200
Waste Dump Construction												-	-	200,000	200,000	-	-	-	400,000
Water Treatment Plant Construction												-	-	-	200,000	-	-	-	200,000
Decline Camp (~30 person)												-	-	300,000	-	-	-	-	300,000
Mobilisation Mining Contractor												-	-	-	5,799,808	-	-	-	5,799,808
Contract Mining												100,000	100,000	612,600	6,612,438	494,976	969,952	1,454,927	2,969,855
Total Feasibility Decline												100,000	100,000	612,600	6,612,438	494,976	969,952	1,454,927	10,434,792
Project Management																			
Brisbane				26,875	25,875	26,875	25,875	26,875	25,875	45,375	46,375	48,375	62,350	62,350	62,350	62,350	62,350	62,350	680,475
Silo				26,690	47,041	49,237	45,237	46,237	46,237	51,034	51,034	51,034	69,996	69,996	121,796	124,192	130,680	130,680	1,151,624
Site				6,000	6,280	6,917	16,917	6,917	6,917	26,063	10,063	11,063	24,458	24,458	21,541	21,541	21,541	21,541	233,208
Travel and Accommodation				55,625	90,169	83,029	80,029	85,029	85,029	80,029	119,482	108,482	130,329	156,504	203,688	203,688	224,672	214,572	2,035,303
Total Project Management																			
Geotechnical				-	-	-	38,000	100,000	100,000	58,000	-	-	-	-	-	-	24,090	48,179	72,269
Mine Design				-	-	-	100,000	100,000	58,000	-	-	-	-	-	-	-	-	-	250,000
Metallurgy				101,215	134,620	255,283	52,050	12,050	12,050	30,060	5,060	30,060	5,060	30,060	5,060	30,060	5,060	30,060	771,140
Process Design				-	-	-	50,000	200,000	106,000	-	-	-	-	-	-	-	-	-	330,000
Infrastructure Design				46,067	38,790	68,604	69,000	69,000	69,000	58,000	58,000	58,000	58,000	58,000	58,000	58,000	58,000	58,000	647,470
Community Affairs				5,000	6,000	25,000	5,000	5,000	16,000	5,000	5,000	5,000	35,000	5,000	5,000	25,000	5,000	25,000	175,000
Environmental				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Golpu Project	144,402	122,127	608,630	297,627	269,946	429,838	942,169	893,269	481,622	346,362	295,572	328,389	349,884	1,696,346	8,838,681	601,997	1,320,962	1,833,123	16,863,637
Wafi Central Services (Project)																			
Wafi Capital Expenditure	-	10,829	2,519	1,000	604,690	859,136	899,896	678,590	678,496	661,600	714,000	65,000	181,000	163,000	1,863,900	1,000	1,800	-	6,843,410
Total Expenditure	144,402	133,786	606,111	299,240	614,620	1,040,631	1,211,677	1,296,359	1,298,628	997,683	1,037,603	914,639	673,178	1,616,667	9,864,581	1,604,196	1,821,111	2,034,601	24,760,303

Exploration Detailed Summary

Exploration expenditure	Actual	Actual	Actual	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Total
As	Jan 08	Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08	Sep 08	Oct 08	Nov 08	Dec 08	Jan 09	Feb 09	Mar 09	Apr 09	May 09	Jun 09		
New Initiatives																				
Number of Staff				1	1	1	3	3	3	3	3	3	3	3	3	3	3	3	3	1,331,491
Total Cost	37,672	36,107	30,387	34,896	36,942	75,426	85,322	83,763	12,243	10,123	10,763	10,343	10,529	10,759	10,243	10,123	10,759	10,243		
AAP Expenditures																				
Number of Staff				2	0	2	4	4	4	4	4	4	4	4	4	4	4	4	4	
Total Dril Metres				-	-	-	2,300	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	
Number of Assays				-	-	-	1,577	3,777	1,210	1,577	3,777	1,210	1,577	3,777	1,210	1,577	3,777	1,210	1,577	
Tenement Holding Costs				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
In Ground Costs				-	-	-	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	
Exploration Office Costs				37,608	43,724	43,724	92,864	90,604	90,804	90,804	90,804	90,804	90,804	90,804	90,804	90,804	90,804	90,804	90,804	
Distributions				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Sub Total	84,567	84,293	82,549	37,608	43,724	43,724	135,694	130,694	129,604	130,604	130,604	130,604	130,604	130,604	130,604	130,604	130,604	130,604	130,604	1,331,491
Well Exploration																				
Number of Staff				11.5	11.5	11.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	
Total Dril Metres				800	700	1700	1800	1800	1800	2400	2400	2400	2400	2400	2400	2400	2400	2400	2400	
Number of Assays				1834.5	2394.5	3194.5	626	626	626	853	853	853	853	853	853	853	853	853	853	
Tenement Holding Costs				3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	3,201	
In Ground Costs				190,005	169,490	589,094	870,399	870,399	870,399	1,111,110	1,111,110	1,111,110	1,111,110	1,111,110	1,111,110	1,111,110	1,111,110	1,111,110	1,111,110	
Exploration Office Costs				48,769	55,251	45,769	45,769	45,769	45,769	45,769	45,769	45,769	45,769	45,769	45,769	45,769	45,769	45,769	45,769	
Distributions				403,711	267,060	292,263	292,263	292,263	292,263	292,263	292,263	292,263	292,263	292,263	292,263	292,263	292,263	292,263	292,263	
Sub Total	773,390	668,060	1,333,219	643,269	677,919	900,347	896,833	947,042	1,238,343	1,133,263	1,238,343	1,238,343	1,238,343	1,238,343	1,238,343	1,238,343	1,238,343	1,238,343	1,238,343	17,783,021
MOG Exploration																				
Number of Staff				30.5	30.5	30.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	
Total Dril Metres				0	600	500	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	
Number of Assays				2460.7	2696.2	2696.2	990	990	1540	1540	2533	2533	2533	2533	2533	2533	2533	2533	2533	
Tenement Holding Costs				2,817	2,817	18,269	2,817	2,817	2,817	2,817	2,817	2,817	2,817	2,817	2,817	2,817	2,817	2,817	2,817	
In Ground Costs				30,204	174,456	174,456	263,269	263,269	263,269	410,763	410,763	410,763	410,763	410,763	410,763	410,763	410,763	410,763	410,763	
Exploration Office Costs				60,801	60,801	61,810	12,217	12,217	12,217	12,217	12,217	12,217	12,217	12,217	12,217	12,217	12,217	12,217	12,217	
Distributions				34,203	34,748	34,686	30,031	35,433	30,264	35,571	35,571	30,208	35,571	30,208	35,571	30,208	35,571	30,208	35,571	
Sub Total	231,416	267,798	276,547	128,214	227,204	269,263	413,263	413,117	496,161	497,322	565,762	567,422	598,263	496,733	475,822	417,322	447,224	444,622	444,622	7,153,649
Moraine Crest Exploration																				
Number of Staff				22	22	22	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	35.5	
Total Dril Metres				0	0	0	600	600	600	600	600	600	600	600	600	600	600	600	600	
Number of Assays				137.3	247.3	269	247.3	110	457.5	137.5	247.3	247.3	407.3	137.3	247.3	407.3	137.3	247.3	407.3	
Tenement Holding Costs				14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	14,898	
In Ground Costs				30,200	31,208	31,208	6,232	6,232	6,232	6,408	6,408	6,408	6,408	6,408	6,408	6,408	6,408	6,408	6,408	
Exploration Office Costs				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Distributions				-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Sub Total	-	-	-	51,268	57,239	41,796	179,689	179,689	185,960	185,960	185,960	185,960	185,960	185,960	185,960	185,960	185,960	185,960	185,960	2,386,707
TOTAL PHG EXPLORATION																				
Number of Staff				123	123	123	146	146	146	146	146	146	146	146	146	146	146	146	146	
Total Dril Metres				800	1,200	2,300	3,000	3,000	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	
Number of Assays				4,133	4,933	6,003	1,843	1,735	2,833	2,333	3,948	3,948	3,948	3,948	3,948	3,948	3,948	3,948	3,948	
Tenement Holding Costs				30,388	7,232	32,673	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	
In Ground Costs				240,686	248,742	791,954	1,101,771	1,263,569	1,396,462	1,400,287	1,402,362	1,371,478	1,391,492	1,472,607	1,397,261	1,253,203	1,254,203	1,254,203	1,254,203	
Exploration Office Costs				119,039	125,442	131,806	64,428	30,371	82,215	63,341	63,741	63,741	63,741	63,741	63,741	63,741	63,741	63,741	63,741	
Distributions				424,494	300,708	314,549	318,266	339,759	310,957	308,204	307,379	310,960	316,632	312,218	307,728	300,535	308,440	308,440	308,440	
Sub Total	1,064,306	853,794	1,638,338	830,699	999,168	1,231,346	1,466,765	1,633,624	1,676,316	1,597,684	1,601,269	1,738,105	1,714,880	1,852,262	1,794,630	1,694,806	1,768,880	1,733,283	1,733,283	27,244,666
TOTAL GROWTH																				
Number of Staff				123	127	127	158	159	159	159	159	159	159	159	159	159	159	159	159	
Total Dril Metres				800	1,200	2,300	3,000	3,000	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	4,100	
Number of Assays				4,133	4,933	6,003	3,470	3,492	4,343	3,914	7,324	4,758	5,514	5,294	3,708	4,514	3,438	3,438	3,438	
Tenement Holding Costs				30,388	7,232	32,673	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	7,232	
In Ground Costs				240,686	248,742	791,954	1,111,771	1,263,569	1,396,462	1,400,287	1,402,362	1,371,478	1,391,492	1,472,607	1,397,261	1,253,203	1,254,203	1,254,203	1,254,203	
Exploration Office Costs				117,000	125,442	131,806	64,428	30,371	82,215	63,341	63,741	63,741	63,741	63,741	63,741	63,741	63,741	63,741	63,741	
Distributions				6,000	-	3,000	-	-	-	-	-	-	-	-	-	-	-	-	-	
Capex Expenditure				454,494	300,708	314,549	318,266	339,759	310,957	308,204	307,379	310,960	316,632	312,218	307,728	300,535	308,440	308,440	308,440	
Sub Total	1,064,306	914,137	1,691,721	907,257	1,129,047	1,377,914	1,629,622	1,694,948	1,683,302	1,684,283	1,689,938	1,854,884	1,841,687	2,007,218	1,943,777	1,791,632	1,791,223	1,801,112	1,801,112	33,101,896

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**Hidden Valley
Joint Venture Agreement**

Morobe Consolidated Goldfields Limited

Newcrest PNG 1 Limited

Hidden Valley Services Limited

Blake Dawson

Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
Australia
T 61 7 3259 7000
F 61 7 3259 7111

Reference

RAF TJG MMR 07 1427 3151

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Hidden Valley Joint Venture Agreement

DATE 22 May 2008

PARTIES

- Morobe Consolidated Goldfields Limited**, a company incorporated in Papua New Guinea, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(MCG)**
- Newcrest PNG 1 Limited**, a company incorporated in Papua New Guinea, the registered office of which is Level 5, Pacific Place, corner of Musgrave Street and Champion Parade, Port Moresby **(Newcrest)**
- Hidden Valley Services Limited**, a company incorporated in Papua New Guinea, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(Operator)**

RECITALS

- A. MCG is the legal and beneficial owner of the Tenements.
- B. Under the terms of the Master Purchase and Farmin Agreement, Newcrest has agreed to purchase a 30.01% Participating Interest in the Joint Venture.
- C. The Master Purchase and Farmin Agreement provides that in order to complete the purchase of its 30.01% Participating Interest in the Joint Venture, this document is to be executed by MCG and Newcrest.
- D. Newcrest has also agreed to earn an additional 19.99% Participating Interest in the Joint Venture pursuant to the Master Purchase and Farmin Agreement.
- E. This document records the terms under which MCG and Newcrest have agreed to establish and operate a joint venture for the exploration for and development, mining and production of Mineral Products in the JV Area.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

- The following definitions apply in this document.
- Accounting Procedure** means the accounting procedure set out in 0.
- Affiliate** means, in relation to a body corporate, each of:
- (a) that body’s related corporations;
 - (b) that body’s directors; and
 - (c) the persons who have a substantial holding in that body

Assign means to sell, transfer, assign, make a gift of, lease, licence or part possession with declare a trust over, or in any other way dispose of, deal with or create an interest in a

Venturer's Participating Interest or to agree to do any of those things other than by creating an Encumbrance.

Assumption Deed means the deed referred to in clause 26.8(a), which must be substantially in the form set out in Schedule 6.

Authorisation means:

- (a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any compensation agreement, mining title, development approval, environmental approval and any renewal or amendment of any of them.

Budget means the annual budget for an Operating Program determined in accordance with clauses 7.4, 7.5, 7.6 and 7.7.

Business Day means:

- (a) for determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and
- (b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Port Moresby, PNG and Melbourne, Australia.

Calendar Quarter means a period of 3 consecutive calendar months commencing on 1 January, 1 April, 1 July or 1 October of any year.

Called Sum means an amount of Joint Venture Expenditure payable by a Venturer under clause 12.3(e).

Commencement Date means the day which is the Stage 1 Completion Date under the Master Purchase and Farmin Agreement.

Companies Act means the *Companies Act 1997*.

Continuing Venturer means a Venturer that is not a Selling Venturer or a Defaulting Venturer.

Control has the meaning given to that term in clause 18.

Cross Charge means the charge referred to in clause 11.1, which must be substantially in the form set out in Schedule 5.

Decision to Mine means a decision to commence mining operations on a Tenement following receipt of a Feasibility Study and Authorisations.

Default Event is a default event set out in clause 16.1.

Default Notice means a notice given in accordance with clause 16.2.

Defaulting Venturer means a Venturer which commits a Default Event.

Delivery Point means:

- (a) in the case of Mineral Products which are to be refined, at the refinery or as the Joint Venture Committee otherwise determines; or
- (b) in the case of Mineral Products which are not to be refined, at the location determined by the Joint Venture Committee.

Due Date means on or before:

- (a) 10 Business Days after delivery of a statement under clause 12.3; or
- (b) a later date (if any) specified in that statement.

Encumbrance means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set off or right to withhold payment of a deposit or other money, a notice under section 356 of the *Income Tax Act 1959* or any similar legislation, or an easement, restrictive covenant caveat or similar restriction over property, or an agreement to create any of them or to allow any of them to exist.

Encumbrancee means the holder of an Encumbrance created in accordance with clause 25.1 or 25.2.

End Date means 30 September 2008 or any other date agreed between the parties.

Excluded Tax means a Tax on net income in any jurisdiction, other than:

- (a) a Tax that is calculated on or by reference to the gross amount of any payment derived by a Venturer under this document or the transactions that this document contemplates (unless the Tax is imposed because the Venturer has not given its tax file number to the person who made the payment); or
- (b) a Tax that is imposed because a Venturer is regarded as being subject to tax in a jurisdiction solely because it is a Venturer or because it is participating in the transactions that this document contemplates.

Farmin Completion Date means the date on which the Master Purchase and Farmin Agreement expires or is terminated.

Farmin Period has the meaning provided for that term in the Master Purchase and Farmin Agreement

Force Majeure Event means any occurrence or omission (other than an occurrence or omission which is a breach or default under this document on the part of the party relying on it) as a direct or indirect result of which the party relying on it is prevented from or delayed in performing any of its obligations under this document (other than a payment obligation) and that is beyond the reasonable control of that party or its Affiliates, including disputes hindering access to the JV Area, civil unrest, riots or disturbance, forces of nature, industrial action, inability to obtain equipment or materials due to a supplier claiming force majeure and action or inaction by a Government Agency.

Founding Venturer means MCG and Newcrest.

GST means a goods and services tax or similar value added tax levied or imposed under the GST Law or otherwise on a supply.

GST Law means the *Goods and Services Tax Act 2003*.

Government Agency means:

- (a) a government or government department or other government body;

- (a) a governmental, semi-governmental or judicial person; or
- (b) a person (whether autonomous or not) who is charged with the administration of a law.

Gross Negligence means wanton and reckless conduct that constitutes an utter disregard for the resulting harmful, foreseeable and avoidable consequences.

Insolvency Event means, for a person, being in liquidation or provisional liquidation or under administration, having a receiver (as defined in the Companies Act) or analogous person appointed to it or any of its property, being taken under the Companies Act to have failed to comply with a statutory demand referred to in section 337 of the Companies Act, being unable to pay its debts or otherwise insolvent, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the laws of any applicable jurisdiction.

Interest means interest calculated in accordance with clause 13.1(b).

Joint Account in relation to the Joint Venture, has the meaning given to that term in the Accounting Procedure.

Joint Venture means the relationship between the Venturers that exists under the terms of this document.

Joint Venture Committee means the committee formed in accordance with clause 6.1.

Joint Venture Expenditure means:

- (a) the expenditure (whether of a capital or operating nature) comprising all expenses incurred relating to activities and operations of the Joint Venture, including without limitation, Joint Venture overheads and all payments to the Operator under the Services Agreement; and
- (b) any other expenditure agreed to by all Venturers.

Joint Venture Facilities means:

- (a) all mines and other facilities located on the Tenements for the production of Mineral Products; and
- (b) all facilities used for the exploration for or the production, treatment, transportation and delivery of Mineral Products, that have been dedicated to the Joint Venture by a Venturer or acquired as the result of Joint Venture Expenditure.

Joint Venture Intellectual Property means all business names, trade marks, software, copyrights, drawings, maps, patents, trade marks, trade secrets, technology rights, know-how, formulae, recipes, mining information and data, confidential information, inventions and similar industrial, commercial and intellectual property in any form (including computer encoded or stored information) which are acquired or developed in the course of the activities of the Joint Venture whether or not:

- (a) registered;
- (b) protected by statute; or
- (c) reduced to writing.

Joint Venture Property means all the Venturers' right title and interest in or under:

- (a) the Tenements;
- (b) Joint Venture Intellectual Property;
- (c) Tenements Information;
- (d) Joint Venture Facilities;
- (e) Mineral Products produced in the course of the Joint Venture until delivered to a Venturer after appropriation from the Joint Venture; and
- (f) the plant equipment, contracts and other property listed in Schedule 1,

and all other rights, titles, interests, claims, benefits and other property of whatever kind, held, created, or acquired exclusively for the purposes or benefit of the Joint Venture.

JV Non-Competition Area means the area identified as such on the map attached as Annexure A.

JV Area means the area enclosed by the external boundaries of the Tenements as set out in Annexure A and any other area as may be agreed from time to time by the Venturers.

Landowners means citizens of Papua New Guinea with customary rights to land in the JV Area.

Liability means a claim, demand, proceeding, cost, loss, expense, obligation and liability, arising under statute or at common law or in equity, and arising in contract or in tort or otherwise.

Master Co-operation Agreement means the agreement to be entered into between Wafi-Golpu Services Limited, Hidden Valley Services Limited, Morobe Exploration Services Limited and Harmony Gold (PNG Services) Pty Ltd to provide for co-operation of the parties in respect of this Joint Venture, the joint venture between Wafi and Newcrest PNG 2 Limited in respect of the Wafi-Golpu project and the joint venture between MCG, Wafi, MEL and Newcrest PNG 3 Limited in respect of a portfolio of exploration licences, substantially in the form of the document annexed as Annexure E.

Master Purchase and Farmin Agreement means the document dated on or about the date of this document between Wafi, MCG, MEL and Newcrest, Newcrest PNG 2 Limited and Newcrest PNG 3 Limited.

MEL means Morobe Exploration Limited.

Mineral Products means all minerals, ores and metals that:

- (a) contain mineral matter or substances; and
- (b) are produced because of operations under this document.

Mining Act means the *Mining Act 1992*.

Notice of Failure to Pay means a notice referred to in clause 16.1.

Objects means the objects set out in clause 3.3.

Operating Program means a program for the exploration, development, mining, processing, plant construction, maintenance, expansion or other operations for the Joint Account under this document (and may include the acquisition or relinquishment of a

Tenement) and during the Farmin Period is the Stage 2 Operating Program forming Schedule 2 and Annexure B to the Master Purchase and Farmin Agreement.

Participating Interest in relation to a Venturer means all its undivided interest (expressed as a percentage):

- (a) in the benefits arising under this document;
- (b) in the rights and Liabilities under this document during the Joint Venture;
- (c) in its obligation to comply with this document; and
- (d) as tenant in common in and to the Joint Venture Property.

Permitted Encumbrance means:

- (a) any Encumbrance existing at the date of this document;
- (b) an Encumbrance expressly permitted pursuant to clause 25.2 or any other provision of this document;
- (c) an Encumbrance which arises after the date of this document by operation of law; and
- (d) a lien that arises by operation of law in the ordinary course of ordinary business, where the amount secured is not overdue or is being diligently contested in good faith.

Priority Deed means the deed referred to in clause 25.3(a), which must be substantially in the form set out in Schedule 4.

Representative means any person appointed as a representative of a Venturer under clause 6.2.

Security Interest means an Encumbrance that secures the payment of money or the performance of an obligation, or any other interest or arrangement of any kind that gives a creditor priority over other creditors in relation to any property.

Selling Venturer means a Venturer that gives notice in accordance with clause 26.4.

Services Agreement means the agreement to be entered into between the Venturers and the Operator, in accordance with the terms of this document, to provide for the appointment of the Operator and the terms on which the Operator is to undertake the duties and responsibilities of Operator of the Joint Venture, substantially in the form of the document annexed as Annexure D.

Share of Production, in relation to a Venturer, means its share of any Mineral Products under this document being that proportion of the Mineral Products produced by the Joint Venture as is equal to the proportion which that Venturer's Participating Interest bears to all Participating Interests.

State means the Independent State of Papua New Guinea.

Super Majority Vote means:

- (a) during the Farmin Period, a vote of two or more Venturers which must include MCG and Newcrest; and

- (b) after the Farmin Period, a vote of one or more Venturers who together hold between them Participating Interests of not less than 70% of all Participating Interests.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or a Government Agency, together with any related interest penalty, fine or other charge.

Tenements means:

- (a) each mining title referred to in Schedule 1;
- (b) any other lease, licence, permit or other authority or tenement for mining purposes that:
 - (i) the Joint Venture Committee decides should be acquired for the purposes of this document or the Joint Venture or both; or
 - (ii) (with the consent of all Venturers) becomes subject to the Joint Venture;
- (c) any other lease, licence, permit or other authority or tenement for mining any Mineral Product a substantial part of which is within the outer boundaries of the Tenements and which is held by one or more of the Venturers for one or more of the Objects; and
- (d) any application for or interest in a lease, licence, permit or other authority or tenement that confers or will confer similar rights to those mentioned in paragraph (c).

Tenements Information means all information, assay results, drill cores, assay pulps, reports and other information which relates to the Tenements.

Transaction Documents means this document, the Master Purchase and Farmin Agreement the Master Co-operation Agreement the Services Agreement, any Priority Deed, each Cross Charge, any document that the Venturers agree in writing is to be a Transaction Document and any document that is entered into under any of the above.

Unpaid Called Sum means a Called Sum that is unpaid by a Venturer on its Due Date for payment, other than a Called Sum in respect of which the Venturer gave a Notice of intention under clause 12.4 not to pay it and to which clause 15 applies.

Venturer means a party to this document other than the Operator.

Wafi means Wafi Mining Limited, a company incorporated in Papua New Guinea.

Wilful Misconduct means an intentional and conscious disregard of:

- (a) any provision of this document;
- (b) any Operating Program or Budget,
- (c) not justifiable by special circumstances; or
- (d) any applicable law required to be discharged in connection with operations conducted for the Joint Venture,

but excludes any error of judgment or mistake made by the Operator or any of its directors, employees or agents, or independent contractors engaged by the Operator, in the exercise, of any function, authority or discretion conferred on the Operator.

1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document includes a permitted substitute or a permitted Assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) anything (including a right, obligation or concept) includes each part of it;
 - (vi) a lease, licence, permit or other authority for mining purposes, or a provision of any of them, is to that lease, title, right, licence, permit or authority or provision as renewed, extended, amended, supplemented, replaced or novated;
 - (vii) a Tenement or tenement is to that Tenement or tenement as renewed, extended, amended, supplemented, replaced or novated; and
 - (viii) dollar or \$ is to currency of the United States of America.
- (b) A singular word includes the plural, and vice versa.
- (c) A word that suggests one gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The schedules and annexures to this document are incorporated into this document.
- (g) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (h) The words subsidiary, holding company, related corporation and relevant interest have the same meaning as in the Companies Act.
- (i) A person has a **substantial holding** in a body corporate if the total votes attached to the voting shares in the body in which it or its associates have a relevant interest is 5% or more of the total number of votes attached to the voting shares in the body.

- (j) A reference to **applicable law** includes a reference to all laws of all jurisdictions applicable to the Joint Venture within and outside Papua New Guinea including regulations, policies, statutory duties, guidelines, official directives or requests of or by any Government Agency, whether or not having the force of law.
- (k) A reference to **entity** is a reference to a natural person, a body corporate (other than a Government Agency), a partnership or a trust and includes, in the case of a trust, a reference to a trustee of the trust).
- (l) A reference to **listed** is a reference a to corporation or other body is listed if it is included in the official list of a stock exchange or market which is a member of the Fédération Internationalé des Bourses de Valeurs.
- (m) A reference to a **wholly-owned subsidiary** is a reference to a body corporate none of whose members is a person other than:
 - (i) the first mentioned-body;
 - (ii) a nominee of the first-mentioned body;
 - (iii) a subsidiary of the first mentioned body, being a subsidiary none of whose members is a person other than:
 - (A) the first-mentioned body; or
 - (B) a nominee of the first-mentioned body; or
 - (iv) a nominee of such a subsidiary.
- (n) A reference to a **month** is a reference to a calendar month.
- (o) The words used in this document that have a defined meaning in the GST Law have the same meanings as in the GST Law, except where the context makes it clear that a different meaning is intended to apply.
- (p) Mentioning anything after **include, includes** or **including** does not limit what else might be included.

1.3 Business Days

If the day on or by which a person must do something under this document is not a Business Day, the person must do it on or by the next Business Day.

2. CONDITIONS PRECEDENT

2.1 Conditions

The provisions of this document other than this clause and clauses 1 (Interpretation), 16 (Default), 17 (Consequences of Default), 24 (Confidentiality), 26 (Assignment and Amendment), 27 (Notices), and 28 (General) do not become binding unless and until the conditions precedent in clause 3.1 of the Master Purchase and Farmin Agreement have been satisfied (or waived in accordance with clause 3.2 of that document) and Stage 1 Completion (as defined in that document) has occurred.

2.2 Result of non-satisfaction of conditions

- (a) If the conditions referred to in clause 2.1 are not satisfied or waived under clause 3.2 of the Master Purchase and Farmin Agreement on or before the End

Date then either Venturer may before satisfaction or waiver of those conditions, terminate this document by giving written notice to the other.

- (b) If this document is terminated in accordance with clause 2.2(a), then all rights and obligations under this document other than:
- (i) this clause 2 and clauses 1 (Interpretation), 16 (Default), 17 (Consequences of Default), 24 (Confidentiality), 27 (Notices), and 28 (General);
 - (ii) any clause which is expressed to survive termination of this document; and
 - (iii) rights that accrue before the date on which the notice is given,
- terminate on the day of the notice.

2.3 Maintenance of Tenements

MCG is responsible for maintaining the Tenements in good standing and free from liability to forfeiture from the date of this document until the Commencement Date or the earlier termination of this document.

2.4 Expenditure prior to Commencement Date

The Venturers acknowledge that any expenditure accrued or paid after the Effective Date under the Master Purchase and Farmin Agreement and before the Commencement Date under this document, which is properly characterised as Stage 2 Expenditure for the purpose of the Master Purchase and Farmin Agreement, is deemed to be Joint Venture Expenditure for the purpose of this document.

3. ESTABLISHMENT, OBJECTS AND BASIS OF JOINT VENTURE

3.1 Establishment of Joint Venture

The Venturers constitute themselves as an unincorporated joint venture on the terms of this document with effect from the Commencement Date.

3.2 Name of Joint Venture

The unincorporated joint venture is to be known as the Hidden Valley Joint Venture.

3.3 Objects of Joint Venture

The objects of the Joint Venture are to:

- (a) explore for, establish reserves of and evaluate minerals;
- (b) maintain validity of title to and tenure of the Tenements;
- (c) delineate reserves of and evaluate mineral deposits;
- (d) conduct feasibility studies into the development of mineral deposits;
- (e) investigate the location, extent, quantity, structure, quality and commercial value of minerals within the Tenements;
- (f) establish a mining operation;

- (g) operate a mine and develop, produce or extract minerals from the Tenements and process them into mineral concentrates or metal, and for those purposes to develop Joint Venture Facilities;
- (h) produce Mineral Products from the JV Area; and
- (i) do everything ancillary to the objects specified in this clause 3.3 that the Joint Venture Committee decides should be done.

3.4 Basis of Joint Venture

Each Venturer agrees with each other Venturer that:

- (a) it enters into the Joint Venture on the terms of this document with effect from the Commencement Date;
- (b) it must use its best endeavours to achieve the Objects;
- (c) the activities of the Joint Venture are limited to the Objects unless all the Venturers agree otherwise in writing; and
- (d) the use of the Joint Venture Property is only for the purposes of the Joint Venture unless all Venturers agree otherwise in writing.

3.5 Participating Interests at Commencement Date

On the Commencement Date, the Participating Interests of the Venturers will be:

MCG: 69.99%; and
Newcrest: 30.01%.

3.6 Venturer’s rights and obligations

Each Venturer has the right and obligation to:

- (a) contribute to Joint Venture Expenditure in proportion to its Participating Interest on and after the Farmin Completion Date; and
- (b) separately take and dispose of its Share of Production in kind that is to be delivered in accordance with clause 4.6.

3.7 Dedication of Joint Venture Property

Subject to clause 3.8 and the terms of the Master Co-operation Agreement, each Venturer must ensure that:

- (a) any Joint Venture Property is available for the purpose of the Joint Venture for the duration of the Joint Venture; and
- (b) the Joint Venture Property is used only for the purpose of the Joint Venture.

3.8 MCG’s contribution to Joint Venture

- (a) As and from Commencement Date, MCG contributes to the Joint Venture the Joint Venture Property specified in Schedule 1, subject to all Permitted Encumbrances attaching thereto which are referred to in the Master Purchase and Farmin Agreement or at the date of this document have been specifically disclosed in writing by MCG to Newcrest.

(b) MCG remains obliged to contribute to the Joint Venture as a Venturer in accordance with the terms of this document.

3.9 Provision of Tenements Information

As and from the Commencement Date, each Venturer must make available to the Operator all Tenements Information that is available to it or over which it has control.

3.10 Limits of Joint Venture

The Joint Venture:

- (a) is confined to the Tenements and the other Joint Venture Property; and
- (b) does not extend to any other tenement held by a Venturer now or in the future, unless otherwise permitted or required by this document.

3.11 Currency

Unless otherwise agreed by the Venturers or required by law, the Joint Venture will operate in, and all relevant accounts maintained by the Operator will be described in US dollars notwithstanding that Joint Venture Expenditure may be incurred in currencies other than US dollars. For the purpose of the Accounting Procedures, all Joint Venture Expenditure will be converted into US dollars using the actual exchange rate prevailing on the date of the relevant transaction.

3.12 No representations

Subject to clause 8 of the Master Purchase and Farmin Agreement, each Venturer acknowledges that it has independently evaluated the Tenements and this Joint Venture and has not relied and will not rely on any representation, statement or promise made by or on behalf of any other Venturer in deciding to enter into this document (or a deed of accession to this document) or to exercise any right or perform any obligation under it.

4. RELATIONSHIP OF THE VENTURERS

4.1 Tenants-in-common

From the date both Venturers hold Participating Interests, the relationship of the Venturers as beneficial owners of property (including Joint Venture Intellectual Property) held for the purposes of this document or the Joint Venture or both is as tenants in common.

4.2 Several liability

Each Venturers' liability under this Joint Venture is several in proportion to its Participating Interest and not joint nor joint and several.

4.3 Venturers' liability

Each Venturer is severally liable, in proportion to its Participating Interest, for all obligations and all Liabilities incurred in the course of carrying out the activities of the Joint Venture or arising from the Joint Venture Property, but on the basis that each Venturer:

- (a) is individually responsible only for its own obligations under this document; and
- (b) is not liable for, and has no obligation in relation to, the obligations of another Venturer, except as expressly provided in this document or the Master Purchase and Farmin Agreement.

4.4 No partnership

During the term of this document and the Joint Venture:

- (a) the relationship of the Venturers does not constitute a partnership for any purpose; and
- (b) the Joint Venture is an unincorporated joint venture constituted under this document.

4.5 Co-operation

Each Venturer agrees with the other Venturers that, with effect from the Commencement Date, it must:

- (a) perform its obligations in relation to each Tenement and its obligations under or relating to the fulfilment of any contract which relates to the Joint Venture;
- (b) only engage in activities in the JV Area or in the course of the Joint Venture that are permitted by this document or agreed to by all Venturers;
- (c) not terminate, relinquish, surrender or render liable to forfeiture a Tenement (or try to do or bring about any of those things) except in accordance with this document or as required by law;
- (d) not do or cause to be done anything that may cause:
 - (i) any penalty to be imposed;
 - (ii) a breach of any obligation in relation to a Tenement; or
 - (iii) continued enjoyment of a Tenement to be jeopardised;
- (e) act in good faith, honestly and reasonably in all its dealings with the other Venturers concerning the Joint Venture;
- (f) promote the Objects of the Joint Venture;
- (g) use its best endeavours to satisfy any reasonable requirements of any Government Agencies in order to achieve the Objects of the Joint Venture; and
- (h) if requested in writing by another Venturer, do or consent to the doing of anything reasonably required by any lenders to that other Venturer which does not adversely affect the interest in the Joint Venture Property of the Venturer so requested or materially disrupt the operations of the Joint Venture or impose any material financial obligations on the Venturer to whom the request is made.

4.6 Share of Production taken in kind

- (a) Each Venturer acknowledges that:
 - (i) it intends not to derive or receive income from the activities of the Joint Venture; and
 - (ii) it agrees to take its Share of Production in kind under clause 3.6(b) and 4.6(b).
- (b) The Operator must deliver Mineral Products produced by or on behalf of the Venturers under this document to the Delivery Point. At the time of delivery to the Delivery Point.

- (i) title to, risk in and possession of each Venturer's Share of Production passes to the Venturer in proportion to its Participating Interest at the time the Operator makes that Venturer's Share of Production available for collection or transportation at the Delivery Point; and
- (ii) each Venturer must take its Share of Production in kind at the Delivery Point.

4.7 Use of Joint Venture Intellectual Property and Tenements Information

No Venturer is entitled to use Joint Venture Intellectual Property or Tenements Information in activities other than in connection with the Joint Venture unless:

- (a) the proposed use of Joint Venture intellectual Property or Tenements Information is disclosed to each of the other Venturers; and
- (b) the Joint Venture Committee resolves by a vote of all Venturers (other than the Venturer that proposes to use the Joint Venture Intellectual Property or Tenements Information) that such use is permitted.

4.8 JV Non-competition Area

- (a) No Venturer is entitled to, and each Venturer must procure that its related corporations do not, engage in any prospecting or exploration for Mineral Products in or on, or evaluation or mining of any Mineral Products on or from the JV Non-Competition Area except with the consent in writing of the other Venturers (at their absolute discretion).
- (b) Each Venturer is free to act independently at all times and in all respects in relation to exploration, mining or other activities outside of the JV Non-Competition Area.

4.9 Prohibition on soliciting employees

Except with the prior consent of the other Venturer concerned, each Venturer agrees that it must not, and must procure that none of its Affiliates, at any time solicit or entice any person, who is at that time, or at any time in the previous three months was, an employee of the other Venturer or any of its Affiliates, to become an employee of that Venturer or any of its Affiliates. This subclause does not prevent the Operator from arranging with a Venturer for the transfer or secondment of employees from a Venturer or any of its Affiliates to the Operator.

5. [NO CLAUSE]

6. JOINT VENTURE COMMITTEE

6.1 Formation

As soon as possible after the Commencement Date, the Venturers must establish a Joint Venture Committee in accordance with this clause 6.

6.2 Appointment of Representatives

- (a) Each Venturer which holds a Participating Interest of 10% or more must nominate 2 Representatives to the Joint Venture Committee.
- (b) Any Venturer which holds a Participating Interest of 5% or more but less than 10% may nominate one Representative to the Joint Venture Committee.

- (c) A Representative appointed by a Venturer is to vote and act on behalf of the appointing Venturer and a Representative's actions are binding on the Venturer which appointed him or her in relation to all matters dealt with in this document as being within the scope of the Joint Venture Committee.
- (d) The identity of each Representative so nominated by a Venturer must be notified to the Operator and to each other Venturer immediately following his or her nomination.
- (e) A Venturer may, at any time, and from time to time, by notice to the Operator and to each other Venturer:
 - (i) remove any Representative it nominates under this clause 6.2 and nominate a different person to be its Representative entitled to vote on its behalf; and
 - (ii) nominate an alternate to act in the place of any of its Representatives.
- (f) A notice of nomination or removal must be in writing and, in the case of a notice of nomination, specify the full name and address of each Representative or alternate and an address for the service of notices on him or her.

6.3 Power of Representatives

Subject to this document, the Representatives participating at meetings of the Joint Venture Committee or as otherwise permitted by this document, have a duty to make all elections and determinations which the Joint Venture Committee is required or permitted to make in this document.

Nothing in this document confers any authority on any Representative to bind his or her appointing Venturer to any action resulting in or which requires an amendment to this document.

6.4 Role of Joint Venture Committee

The Joint Venture Committee's role is to consider and decide in relation to any matter which has a material or significant effect on the Joint Venture. Except where the Venturers have by written instrument signed by their Representatives unanimously determined otherwise, the following matters are taken to have a material or significant effect on the Joint Venture:

- (a) acquiring any property or committing to any other expenditure exceeding \$500,000 (other than as approved in a Budget);
- (b) disposing of any property whose book value or fair market value exceeds \$500,000 (other than as approved in a Budget);
- (c) variation of any contract (which is Joint Venture Property) material to the Joint Venture;
- (d) relinquishing, surrendering or otherwise disposing of, or acquiring, all or any part of a Tenement;
- (e) the Operator contracting with a Venturer or an Affiliate of a Venturer where the payments or Liabilities under the Contract exceeds or are likely to exceed \$500,000;
- (f) commencing or materially expanding mining operations, or suspending or materially curtailing mining operations except for:

- (i) repairs or maintenance; or
- (ii) other normal industry activities;
- (g) permanently or indefinitely ceasing all Joint Venture activities;
- (h) instituting or defending legal or other proceedings where the claim exceeds \$100,000;
- (i) a reorganisation of the Joint Venture or a decision affecting the structure of the Joint Venture or any of the Joint Venture Property;
- (j) approving any Operating Program and Budget; and
- (k) approving any amendment of the Services Agreement.

6.5 Convening Meetings

- (a) The Joint Venture Committee must hold:
 - (i) its initial meeting as soon as possible after the Commencement Date; and
 - (ii) all its other meetings at least once each calendar quarter.
- (b) A Venturer's advisers may attend any Joint Venture Committee meeting and:
 - (i) the advisers are permitted a limited right to speak (but must not vote) on behalf of the Venturer inviting them; and
 - (ii) any Venturer may require the advisers to leave a meeting while confidential or commercially sensitive matters are being discussed.
- (c) On and after the Farmin Completion Date, the Operator must call meetings of the Joint Venture Committee to consider the Operating Program and proposed Budget prepared and distributed by the Operator in accordance with clause 7.5.
- (d) The Operator must call a special meeting at any time, if so requested by any Venturer, on not less than 5 Business Days' notice and if the notice containing the request specifies the matters to be placed on the agenda for the meeting.
- (e) Any Venturer may itself call a meeting of the Joint Venture Committee by giving not less than 5 Business Days' notice to the Operator and to the other Venturers, specifying the matters to be placed on the agenda. Additional agenda items may be submitted as provided in clause 6.7(b).

6.6 Location of meetings

Each meeting is to be held at the offices of the Operator in Papua New Guinea or at such other place as may be agreed upon in writing by the Representatives representing the Venturers holding between them at least a 70% Participating Interest.

6.7 Notice and agenda for meetings

- (a) The Operator must prepare and send to each Representative a copy of the proposed agenda specifying each matter to be considered at the meeting (including appropriate supplementary information) for every meeting of the Joint Venture Committee, together with notice of the date, time and place of the meeting at least 5 Business Days in advance of the date of the meeting.

- (b) The Operator may have an additional matter placed on the agenda of any meeting by notice (including appropriate supplementary information) to all other Venturers not less than 3 Business Days before the date of the meeting.
- (c) Unless the Joint Venture Committee determines otherwise by Super Majority Vote, the Joint Venture Committee may consider and pass resolutions at the Joint Venture Committee meeting only on those matters specified in the agenda for the meeting or any additional matters put on the agenda under clause 6.7(b).

6.8 Meetings in case of emergency

- (a) Despite clauses 6.5 and 6.6, in the event of an emergency which, in the Operator's judgment reasonably exercised, requires a meeting to be held without the notice and agenda provided for in clauses 6.5 and 6.6, a meeting called by the Operator is deemed as properly called and held on notice given by the Operator by any means and with whatever notice the Operator reasonably considers to be adequate under the circumstances.
- (b) The Operator must prepare and give to each Representative a copy of the proposed agenda specifying each matter to be considered at the meeting (including appropriate supplementary information) at or before the meeting.

6.9 Chairman of meeting of Joint Venture Committee

- (a) From the Commencement Date and until the Farmin Completion Date, MCG must appoint the chairman of the Joint Venture Committee.
- (b) On and from the Farmin Completion Date:
 - (i) for as long as the Participating Interests of MCG and Newcrest (taken in aggregate with their respective Affiliates) are equal, MCG and Newcrest must appoint the chairman of the Joint Venture Committee in turn, commencing with Newcrest appointing the first chairman; and
 - (ii) if the Participating Interests of MCG and Newcrest (taken in aggregate with their respective Affiliates) are not equal, the Venturer with the greater Participating Interest must appoint the chairman.
- (c) Each appointment of a chairman under this clause 6.9 is to be for a period of 12 months from the date of appointment. Any appointment may be renewed for further periods of 12 months.
- (d) If at any duly convened meeting of the Joint Venture Committee at which a quorum is present the chairman is not present, the Representatives of the Venturer who nominated that chairman and who are present must elect a chairman from amongst their number.

6.10 Quorum

- (a) A quorum at meetings of the Joint Venture Committee is constituted if at least one nominated Representative of Venturers (or an alternate) holding 70% or more of the total Participating Interests is in attendance.
- (b) A Representative who has cast a vote on any matter coming before the meeting by notice delivered to the Operator under clause 6.14 is deemed to be present at that meeting.
- (c) If:

- (i) within half an hour from the time appointed for a meeting of Representatives a quorum is not present, the meeting must automatically be adjourned to the next Business Day at the same time and place; and
- (ii) at the adjourned meeting a quorum is not present within half an hour from the time appointed, the Representatives present or casting a vote by notice delivered to the Operator under clause 6.14 constitute a quorum.

6.11 Voting on resolutions

- (a) All decisions of the Joint Venture Committee must be passed by Super Majority Vote of the Representatives.
- (b) The Representatives representing each Venturer on the Joint Venture Committee may collectively cast the same percentage votes on a resolution as Participating Interest held by the Venturer they represent.
- (c) The chairman does not have a second or casting vote on any resolution of the Joint Venture Committee.
- (d) For the purposes of clause 6.11(a), any instruction or direction provided by the Joint Venture Committee to the Operator is a decision.

6.12 Procedural rules

The Joint Venture Committee may adjourn and, subject to this document, otherwise regulate its meetings as it decides.

6.13 Minutes and records

- (a) The Operator must prepare written minutes of each meeting of the Joint Venture Committee and distribute copies to all Representatives within 5 Business Days after the meeting.
- (b) The minutes must include details of each resolution passed at the meeting and must be signed by the chairman of the meeting.
- (c) Every Representative must notify the Operator within 5 Business Days of receipt of the minutes whether or not the Representative approves or disapproves of them. A Representative who fails to do so is deemed to have approved the minutes.
- (d) If any Representative disapproves the minutes, the Operator must endeavour to resolve the issue before the next meeting of the Joint Venture Committee, and if the Operator fails to do so, the question is to be an agenda item for resolution by a vote at the next meeting of the Joint Venture Committee.
- (e) Minutes of the meeting approved or deemed approved by all Representatives in accordance with this clause 6.13 are prima facie evidence of the matters discussed and resolutions passed at the meeting to which they relate and bind the Venturers.
- (f) The approval or disapproval of minutes does not affect the validity of decisions of the Joint Venture Committee at the meeting to which the minutes relate.

6.14 Vote without attending meeting

A Representative who is entitled to vote but who is unable to attend a meeting, may vote on any matter which may properly come before that meeting by notice delivered to the Operator at or before the meeting.

6.15 Vote without a meeting

- (a) The Venturers may consider, without holding a meeting, any matter capable of being considered by the Joint Venture Committee at a meeting if:
 - (i) a request outlining the relevant matters for determination is made in a written notice from the Operator or a Venturer to all other Venturers for action;
 - (ii) the Venturers consider and determine the relevant issue within 5 Business Days after receipt of the request; and
 - (iii) one Representative who is entitled to vote on behalf of each Venturer gives notice of his or her decision to the Operator in writing on the matter.
- (b) Any submission which receives the affirmative vote of Representatives of the Venturers whose Participating Interests aggregate 70% or more is deemed to be a decision of the Joint Venture Committee, binding on all Venturers to the same effect as if made at a meeting of the Joint Venture Committee.
- (c) The Operator must notify the Venturers of the results of the decision within 2 Business Days after the expiry of the period of 5 Business Days referred to above and must prepare and circulate a minute of the decision as if a meeting of the Joint Venture Committee had been held, under clause 6.16.

6.16 Mode of meeting

- (a) A Joint Venture Committee meeting may be held:
 - (i) in person;
 - (ii) by using any means of audio or audio-visual communication by which each Representative participating can hear and be heard by each other Representative participating; or
 - (iii) by using any other technology consented to in writing by all the Representatives.
- (b) A Representative's consent under clause 6.16(a)(iii) may be:
 - (i) a standing one; and
 - (ii) withdrawn within a reasonable time before the Joint Venture Committee meeting.
- (c) A Joint Venture Committee meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Representatives present at the meeting is located or, if an equal number of Representatives is located in each of 2 or more places, at the place where the chairman of the meeting is located.

7. OPERATOR AND OPERATING PROGRAMS AND BUDGETS

7.1 Appointment

- (a) As soon as possible after the Commencement Date, MCG and Newcrest must take all steps necessary to bring about their joint ownership and control of the Operator of the Joint Venture including:

- (i) executing a shareholders agreement in relation to the Operator, substantially in the form of the document annexed as Annexure B;
 - (ii) arranging for the Operator to adopt a constitution, substantially in the form of the document annexed as Annexure C;
 - (iii) procuring that all the issued shares of the Operator are held by MCG and Newcrest in proportion to their respective Participating Interests in the Joint Venture (or in such other proportion as MCG and Newcrest may agree); and
 - (iv) executing the Services Agreement with the Operator.
- (b) The Operator may propose that it charges a management fee for performing the services as Operator under this document and the Services Agreement. The proposed fee will be payable as part of the Joint Venture Expenditure if the proposal is approved by the Joint Venture Committee.
- (c) In addition to the management fee under clause 7.1(b), the Operator is entitled to recover all of its costs and expenses Incurred for the purposes of achieving the Objects of the Joint Venture (including the items referred to in the sections 3.2 to 3.17 of Schedule 2) as authorised by this document or the Services Agreement.
- (d) The management fee (if any) under clause 7.1(b) and the costs and expenses under clause 7.1(c) form part of Joint Venture Expenditure and the Venturers must pay those fees, costs and expenses to the Operator in accordance with the terms of the Services Agreement.

7.2 Agency of the Operator

Subject to the terms of the Services Agreement and this document:

- (a) the Operator is the agent of the Venturers; and
- (b) in that capacity, the Operator is in charge of all Operating Programs and other activities conducted, or a substantial part of which is conducted, in the JV Area for the purposes of the Joint Venture.

7.3 Supervision by Joint Venture Committee

The Operator:

- (a) is subject to the supervision of the Joint Venture Committee; and
- (b) must carry out any instruction properly given to it by the Joint Venture Committee following a decision made in accordance with clause 6.11 or clause 6.15.

7.4 Operating Program and Budget during Farmin Period

During the Farmin Period, the Operating Program and Budget shall, subject to clause 6.2 of the Master Purchase and Farmin Agreement, be as set out in Schedule 2 and Annexure B of the Master Purchase and Farmin Agreement.

7.5 Operating Programs and Budgets after the Farmin Period

On and after the Farmin Completion Date, the Operator must:

- (a) prepare a proposed Operating Program and Budget (including detailed supporting data) concerning operations in the JV Area proposed:

- (i) for the first Operating Program and Budget, in respect of the period from the Farmin Completion Date until 30 June; and
- (ii) thereafter, for all subsequent periods ending on 30 June; and
- (b) distribute that proposed Operating Program and Budget to all Venturers within 30 Business Days before the proposed commencement of the Operating Program and Budget.

7.6 Substitute Operating Programs and Budgets

- (a) On and after the Farmin Completion Date, the Joint Venture Committee must meet to consider and vote on each proposed Operating Program and Budget at least 20 Business Days before their commencement.
- (b) If the Joint Venture Committee does not approve a proposed Operating Program and Budget, it will be treated as having approved an Operating Program and Budget, during the period for which the Proposed Operating Program and Budget is prepared to:
 - (i) keep each Tenement in good standing;
 - (ii) satisfy any applicable work and expenditure obligations in relation to each Tenement; and
 - (iii) progress the Objects of the Joint Venture at a level that a reasonably prudent operator in like circumstances would advance them to retain the maximum value of the project while preserving working capital, using the last approved Operating Program and Budget as a guide.

7.7 Amendment of Operating Programs

The Joint Venture Committee may amend any approved Operating Program and Budget.

7.8 Ownership of property

- (a) Except as otherwise provided in this document:
 - (i) all Tenements and other Joint Venture Property are beneficially owned by the Venturers in undivided shares as tenants-in-common in proportion to their respective Participating interests; and
 - (ii) each Venturer waives its rights of partition and sale in lieu of partition in those Tenements and any other Joint Venture Property.
- (b) It is the intention that the Venturers will hold the legal title to all Tenements and (wherever practical) all other Joint Venture Property as tenants-in-common in proportion to their respective Participating Interests. If at any time any of the Joint Venture Property is held by less than all the Venturers, the Venturer (or Venturers) which holds the legal title will do so in trust for all Venturers as tenants-in-common in proportion to their respective Participating Interests. Where it is not practical, for the Venturers to hold the legal title to any Joint Venture Property as tenants-in-common, the Operator is to hold legal title to that Joint Venture Property in trust for all Venturers as tenants-in-common in proportion to their respective Participating Interests.
- (c) The Operator may only purchase property for the Joint Venture that is required to meet the reasonably anticipated needs of the currently approved Operating Program, unless the Joint Venture Committee approves otherwise.

- (d) If the Operator declares any property (including Joint Venture Intellectual Property) held for the purposes of this document or the Joint Venture or both to be surplus, that property may be disposed of:
 - (i) if, and in the manner, the Joint Venture Committee approves; and
 - (ii) in accordance with the Accounting Procedure.

7.9 Access to site and information

- (a) Subject to clauses 7.9(c), 7.9(d) and 7.9(e), if the Operator receives reasonable notice from a Venturer that the Venturer wishes a third party which is not an Affiliate of the Venturer to access the site, it must give any person who has the Venturer's written authority;
 - (i) access to the site of any Tenement; and
 - (ii) any information relating to the Joint Venture,and allow any of those persons to:
 - (iii) observe and inspect the conduct of the operations of the Joint Venture; and
 - (iv) examine and, if desired, copy at the Venturer's expense any record of the Joint Venture,collectively called **Access**.
- (b) The Operator must only grant access in accordance with clause 7.9(a), if the Venturer verifies, in the form of written authority, that the purpose of the Access sought is required:
 - (i) to facilitate financing of the Venturer's Participating Interest;
 - (ii) to restate reserves held by the Venturer; or
 - (iii) directly in connection with a proposed sale of part or all of the Venturer's Participating Interests,and that any information derived from the Access is to be used for those purposes only.
- (c) The person with the Venturer's written authority must deliver to the Operator:
 - (i) a duly executed confidentiality agreement, substantially in the form of the document attached as Schedule 7; and
 - (ii) such other indemnities and undertakings as the Operator (acting reasonably) may require.
- (d) All site visits are at the sole risk and cost of the Venturer and the Operator is not in any way responsible for that Venturer's personnel conduct, safety or expenses during the visit.
- (e) The Venturer's personnel must comply with all reasonable directions given by or on behalf of the Operator and comply with safety procedures on the site.

8. INTELLECTUAL PROPERTY AND INFORMATION

- (a) If a Venturer or an Affiliate of a Venturer has proprietary technology applicable to operations which the Venturer or its Affiliate desires to make available to the Joint Venture on terms and conditions other than as specified in this clause 8, the Venturer or Affiliate may, with the prior approval of the Joint Venture Committee, make that proprietary technology available on terms to be agreed.
- (b) If the proprietary technology is made available, then any inventions, discoveries or improvements that relate to such proprietary technology and which result from Joint Venture expenditures belongs to the Venturer or the Affiliate. In each such case, each other Venturer has a non-exclusive, irrevocable, royalty-free world-wide licence, with rights to sub-licence to related corporations, in relation to such inventions, discoveries or improvements.

9. INSURANCE AND LITIGATION

9.1 Insurance obligations

- (a) The Venturers and the Operator must procure and maintain in force:
 - (i) all insurances required by applicable law in connection with operations under this document and the Services Agreement; and
 - (ii) any additional Insurance the Joint Venture Committee requires.
- (b) In addition to the insurance cover referred to in clause 9.1(a), a Venturer may at its own cost have its own insurance cover for any Liabilities it may incur because it is a Venturer.
- (c) If neither the Joint Venture nor any other Venturer is disadvantaged or otherwise penalised, a Venturer may elect not to participate in an insurance taken out by the Operator under clause 9.1(a)(ii). If a Venturer does so, it must:
 - (i) notify the Operator of that fact; and
 - (ii) give the other Venturers evidence satisfactory to each of them that it is effectively self-insured or otherwise covered by a suitable policy of insurance, in either case, for the same risk.

9.2 Cost of insurance

The Operator must charge the cost of all:

- (a) insurances referred to in clause 9.1(c) to each Venturer participating in those insurances in proportion to its Participating Interest; and
- (b) other insurances as Joint Venture Expenditure.

9.3 Operator's obligations

The Operator must:

- (a) promptly inform each Venturer participating in any insurance when cover has been taken out;
- (b) supply a Venturer participating in any insurance with a copy of the relevant policies if requested to do so by that Venturer;

- (c) arrange for each Venturer participating in any insurance, in proportion to its Participating Interest, to be named as a co-insured on the relevant policies with waivers of subrogation in favour of that Venturer; and
- (d) file all claims and take all necessary steps to collect the proceeds of any insurance and:
 - (i) if all Venturers have participated in that insurance, credit the proceeds of that insurance to the Joint Account; or
 - (ii) if all Venturers have not participated in that insurance, credit the proceeds of that insurance to each Venturer participating in that insurance in proportion to its contribution to the premium for that insurance.

9.4 Independent contractors' insurance

The Operator must

- (a) take all reasonable steps to ensure that all independent contractors (including subcontractors) performing work for the Joint Venture obtain and maintain all Insurances required by applicable law or the conditions of their respective engagements; and
- (b) if reasonably possible, obtain a waiver of subrogation in favour of the Operator and the Venturers from the insurers of those independent contractors.

9.5 Notice of litigation

The Operator must promptly notify each Venturer of any claim, dispute, litigation, arbitration, mediation, conciliation, administrative proceeding, lien, demand, judgement or order relating to operations under this document if the total amount in dispute or the total amount of damages and expenses is estimated to exceed:

- (a) \$100,000; or
- (b) any other amount the Joint Venture Committee decides.

9.6 Litigation against third parties

- (a) The Operator may prosecute, defend or settle any claim, dispute, litigation, arbitration, mediation, conciliation, administrative proceeding, lien, demand, judgement or order relating to this document or operations under this document (except as between Venturers) unless the total amount in dispute or the total amount of damages and expenses is estimated to exceed:
 - (i) \$100,000; or
 - (ii) any other amount the Joint Venture Committee decides,
in which case clause 9.6(b) applies.
- (b) If the total amount in dispute or the total amount of damages and expenses is estimated to exceed an amount referred to in 9.6(a), the Operator must not do anything referred to in that paragraph without the Joint Venture Committee's approval.
- (c) Each Venturer may participate in any prosecution, defence or settlement relating to this document or operations under this document at its own expense.

9.7 Litigation against a Venturer

Each Venturer must, at its own expense:

- (a) separately compromise, defend or settle any claim made or action brought against it personally regarding this document or operations under this document; and
- (b) keep all other Venturers fully informed of the nature, status and particulars of any claim or action referred to in clause 9.7(a),

unless all Venturers agree otherwise.

10. REHABILITATION

10.1 Rehabilitation Obligations

The Venturers and the Operator must comply with all their obligations under the Mining Act, the Tenements and Authorisations, and all applicable statutory and contractual obligations relating to the rehabilitation, restoration, revegetation and cleaning up of all Joint Venture Property during and following the conduct of activities under the Joint Venture.

10.2 Rehabilitation Program

In order to meet the obligations referred to in clause 10.1, a rehabilitation program must be formulated, maintained and updated and carried out by the Operator.

10.3 Rehabilitation Fund

- (a) From the Commencement Date, the Venturers must establish a rehabilitation fund which fund and all interest earned by the fund must be applied towards meeting the obligations referred to in clause 10.1.
- (b) The amounts, investments, sureties or securities to be paid into the fund, and the schedule on which such payments are to be made, must be approved by the Joint Venture Committee.
- (c) All amounts to be paid into the fund must be paid by the Venturers in proportion to their Participating Interests at the time that each payment is due.

11. CROSS CHARGE

11.1 Venturers' obligations

Each Venturer must at its own cost:

- (a) execute and deliver to the other Venturers a deed of charge at the time of executing this document or any Assumption Deed;
- (b) ensure that the charge is registered (and not just provisionally) under the Companies Act, and approved and registered under the Mining Act;
- (c) ensure that the charge is registered in any other places which any other Venturer notifies to it if any other Venturer is reasonably satisfied that registration is necessary or desirable to perfect the security created by that charge or to protect the rights of any other Venturer under that charge;

- (d) obtain all necessary Authorisations in relation to that charge and lodge them for registration in each jurisdiction required to perfect the security created by that charge;
- (e) ensure that the charge is stamped; and
- (f) do everything necessary in each jurisdiction required to perfect the security created by that charge.

11.2 Purpose, form and substance

The Cross Charge must be:

- (a) for the purpose of better securing:
 - (i) payment of all Called Sums under this document; and
 - (ii) payment of any amount due and payable to each Venturer under this document; and
- (b) substantially in the form set out in Schedule 5.

12. JOINT VENTURE EXPENDITURE

12.1 Financing policy

The Venturers agree that, after the Farmin Completion Date, the financing policy for funding Joint Venture Expenditure will be to adopt the following order of choice, in order from first choice to last choice:

- (a) use of the Operator's funds;
- (b) use of funds available under the Joint Account; and
- (c) use of Called Sums from Venturers.

12.2 Settlement and payment

- (a) All Joint Venture Expenditure incurred by or on behalf of the Operator in the conduct of operations under this document must be decided and settled in accordance with this document (including the Accounting Procedure).
- (b) Each Venturer must contribute to Joint Venture Expenditure in proportion to its Participating Interest in accordance with this document, including clauses 13 and 14 but subject to clause 15. As between MCG and Newcrest, this is subject to the provisions of the Master Purchase and Farmin Agreement.

12.3 Current statements

The Operator must give each Venturer a current statement showing in reasonable detail:

- (a) the total estimated cash expenditure and accrued liabilities on each currently approved Operating Program and Budget for the preceding, current and next month;
- (b) all charges and credits to the Joint Account that have occurred since the last statement and the nature of those items;

- (c) all unusual charges and credits that have occurred since the last statement that must be separately identified and described in detail;
- (d) the unexpended balance of funds from each Venturer's earlier advances to the Joint Account, and the extent to which the expenditure and liabilities referred to in clause 12.3(a) can be satisfied from that balance; and
- (e) the amount required to be paid by each Venturer in accordance with that statement (or in the case of MCG, before the Farmin Completion Date, to be paid by Newcrest on MCG's behalf in accordance with the terms of the Master Purchase and Farmin Agreement),

at least 10 Business Days before the beginning of each month.

12.4 Notice of Intention to pay Called Sum

Within 10 Business Days of receipt of the current statement in clause 12.3, each Venturer must notify the Operator whether or not it intends to pay the Called Sum as and when required (**Notice of Intention**). If the Venturer fails to notify the Operator, the Venturer is deemed to have given a Notice of Intention to pay the Called Sum.

12.5 Called Sums paid in advance of expenditure

A Venturer may pay the Operator its Called Sum in advance of the Due Date for such payment, in which event the Operator must:

- (a) keep each Called Sum paid by a Venturer in advance of expenditure in a separate Joint Venture interest bearing trust account with a financial institution the Joint Venture Committee approves; and
- (b) credit all interest to the Joint Account for a Venturer that pays a Called Sum in advance of expenditure having regard to the date of payment by that Venturer and its Participating Interest.

13. INTEREST

13.1 Payment of Interest

- (a) A Venturer must pay interest on each amount that is not paid when due, from (and including) the Due Date to (but excluding) the day on which it is paid in full, at the rate calculated in accordance with clause 13.1(b). This interest must be paid on demand.
- (b) Interest on an unpaid amount accrues each day at a rate equal to the sum of the indicator lending rate charged by Westpac Bank (PNG) Limited on overdrafts of K100,000 for that day and 3% per annum, and is capitalised (if not paid) every 5 Business Days.
- (c) This clause 13.1 does not affect a Venturer's obligation to pay each amount under this document when it is due.

13.2 Interest after judgment

If a Liability of a Venturer becomes merged in a judgment or order, that Venturer, as an independent obligation, must pay interest on the amount of that Liability, from (and including) the date of the judgment or order until it is paid in full, at the higher of the rate that applies under the judgment or order and the rate calculated in accordance with clause 13.1.

13.3 Accrual and calculation of Interest

Interest under this clause:

- (a) accrues daily; and
- (b) is calculated on the basis of the actual number of days on which Interest has accrued and a 365 day year.

14. PAYMENTS

14.1 Payment of Called Sums and Interest

- (a) If a Venturer gives or is deemed to have given a Notice of Intention under clause 12.4 to pay a Called Sum, the Venturer must pay to the Operator the Called Sum required to be paid by it in accordance with the statement under clause 12.3:
 - (i) by the Due Date for payment of that Called Sum; and
 - (ii) in accordance with this clause 14.1 and clause 14.2.
- (b) If a Venturer does not comply with clause 14.1 (a):
 - (i) it must pay Interest to the Operator for the benefit of the other Venturers' accounts;
 - (ii) that Interest is to be calculated from (and Including) the Due Date for payment of that Called Sum to (but excluding) the date of actual payment; and
 - (iii) expenses attributable to or arising from that Called Sum will be treated as part of that sum.

14.2 How payments must be made

A Venturer must make each payment to the Operator under this document:

- (a) by delivering an unendorsed bank cheque to the Operator at the place, or by direct transfer of cleared funds to the credit of the account, that the Operator nominates at least 5 Business Days before the payment is made; and
- (b) without any set-off or counterclaim and (to the extent permitted by law) free and clear of, and without deduction or withholding for or on account of, any Taxes (other than Excluded Taxes).

14.3 Deductions and withholdings

If at any time an applicable law obliges a Venturer to make a deduction or withholding in respect of Taxes from a payment to the Operator under this document, that Venturer:

- (a) must notify the Operator of the obligation promptly after that Venturer becomes aware of it;
- (b) must ensure that the deduction or withholding does not exceed the minimum amount required by law;
- (c) must pay to the relevant Government Agency on time the full amount of the deduction or withholding and promptly deliver to the Operator a copy of any receipt, certificate or other proof of payment; and

- (d) unless the Tax is an Excluded Tax, must indemnify the Operator against the deduction or withholding by paying to the Operator, at the time that the payment to the Operator is due, an additional amount that ensures that, after the deduction or withholding is made, the Operator receives a net sum equal to the sum that it would have received if the deduction or withholding had not been made.

14.4 Currency Indemnity

If, for any reason (including as a result of a judgment or order), an amount payable by a Venturer under or in respect of this document (**Relevant Amount**) is received by the Operator in a currency (**Payment Currency**) that is not the currency in which the amount is expressed to be payable under this document (**Required Currency**) then that Venturer, as an independent obligation, must indemnify the Operator against, and must pay the Operator on demand the amount of, any shortfall between:

- (a) the amount of Required Currency which the Operator receives on converting the amount it received in the Payment Currency into an amount in the Required Currency in accordance with its usual practice; and
- (b) the relevant amount in the Required Currency.

15. DILUTION

15.1 Consequences of non-payment

- (a) If a Venturer (other than Newcrest in respect of Joint Venture Expenditure from the Commencement Date up to and including the Farmin Completion Date) gives a Notice of Intention under clause 12.4 not to pay a Called Sum and it subsequently fails to pay that Called Sum, the Operator must notify that Venturer (the **Notifying Venturer**) and the other Venturers of the failure (**Notice of Failure to Pay**), specifying details of the failure.
- (b) If the Notifying Venturer does not rectify the failure within 15 Business Days after issue of a Notice of Failure to Pay:
 - (i) within 7 days after the expiry of the 15 Business Day rectification period, the Operator must further notify all other Venturers of the failure to rectify; and
 - (ii) within 7 days after the date of further notice from the Operator, the other Venturers may pay the Notifying Venturer's contribution in proportion to their respective Participating Interests (or in such other proportions or manner as they may agree).
- (c) For the purposes of this clause 15, a Notifying Venturer becomes a **Diluting Venturer** when any other Venturer meets the Notifying Venturer's contribution under clause 15.1(b)(ii).
- (d) On payment by any other Venturer of all or part of the Diluting Venturer's contribution under clause 15.1(b)(ii), the Participating Interests of the Venturers shall be adjusted in accordance with clause 15.2.
- (e) A Diluting Venturer may attend meetings of the Joint Venture Committee and the Operator must provide a Diluting Venturer with any approved Operating Program and Budget until the Diluting Venturer withdraws or is deemed to have withdrawn.

15.2 Calculation of Participating Interests

The Participating Interest of a Venturer is to be calculated according to the following formula:

$$PI = \frac{A}{A + B} \times 100$$

Where:

PI = the Participating Interest of the Venturer

A = the actual and deemed contributions of the Venturer at the relevant time

B = the actual and deemed contributions by all other Venturers at the relevant time

For the purposes of the formula, deemed contributions are as set out in Schedule 3.

15.3 Minimum Participating Interest

A Venturer may not hold a Participating Interest of less than 5%. Accordingly:

- (a) the Operator must give notice to a Venturer whose Participating Interest reduces to less than 5%; and
- (b) on delivery of the notice to the Venturer, the Venturer will be deemed to be a Defaulting Party for the purposes of clause 17.4,17.5 and 17.6 and its Participating Interest will be sold in accordance with those provisions.

15.4 Withdrawal

- (a) A Venturer (**Withdrawing Party**) may at any time after the Farmin Completion Date withdraw as a Venturer by giving the other Venturers and the Operator notice of withdrawal at least 20 Business Days before the effective date of withdrawal.
- (b) The date (**Withdrawal Date**) must be specified in the notice and be no more than 30 Business Days after the date of the notice.
- (c) From the Withdrawal Date, the Representatives of the Withdrawing Party are no longer entitled to a vote on the Joint Venture Committee on any matter arising for determination after the Withdrawal Date.
- (d) On or before the Withdrawal Date, the Withdrawing Party must:
 - (i) transfer all of its Participating Interest to the other Venturers (**Remaining Parties**) by documents acceptable in form and substance to the Remaining Parties; and
 - (ii) if it holds shares in the Operator, transfer all of its shares in the Operator to the other remaining shareholders of the Operator in the proportions that these other remaining shareholders, Participating Interests bear to each other,free from any Encumbrances and for no consideration or compensation.
- (e) Each Remaining Party will share in the transfer in the proportion that its Participating Interest at the date of the transfer bears to the sum of the Participating Interests of all of the Remaining Parties at that date (or in any other proportions the Remaining Parties may otherwise agree).

- (f) The Withdrawing Party must pay all costs of the transfer (including duty and registration fees).
- (g) The Withdrawing Party must do anything reasonably necessary or convenient to render the transfer effective under applicable law (including execute and deliver all documents acceptable in form and substance to each Remaining Party and obtain all Authorisations).
- (h) Each Withdrawing Party irrevocably appoints and constitutes every Remaining Party and, where a Remaining Party is a corporation, every director and secretary for the time being of that corporation severally, as its true and lawful attorney in its name and on its behalf to do anything reasonably necessary or convenient to render the transfer effective under applicable law (including execute and deliver all documents and obtain all Authorisations).
- (i) Irrespective of any transfer under this clause, the Withdrawing Party remains liable for all:
 - (i) obligations imposed on it under this document and the Transaction Documents and by operation of law; and
 - (ii) costs and expenses:
 - (A) incurred or intended to be incurred under an approved Operating Program and Budget current as at the Withdrawal Date; or
 - (B) accrued in the conduct of operations under this document before the Withdrawal Date,but the Withdrawing Party is not under any further liability for the costs and expenses of the Joint Venture.
- (j) The Withdrawing Party must join in any acts required for the maintenance of its Participating Interest until all legal and other requirements are met in relation to the transfer.
- (k) If the Participating Interest of a party seeking to become a Withdrawing Party is subject to an Encumbrance, that party:
 - (i) is not permitted to withdraw until all Encumbrances to which the Participating interest is subject have been discharged; and
 - (ii) remains liable for all obligations imposed on it under this document until all Encumbrances to which the Participating Interest is subject have been discharged.
- (l) When all Encumbrances have been discharged the Withdrawing Party must give each Remaining Party a notice that includes evidence of the discharge reasonably acceptable to each Remaining Party.
- (m) Each Remaining Party must no later than 10 Business Days after the date of the notice in clause 15.4(l) notify the Withdrawing Party whether or not the evidence of discharge is acceptable to it. In default of any notice, the evidence of discharge is treated as being acceptable. If the notice indicates that the evidence of discharge is unacceptable, the Withdrawal Date is postponed to a date that is 5 Business Days after receipt by each Remaining Party of evidence of discharge reasonably acceptable to it.

- (n) A Withdrawing Party must deliver to each Remaining Party all copies of confidential information referred to in clause 24 (Confidentiality) in the possession of any of the Withdrawing Party, its agents, employees or Affiliates.

15.5 Dilution where State acquires Interest

If the State (or its nominee) or any Landowners (or their nominee) exercise any option which they may have to acquire a Participating Interest in the Joint Venture, the Venturers agree that they will each sell down their respective Participating Interests in the proportions that their respective Participating Interests bear to each other as at:

- (a) the date of exercise of the option, if the option is exercised after the Farmin Completion Date; or
- (b) at the Farmin Completion Date, if the option is exercised prior to the Farmin Completion Date,

and in doing so the Venturers agree that the provisions of clause 26 (Assignment and Amendment) do not apply in respect of that sale except that the Venturers will procure that the State or its nominee or the Landowners or their nominee (as the case may be) complies with clause 26.8 (Conditions of Assignment).

16. DEFAULT

16.1 Default Event

Each of these events or circumstances is a Default Event:

- (a) if, after the Farmin Completion Date, a Venturer:
 - (i) having given or been deemed to have given a Notice of intention under clause 12.4 to pay a Called Sum, fails to pay the Called Sum by its Due Date; or
 - (ii) fails to pay any other amount that is due and payable under this document;
- (b) if a Venturer creates or permits to exist any Encumbrance other than a Permitted Encumbrance over all or any of its Participating Interest in breach of clause 25;
- (c) if a Venturer Assigns any of its Participating Interest in breach of clauses 26; or
- (d) If an Insolvency Event occurs in respect of a Venturer.

16.2 Default Notice

- (a) The Operator must notify a Defaulting Venturer, its Encumbrancee (if the Operator has notice of its address for service), and the other Venturers of that Defaulting Venturer's Default Event, and require that:
 - (i) if the Default Event is under clauses 16.1(a), the outstanding amount be paid;
 - (ii) for those Default Events other than under clause 16.1(a), the Default be otherwise remedied (if possible), within 15 Business Days of receipt of the Default Notice and in accordance with clause 14.

- (b) If the Operator is an Affiliate of a Defaulting Venturer, another Venturer may notify that Defaulting Venturer, its Encumbrancee (if that other Venturer has notice of its address for service), and the other Venturers of that Defaulting Venturer's default, and require that the Default Event be remedied in accordance with clause 16.2(a).

16.3 Consequences of Default Notice

- (a) Subject to clause 16.3(b), with effect from the date which is one Business Day after a Default Notice is served on that Defaulting Venturer until all defaults by a Defaulting Venturer are remedied in accordance with clause 16.6 (**Default Period**):
 - (i) the Representatives appointed by that Defaulting Venturer cannot vote on any matter before the Joint Venture Committee; and
 - (ii) that Defaulting Venturer is not entitled to its Share of Production which must be dealt with in accordance with clause 17.
- (b) If the Default Event is an event set out in clause 16.1(d), in addition to the consequences set out in clause 16.3(a), during the Default Period, the representatives of the Defaulting Venturer appointed to the board of directors of the Operator are not entitled to vote on any resolution before the board.

16.4 Contributing Venturers

- (a) If the Default Event is default under clause 16.1(a) and it is not remedied in accordance with clause 16.2(a), the Venturers other than the Defaulting Venturer (the **Contributing Venturers**) must pay to the Operator, in proportion to their respective Participating Interests (unless otherwise agreed between them), the Unpaid Called Sum on behalf of the Defaulting Venturer.
- (b) A Venturer that does not comply with clause 16.4(a) will be regarded as a Defaulting Venturer.
- (c) The amount paid to the Operator by a Contributing Venturer under clause 16.4(a):
 - (i) must be paid within 20 Business Days after it receives a statement from the Operator specifying all necessary details; and
 - (ii) will:
 - (A) constitute a debt due and payable by the Defaulting Venturer to the Contributing Venturer; and
 - (B) include any expenses arising from payment by the Contributing Venturer and Interest on the debt in accordance with clause 16.5,until paid by that Defaulting Venturer.
- (d) For the purposes of clause 16.4(c)(i), the Operator may give a Venturer a statement before or after the procedures specified in clause 17.1 have been followed if:
 - (i) amounts available because of those procedures do not satisfy the Defaulting Venturer's obligations when those procedures are applied; or
 - (ii) those procedures are inapplicable for any reason.

16.5 Interest

A Defaulting Venturer must pay to the Contributing Venturer Interest on the amount of the debt referred to in clause 16.4 (c)(ii). That Interest is to be calculated from the date the Contributing Venturer made the payment to the Operator to the date the Contributing Venturer receives reimbursement from the Defaulting Venturer.

16.6 Remedy of defaults

A default by a Defaulting Venturer in the payment of any Unpaid Called Sum will only be regarded as remedied if the Defaulting Venturer paid the Operator the Unpaid Called Sum and Interest on that Unpaid Called Sum to the payment date.

16.7 Failure to remedy

Any or all of the Venturers (other than a Defaulting Venturer) may exercise its rights under the Cross Charge if:

- (a) a Venturer:
 - (i) becomes a Defaulting Venturer in the payment of Called Sums or Interest accrued on those Called Sums on 3 occasions in any 12 month period;
 - (ii) received a Default Notice in relation to the first and second defaults; and
 - (iii) received a Default Notice in relation to the second default at least 10 Business Days before the Due Date for payment of the Called Sum or Interest accrued on that Called Sum in relation to which the third default occurred.
- (b) a Venturer becomes a Defaulting Venturer by committing a Default Event or a Default Event occurs in relation to the Venturer, and has not remedied that default (if possible) within 15 Business Days of receipt of the Default Notice under clause 16.2.

Clause 16.7(a) applies even if the defaults are remedied.

17. CONSEQUENCES OF DEFAULT

17.1 Share of Production on trust for sale

- (a) When a Venturer becomes a Defaulting Venturer:
 - (i) its right to take delivery of its Share of Production under clause 3.6 ceases immediately; and
 - (ii) the Venturer's Share of Production vests in the Operator on trust for sale.
- (b) Until a Defaulting Venturer ceases to be a Defaulting Venturer:
 - (i) the Operator (on behalf of, and as agent for, the Defaulting Venturer) must sell the Share of Production to which that Defaulting Venturer would have been entitled if it had not become a Defaulting Venturer in accordance with a sales agreement (if any) entered into by the Defaulting Venturer before the time of its default; and
 - (ii) if there is no sales agreement referred to in clause 17.1, the Operator may (on behalf of, and as agent for, the Defaulting Venturer) sell the Share of

Production to which that Defaulting Venturer would have been entitled if it had not become a Defaulting Venturer, but the Operator must:

- (A) use reasonable endeavours to obtain the best competitive price available on an arm's length basis; and
- (B) consider relevant factors (including transportation, processing and penalty costs).

17.2 Application of sale proceeds

The proceeds of all sales under clause 17.1 must be applied in the following order:

- (a) first in payment or reimbursement of all expenses that the Operator incurs in or incidental to the taking delivery of, and selling the Share of Production to which the Defaulting Venturer would have been entitled if it had not become a Defaulting Venturer;
- (b) then in payment of any Interest that has accrued under clause 14.1(b);
- (c) then in payment to discharge any other obligations of the Defaulting Venturer under this document; and
- (d) then in payment to the Defaulting Venturer.

17.3 No Liability or entitlement to Defaulting Venturer

- (a) Neither the Operator nor any Continuing Venturer will be liable to a Defaulting Venturer for anything arising because of the sale of the Defaulting Venturer's Share of Production if that share was sold in accordance with clause 17.1.
- (b) When a Defaulting Venturer ceases to be a Defaulting Venturer, it is not entitled to an additional Share of Production in replacement of the Share of Production delivered to the Operator under clause 17.1 while the Defaulting Venturer was in default.

17.4 Participating Interest on trust for sale

If, irrespective of any action taken under clause 17.1:

- (a) a Defaulting Venturer continues to be in default;
- (b) the Cross Charge has become enforceable against the Defaulting Venturer; and
- (c) one of the Non-Defaulting Venturers notifies the Operator that it wishes to enforce the Cross Charge by exercising the power to sale under it in respect of the Defaulting Venturer's Participating Interest,

then:

- (i) the Operator must notify all Venturers (including the Defaulting Venturer) that the event has occurred;
- (ii) a Defaulting Venturer's Participating Interest (including its right to collection or transportation at the Delivery Point of its Participating Interest Share of Production) automatically vests in the Operator on trust for sale, and any trust for sale under clause 17.1 ceases; and
- (iii) at the time of vesting referred to in clause 17.4(ii), a Defaulting Venturer:

- (A) ceases to have further rights or interests in the Joint Venture except those under clause 17.5; but
- (B) continues to be liable for any antecedent default and Interest on the amount of that default to the extent not satisfied under clause 17.5(g); and
- (C) if it holds shares in the Operator, must transfer its shares in the Operator to the other remaining shareholders of the Operator in the proportions that these other remaining shareholders' Participating Interests bear to each other, for no consideration or compensation.

17.5 Terms of trust for sale

If a trust for sale arises under clause 17.4:

- (a) clauses 17.1 and 17.2 apply to the Share of Production attributable to the Participating Interest on trust for sale;
- (b) the Operator must:
 - (i) try to agree with the Defaulting Venturer on a value for the Participating Interest held on trust for sale, but if the Operator is an Affiliate of the Defaulting Venturer, it must try to agree on that value with the other Venturers; and
 - (ii) have that value independently decided in accordance with clause 17.6 if the Operator and the Defaulting Venturer or if applicable the other Venturers cannot agree on that value within 20 Business Days after the trust for sale arose;
- (c) each Continuing Venturer has an option to purchase the Participating Interest held on trust for sale. This option is exercisable:
 - (i) by one or more of the Continuing Venturers that will then be liable for the purchase price in proportion to their respective Participating Interests;
 - (ii) by each Continuing Venturer that wishes to exercise this option notifying the Defaulting Venturer within 20 Business Days after the Operator has notified all the Continuing Venturers that the value of the Participating Interest held on trust for sale has been agreed or independently decided (as the case may be);
 - (iii) at a price:
 - (A) subject to clause 17.5(e), equal to the value agreed or independently decided (as the case may be); and
 - (B) payable to the Operator as cash consideration (and not for any other consideration) as trustee under the trust for sale; and
 - (iv) by the payment to the Operator as trustee under the trust for sale of a deposit of 50% of the price referred to in clause 17.5(c)(iii) within 10 Business Days after this option is exercised;
- (d) the unpaid balance of the amount payable under clause 17.5(c) carries Interest in accordance with clause 13 calculated from the date for payment of the deposit;

- (e) if the option under clause 17.5(c) is not exercised, the Operator must use its best endeavours to dispose of the Participating Interest held on trust for sale for the best competitive price reasonably obtainable from a purchaser that complies with clause 26.8(d) but, if that price is below the value agreed or independently decided (as the case may be) under clause 17.5(b), each Continuing Venturer has a further option to purchase the Participating Interest at that price on the terms of clause 17.5(c);
- (f) a purchaser of the Participating Interest held on trust for sale will take it free from any Encumbrance other than a Permitted Encumbrance;
- (g) the sale proceeds of the Participating Interest held on trust for sale (and the balance of the sale proceeds of Mineral Products forming part of that Participating Interest) must be applied in accordance with clause 17.2; and
- (h) each Venturer irrevocably appoints and constitutes the Operator its true and lawful attorney in its name and on its behalf to do anything reasonably necessary to vest the Participating Interest held on trust for sale in the purchaser of that Participating Interest (including execute any transfer or other document in blank).

17.6 Independent value

The value of a Participating Interest held on trust for sale must be independently decided in accordance with the following procedures if the Operator and the Defaulting Venturer cannot agree on a value under clause 17.5(b)(i):

- (a) the Operator must:
 - (i) request the President of each of the Australasian Institute of Mining and Metallurgy and the Australian Mining Industry Council to nominate an independent expert and the Operator must nominate one Independent expert (who is a recognised expert in valuing mining operations and properties) to value that Participating Interest; and
 - (ii) promptly notify all Venturers of the names of the independent experts nominated; and
- (b) each independent expert:
 - (i) must act as an expert only and not as an arbitrator;
 - (ii) may consult with the Operator and independent contractors engaged by the Operator in connection with the Joint Venture;
 - (iii) is entitled to rely in good faith on the opinions of any expert or other persons (including the Operator and independent contractors engaged by the Operator in connection with the Joint Venture) consulted;
 - (iv) must consider submissions about value that a Venturer may make to him or her within 15 Business Days of the Venturer or the Defaulting Venturer receiving notice of the independent experts nominated;
 - (v) must make his or her valuation independently, without consultation with other independent experts and on the basis of:
 - (A) a willing but not anxious purchaser; and
 - (B) a willing but not anxious vendor;

- (vi) must not consider the Defaulting Venturer's Liabilities except as required by clause 17.6(b)(x);
 - (vii) may consider whether or not the Defaulting Venturer's Participating interest carries with it an entitlement to a measure of control of the Joint Venture;
 - (viii) must use his or her best endeavours to complete his or her valuation within 30 Business Days of his or her nomination;
 - (ix) must disregard the value of Mineral Products derived from the Participating Interest independently sold under clause 17.5(g);
 - (x) must fully deduct the amount of the Defaulting Venturer's Liabilities under or secured by all Encumbrances; and
 - (xi) must deliver a copy of his valuation to all Venturers when completed; and
- (c) if an independent expert fails to complete his or her valuation within the time prescribed by clause 17.6(b)(viii):
- (i) the Operator may, before completion of his or her valuation, declare that the independent expert ceased to be an independent expert for the purposes of this clause by notifying all Venturers; and
 - (ii) if the Operator makes a declaration in accordance with clause 17.6(c)(i), it must then immediately request the President of the Australasian Institute of Mining & Metallurgy or the Australian Mining Industry Council (whichever of those Presidents appointed the expert concerned) to nominate or must itself nominate (as the case requires) another independent expert in place of the one who ceased to be an independent expert for the purposes of this clause; and
- (d) the independent value of a Participating Interest held on trust for sale is:
- (i) the average of the amounts of the valuations of the 2 independent experts whose valuations are closest to each other; or
 - (ii) if the difference between the highest and the median valuations is the same as the difference between the median and the lowest valuations, the median valuation.

18. CHANGE OF CONTROL

18.1 Meaning of Control

For the purposes of this clause 18 an entity **controls** a second entity if the first entity:

- (a) has the capacity to determine the outcome of decisions about the second entity's financial and operating policies;
- (b) has the capacity to influence decisions about the second entity's financial and operating policies; or
- (c) an Affiliate or Affiliates (or any combination thereof) has an aggregate relevant interest in at least 50% of the voting shares of the second entity.

In determining whether the first entity has this capacity:

- (d) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and
- (e) any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).

The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

18.2 Meaning of Change of Control

- (a) Subject to clause 18.2(b), a Change of Control occurs in relation to a body corporate or entity (**the body**) where:
 - (i) an entity that Controls the body ceases to Control the body; or
 - (ii) an entity that does not Control the body comes to Control the body.
- (b) No Change of Control occurs if:
 - (i) the entity that ceases to Control the body under clause 18.2(a) was, immediately beforehand, Controlled by a body corporate that Controls the body;
 - (ii) the entity that comes to Control the body under clause 18.2(a) is, immediately afterward, a wholly-owned subsidiary of a body corporate that previously Controlled and continues to Control the body;
 - (iii) it results from a Change in Control of a listed entity; or
 - (iv) it results from a Change of Control which MCG and Newcrest have by written instrument signed by their Representatives unanimously approved in advance.

18.3 Consequences of Change of Control

If there is a Change of Control of a Venturer, the Venturer must immediately give the other Venturers a notice setting out full details of the change and, whether or not the Venturer does so, unless the other Venturers unanimously decide otherwise:

- (a) the Venturer's Participating Interest including its right to collection or transportation at the Delivery Point of its Participating Interest's Share of Production automatically vests in the Operator on trust for sale and any trust for sale under clause 17.1 ceases;
- (b) at the time of vesting referred to in clause 18.3(a), the Venturer:
 - (i) ceases to have further rights or interests in the Joint Venture except those under this clause and clause 17.5;
 - (ii) continues to be liable for any antecedent default and Interest on the amount of any default;
 - (iii) if it holds any shares in the Operator, must transfer all of its shares in the Operator to the other remaining shareholders of the Operator in the proportions that these other remaining shareholders' Participating Interests bear to each other for no consideration or compensation; and

- (c) clauses 17.5 and 17.6 apply to that trust for sale created under clause 18.3(a) as if the Venturer were a Defaulting Venturer.

19. TENEMENT RELINQUISHMENT

19.1 Procedure and consequences

- If the Joint Venture Committee, decides that a Tenement should be relinquished, surrendered or otherwise disposed of because it is not required for the Joint Venture:
- (a) that Tenement must, before its relinquishment, surrender or disposal, be offered (for no consideration or compensation) to each Venturer individually in proportion to its Participating Interest at the date of that offer;
 - (b) if a Venturer does not accept the offer referred to in clause 19.1(a) in relation to all of that Tenement within 20 Business Days, its Participating Interest entitlement is treated as being offered for a further period of 20 Business Days to each other Venturer in the proportion that the Participating Interest of that Venturer bears to the total of the Participating Interests of the other Venturers on the date that offer is treated as being offered;
 - (c) if a Venturer does not accept the offers referred to in:
 - (i) clause 19.1(a) in relation to all of that Tenement within 20 Business Days; or
 - (ii) clause 19.1(b) in relation to all of that Tenement within the time prescribed by that clause,those offers will automatically lapse and the Operator must proceed to relinquish, surrender or otherwise dispose of, that Tenement; and
 - (d) that Tenement ceases to form part of, and is excluded from the definition of, the Tenements when it is relinquished, surrendered or disposed of.

19.2 Expenses

- (a) Subject to clause 19.2(b) below, the Operator must charge the expenses of any relinquishment, surrender or other disposal to the Joint Account.
- (b) The transferee must pay all expenses of and incidental to any transfer in accordance with clause 19.1 (including legal expenses and any duty or registration fees).

20. GOODS AND SERVICES TAX

20.1 Venturer is member of GST group

If a Venturer is registered as part of a group of companies, references to GST which the Venturer must pay and to input tax credits to which the Venturer is entitled include GST which the representative member of the group of companies must pay and deductions of input tax credits to which the representative member is entitled.

20.2 GST exclusive amounts

All amounts payable under or in connection with this document are exclusive of GST unless indicated otherwise.

20.3 Payment of GST

- (a) A recipient of a taxable supply under or in connection with this document must pay to the supplier, in addition to the consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply.
- (b) The recipient must make that payment to the supplier as and when the consideration or part of it is provided, except that the recipient need not pay unless the recipient has received a tax invoice (or a credit note or a debit note) for that taxable supply.

20.4 Reimbursements

Where a supplier incurs a cost or expense for which it may be reimbursed by, indemnified against, claim against or set-off against another Venturer under this document, the amount to be paid or credited is the cost or expense (reduced by the deduction of input tax that the supplier is entitled to claim in relation to that cost or expense) plus the amount in relation to GST payable by the recipient as calculated under this clause.

20.5 Indemnities

- (a) If a release of an indemnity under or in connection with this document gives rise to a liability to pay GST, the indemnified amount must include that GST.
- (b) If a Venturer has a claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

20.6 GST returns

If the GST Law requires the Joint Venture to register, the Operator must register the Joint Venture under the GST Law and prepare and lodge a GST return for each taxable period applying to the Joint Venture on the Joint Venture's behalf.

20.7 Registration

The Operator and each Venturer warrants that it is registered for GST for the taxable activity carried on by the Joint Venture.

20.8 Indemnity

Each Venturer must indemnify each other Venturer against, and must pay each other Venturer on demand the amount of, all losses and liabilities incurred by each other Venturer in connection with any failure by the indemnifying party to comply with any requirement of this clause or the GST Law.

21. FORCE MAJEURE

21.1 Notice and suspension of obligations

If a party is affected, or likely to be affected, by a Force Majeure Event:

- (a) that party must immediately give the other parties prompt notice of that fact including:
 - (i) full particulars of the Force Majeure Event;

- (ii) an estimate of its likely duration;
- (iii) the obligations affected by it and the extent of its effect on those obligations; and
- (iv) the steps taken to rectify it; and
- (b) the obligations under this document of the Venturer giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

21.2 Effort to overcome

A party claiming a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a party to:

- (a) settle any industrial dispute in any way it does not want to; or
- (b) enter into any agreement relating to the rights of Landowners on terms not acceptable to it for the sole purpose of removing the Force Majeure Event.

21.3 Alternative supply

During any period in which a party is not performing obligations because of a claimed Force Majeure Event, the other parties may make alternative arrangements for the performance, whether by another person or otherwise, of any obligation which the party claiming the Force Majeure Event is not performing without incurring any Liability to that party.

22. DISPUTE RESOLUTION

22.1 Application

Any dispute or difference between the Venturers arising under or in connection with the Transaction Documents (other than the Master Purchase and Farmin Agreement), including any dispute or difference as to the formation, validity, existence or termination of any of the Transaction Documents (**Dispute**) must be resolved as set out in this clause 22.

For the avoidance of uncertainty, this clause will not apply to any decisions validly made by the Joint Venture Committee in accordance with the terms of this document

22.2 Notice of dispute or difference

- (a) If a Dispute arises a party must commence the process contained in this clause for its resolution by giving notice (**Dispute Notice**) to the other party. The party sending the Dispute Notice is the Referring Party.
- (b) The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 22.2;
 - (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;

- (B) references to any:
 - (I) provisions of the relevant document;
 - (II) information, whether written or in any other form; and
 - (III) acts or omissions of any person, relevant to the Dispute;
 - (C) the amount in dispute (whether monetary or any other commodity) and if not known, the best estimate available; and
- (iv) be given within 10 Business Days of the Referring Party first becoming aware of the circumstances giving rise to the Dispute.

22.3 Negotiation between Representatives

- (a) Within 10 Business Days of the Referring Party giving a Dispute Notice, the Representatives of the parties to the Dispute must meet to attempt to resolve the Dispute.
- (b) The meeting must take place in person. The parties are not permitted to delegate this function to any other person.
- (c) The parties to the Dispute must ensure that their Representatives at this meeting make a genuine effort to resolve any Dispute.
- (d) If, and to the extent that, the Dispute is resolved, the Representatives of the parties to the Dispute must immediately detail their agreement in writing. This document must clearly state which parts of the Dispute are resolved, and the agreed basis for its resolution.
- (e) If a written agreement is not produced pursuant to clause 22.3(d) in relation to all or part of the Dispute within 10 Business Days after the Dispute Notice has been given, the Dispute, or the part of the Dispute in respect of which there is no written agreement produced, is deemed to be unresolved.

22.4 Negotiation by senior management

- (a) If, 10 Business Days after the Dispute Notice has been given:
 - (i) the meeting required by clause 22.3 has not been held; or
 - (ii) the agreement has not been recorded in accordance with clause 22.3(d); or
 - (iii) the Dispute (or any part of it) is otherwise unresolved,

the Referring Party must give notice to the other party that it requires the Dispute (or the parts of it that have not been resolved or have not been recorded in accordance with clause 22.3(d)) to be referred to senior management for resolution in accordance with clause 22.4(b).

- (b) The notice referred to in clause 22.4(a) must:
 - (i) be in writing;
 - (ii) state that it is made pursuant to clause 22.4(a);

- (iii) annex a copy of the Dispute Notice (and any accompanying documents) given pursuant to clause 22.2 together with any documents which the Referring Party considers would further assist senior management in resolving the Dispute;
- (iv) if part of the Dispute has been resolved, annex a copy of the document prepared pursuant to clause 22.3(d); and
- (v) be given no later than 5 Business Days after the Dispute Notice has been given.
- (c) Within 20 Business Days of the Referring Party giving notice pursuant to clause 22.4(a), senior management representatives (**SMR**) from each of the parties to the Dispute (including the chief executive officer or equivalent from each such party) must meet to attempt to resolve the Dispute. The parties are not permitted to delegate this function to any other person.
- (d) The SMRs may meet more than once within the period referred to in clause 22.4(c) to resolve any Dispute. The SMRs may meet in person, via telephone, videoconference, internet-based instant messaging or any other means of instantaneous communication.
- (e) Each party to the Dispute must ensure that their SMR:
 - (i) has full authority to resolve the Dispute; and
 - (ii) makes a genuine effort to resolve the Dispute.
- (f) The outcome of the SMR meeting must be reduced to writing and signed by the SMR for both parties to the Dispute (**SMR Outcome Document**). The SMR Outcome Document must clearly state in respect of the Dispute or any part of the Dispute whether it is resolved or unresolved (clearly stating if the Dispute is only partly resolved, which part is resolved, and which part remains unresolved).
- (g) If:
 - (i) an SMR Outcome Document:
 - (A) is not produced or is not produced within whichever is the later to occur of:
 - (I) 20 Business Days of the notice being given pursuant to clause 22.4(a); or
 - (II) 35 Business Days of the Dispute Notice being given; or
 - (B) states that the Dispute (or any part of the Dispute) is unresolved; or
 - (C) is silent in respect of any part of the Dispute which was unresolved after the meeting held pursuant to clause 22.3(a); or
 - (ii) the Dispute or any part of the Dispute is otherwise unresolved within 35 Business Days of the Dispute Notice being given,

the Dispute or the relevant part of the Dispute is deemed to be unresolved and thereafter the Dispute or the relevant part of the Dispute shall be referred to arbitration in accordance with clause 22.5.

22.5 Arbitration

Any Dispute, or part of a Dispute that is deemed to be unresolved under clause 22.4(g) shall be resolved by arbitration in accordance with the UNCITRAL Rules which are current as at the date on which the Dispute Notice was given. The seat of the arbitration will be Brisbane, Australia and the language of the arbitration will be English.

22.6 Continuance of performance

Despite the existence of a Dispute, the parties must continue to perform their respective obligations under the Transaction Documents.

22.7 Summary or urgent relief

Nothing in this clause 22 prevents a party from instituting court proceedings to seek enforcement of any payment due under the Transaction Documents or to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

23. TERMINATION

23.1 Term

This document and the Joint Venture will continue until:

- (a) terminated by the agreement of all parties;
- (b) there is only one Venturer;
- (c) there are no further Objects of the Joint Venture to pursue; or
- (d) none of the Venturers has any further rights to develop or produce Mineral Products from the JV Area, whichever occurs first, and the activities of the Joint Venture are properly wound up.

23.2 Realisation of property

If the Joint Venture terminates in accordance with clause 23.1(a), (b), (c) or (d), the Operator must:

- (a) (on behalf of, and as agent for, each Venturer) realise all property (including Joint Venture Intellectual Property) held for the purposes of this document or the Joint Venture or both;
- (b) rehabilitate the Tenements (if required);
- (c) complete the winding up of the Joint Venture; and
- (d) distribute the net proceeds of the realisation referred to in clause 23.2(a) to each Venturer in proportion to that Venturer's Participating Interest.

23.3 Survival of claims and obligations

The termination of this document does not affect any Liability that a party may have at the date of termination.

23.4 Perpetuity period

Despite any other provision of this document, if any right, power, interest or authority of any person in, over or in connection with any property (including Joint Venture Intellectual Property) held for the purposes of this document or the Joint Venture or both would, but for this provision, violate the “rule against perpetuities”, that right, power, interest or authority (and the interest created by it) vests absolutely in:

- (a) the then holder of it; or
- (b) the person with the most immediate entitlement to it (as tenants in common if more than one of them),

(as the case may be), at the end of the period commencing on the date of this document and ending on the 21st anniversary of the death of the last lineal descendant of Her Majesty Queen Elizabeth II living at the date of this document.

24. CONFIDENTIALITY

A Venturer must not disclose, and must procure that the Operator does not disclose, any information concerning the contents of, or the transactions contemplated by, this document to any person who is not a Venturer, except to the extent that:

- (a) the disclosure is expressly permitted by this document;
- (b) the other Venturers consent to the disclosure;
- (c) the information is already in the public domain, unless it entered the public domain because of a breach of confidentiality by the Venturer;
- (d) the disclosure is made on a confidential basis to the Venturer’s or any of its Affiliates, officers, employees, agents, financiers or professional advisers, and is necessary for the business of the Venturer or its Affiliates;
- (e) the disclosure is necessary to comply with any applicable law, or an order of a court or tribunal or the rules of any stock exchange;
- (f) the disclosure is necessary to comply with a directive or request of any Government Agency or stock exchange (whether or not having the force of law) so long as a responsible person in a similar position would comply;
- (g) the disclosure is necessary or desirable to obtain an Authorisation from any Government Agency or stock exchange;
- (h) the disclosure is necessary or desirable in relation to any discovery of documents, or any proceedings before a court, tribunal, other Government Agency or stock exchange; or
- (i) the disclosure is made on a confidential basis to a prospective Assignee or financier of the Venturer’s Participating Interest, or to any other person approved by the Joint Venture Committee who:
 - (i) proposes to enter into contractual relations with the Venturer; and
 - (ii) agrees to keep the disclosure confidential in accordance with this clause.

25. ENCUMBRANCES

25.1 Dealings requiring Venturers' consent

A Venturer must not create, attempt to create or permit to exist, and must ensure that none of its related corporations creates, attempts to create or permits to exist, any Encumbrance other than a Permitted Encumbrance over all or any of its:

- (a) rights under this document;
 - (b) Participating interest; or
 - (c) rights to take its Share of Production,
- without the consent of the other Venturers.

25.2 Permitted Encumbrances

A Venturer may create an Encumbrance over all (but not part) of its rights under this document, Participating Interest or rights to take its Share of Production if:

- (a) the amount secured by each Encumbrance is for:
 - (i) financing the performance of that Venturer's obligations under this document; or
 - (ii) risk management of forward sales of Mineral Products; or
 - (iii) financing any other activities of the Venturer or a related corporation of the Venturer.
- (b) each Encumbrance expressly provides that:
 - (i) each Encumbrances will not seek partition of or foreclosure of jointly owned property in which the party granting the Encumbrance has an interest;
 - (ii) the Cross Charge takes priority over it; and
 - (iii) each person exercising a power of sale or enforcing other rights arising under this document or conferred by law or by the document creating the Encumbrance must:
 - (A) comply with clauses 26.2 to 26.7 (inclusive) as if it were a party to this document;
 - (B) obtain the covenants required by clause 25.3 from the purchaser of the Participating Interest; and
 - (C) cause that purchaser to comply with clause 26.8;
- (c) the rights of each Encumbrancee on the exercise of the power of sale or the enforcement of other rights conferred by law or by the document creating the Encumbrance are made expressly subject to this document and
- (d) the Encumbrance operates as a fixed charge to no greater extent than the Cross Charge.

25.3 Deed of covenant to be executed

To give full effect to clause 25.2, the Venturer proposing the creation of a Permitted Encumbrance must ensure that each Encumbrancee:

- (a) executes concurrently with the execution of the document evidencing the Encumbrance, a deed of covenant which must be substantially in the form set out in Schedule 4;
- (b) will then be bound by this document; and
- (c) expressly acknowledges that its charge ranks behind the security granted in the Cross Charge.

25.4 Notice of proposed Permitted Encumbrance

A party proposing the creation of a Permitted Encumbrance must give:

- (a) at least 15 Business Days' notice of its intention to create that Encumbrance; and
- (b) a copy of the instrument intended to create that Encumbrance (including the name and address of the proposed Encumbrancee),

to all other Venturers, and Encumbrancees of which that party has notice.

25.5 Objection to proposed Permitted Encumbrance

A Venturer may object to the form of a proposed Permitted Encumbrance within 10 Business Days after receipt of the notice referred to in clause 25.4(a) if that proposed Permitted Encumbrance does not comply with clauses 25.1 to 25.4. The form of a proposed Permitted Encumbrance will be treated as complying with those clauses if an objection to it is not received in accordance with this subclause.

25.6 Set off by Venturer purchasing under Encumbrance

Each Venturer (other than a Defaulting Venturer) that purchases all or part of a Participating Interest sold by or on behalf of an Encumbrancee may without notice to the Encumbrancee or the Defaulting Venturer combine any account that the Encumbrancee holds with that Venturer with, or set off any amount that is or may become owing by that Venturer to the Encumbrancee against any amount owing by the Defaulting Venturer to that Venturer under this document if the amount owing by the Defaulting Venturer is referable to the Participating Interest purchased. For this purpose that Venturer may:

- (a) change the terms (including the repayment date) of any account or other payment obligation between the Venturers;
- (b) convert amounts into different currencies in accordance with that Venturer's usual practice; and
- (c) do anything (including execute any document) in the name of the Encumbrancee which that Venturer considers necessary or desirable.

This subclause overrides any other document or agreement to the contrary.

25.7 Application of surplus

Except to the extent of the set off referred to in clause 25.6, the Encumbrancee must apply the sale proceeds in accordance with clause 17.2, but any surplus to which clause 17.2(d) would, except for this clause, apply must be applied in the following order

- (a) first in payment of the Encumbrancee's expenses of sale;
- (b) then in payment to discharge the encumbering Venturer's obligations to the Encumbrancee; and
- (c) then in payment to the encumbering Venturer.

25.8 Encumbrancee's rights

An Encumbrancee that becomes a mortgagee in possession, or becomes or appoints a receiver, of a Venturer's Participating Interest, and notifies the Operator of that fact, is entitled to:

- (a) receive all statements, notices and reports that a Venturer is entitled to receive; and
- (b) appoint and remove a representative on the Joint Venture Committee in place of the representative of that Venturer, as if it were that Venturer.

26. ASSIGNMENT AND AMENDMENT

26.1 Assignment to related corporations

Subject to clause 26.3, a Venturer may Assign all or part of its Participating Interest to any related corporation if:

- (a) that related corporation agrees in writing with the other Venturers to reassign the Participating Interest to the Assignor if for any reason the Assignee ceases to be a related corporation of the Assignor;
- (b) the Assignor agrees with the other Venturers to accept the reassignment; and
- (c) the Assignment does not result in any person having a Participating Interest of less than that permitted in accordance with clause 15.3.

26.2 Assignment to others

Subject to clause 26.3, a Venturer may also Assign all or part of its Participating Interest (**Assignment Interest**) to any person at the price and on the terms of a bona fide offer if that offer is in writing:

- (a) relates only to the Assignment Interest and on the basis that acceptance must be for all of the Assignment Interest offered;
- (b) is for cash and not for any other consideration;
- (c) is subject to the condition precedent that all necessary Authorisations from Government Agencies will be obtained;
- (d) would not result, if accepted, in any person having a Participating Interest of less than that permitted in accordance with clause 15.3; and
- (e) is not accepted by a Continuing Venturer within the time prescribed for acceptance by a Continuing Venturer by clause 26.7.

26.3 Restrictions on Venturer’s entitlement to Assign

Despite clauses 26.1 and 26.2, a Venturer must not Assign all or any part of its Participating Interest or any of its rights under the Transaction Documents until on and after the Farmin Completion Date.

26.4 Notice of offer

If a Venturer proposes to accept an offer in accordance with clause 26.2 that Venturer:

- (a) if it is a Founding Venturer, must notify only the other Founding Venturer (and not any other Continuing Venturer); or
- (b) if it is not a Founding Venturer or if it is a Founding Venturer but clause 26.6(b) applies, it must notify all the Continuing Venturers (including, as applicable, the other Founding Venturer),

of an offer referred to in clause 26.2 that it wishes to accept.

The notice must set out full details of the offer (including the consideration and the name and address of the offeror), and a copy of the offer documents must be attached to the notice.

26.5 Offer to Founding Venturer

If:

- (a) clause 26.4(a) applies, the notice given under that clause constitutes an offer by the Selling Venturer to sell the Assignment Interest to the other Founding Venturer at the price and subject to the terms of the offer referred to in clause 26.2, and is open for acceptance for a period of 60 Business Days after the date the notice under clause 26.4 (a) is given;
- (b) the Founding Venturer referred to in paragraph 26.5(a) does not accept that offer in relation to all the Assignment Interest offered by notice within the period specified in clause 26.5(a), then the Selling Venturer must give notice of the offer referred to in clause 26.2 in accordance with clause 26.4(b).

26.6 Notice constitutes offer

If:

- (a) a Selling Venturer gives notice under clause 26.4(b) or clause 26.5(b), that notice constitutes an offer by the Selling Venturer to sell the Assignment Interest to the Continuing Venturers at the price and subject to the terms of the offer referred to in clause 26.2;
- (b) there is more than one Continuing Venturer, the Selling Venturer must offer the Assignment Interest to each Continuing Venturer on the basis that acceptance must be for all of the Assignment Interest except in accordance with clause 26.6(c); and
- (c) more than one Continuing Venturer accepts the offer, they will purchase all the Assignment Interest offered in the proportions that their respective Participating Interests bear to each other (or in any other proportions they agree).

26.7 Duration of offer

A Selling Venturer can accept an offer referred to in clause 26.2 within 60 Business Days of the date of the offer if a Continuing Venturer does not or if the Continuing Venturers do

not accept the offer made in accordance with clause 26.6 in relation to all the Assignment Interest offered by notice within 30 Business Days after a notice under clause 26.4(b) or clause 26.5(b) was given.

26.8 Conditions of Assignment

An Assignment in accordance with this clause to a person who is not a Continuing Venturer is conditional on:

- (a) the Assignee entering into a deed substantially in the form set out in Schedule 6;
- (b) unless the Assignee has already given a Cross Charge under clause 11.1, the Assignee:
 - (i) executing and giving all Continuing Venturers a Cross Charge;
 - (ii) ensuring that the Cross Charge is registered (and not just provisionally) under the Companies Act;
 - (iii) ensuring that the Cross Charge is registered in any other places which a Continuing Venturer notifies to the Assignee if any Continuing Venturer is reasonably satisfied that registration is necessary or desirable to perfect the Cross Charge or to protect the rights of any Continuing Venturer under the Cross Charge;
 - (iv) obtaining all necessary Authorisations in relation to the Cross Charge and lodging them for registration in each jurisdiction required to perfect the Cross Charge;
 - (v) ensuring that the Cross Charge is stamped for the proper amount in each jurisdiction in which the cross charge is required to be stamped; and
 - (vi) doing everything necessary in each jurisdiction required to perfect the Cross Charge;
- (c) obtaining the consent of all Continuing Venturers (not to be unreasonably withheld or delayed); and
- (d) the Assignment being to a person who is, in each Continuing Venturer's reasonable opinion, financially responsible and technically competent.

26.9 Exceptions

Clauses 26.1 to 26.8 do not apply to Assignments:

- (a) constituted in an Encumbrance created in accordance with clauses 25.1 and 25.2; or
- (b) made in accordance with clause 17.5(e).

26.10 Amendment

This document can only be amended, supplemented, replaced or novated by another document signed by the Venturers.

27. NOTICES

27.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person’s address; or
 - (ii) sent by fax to that person’s fax number and the machine from which it is sent produces a report that states that it was sent in full.

27.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail:
 - (i) within Papua New Guinea — 3 Business Days after posting; or
 - (ii) to or from a place outside Papua New Guinea — 7 Business Days after posting.

27.3 Address for notices

A person’s address and fax number are those set out below, or as the person notifies the sender:

MCG
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

Newcrest
Address: Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: +61 3 9521 3564
Attention: Bernard Lavery

Operator
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

28. GENERAL

28.1 Governing law

- (a) This document is governed by the law in force in Papua New Guinea.
- (b) Each Venturer submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Papua New Guinea, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.
- (c) To the extent that any of the Venturers has or in the future acquires any immunity from the jurisdiction of any court or from any legal process (whether through suit, service of notice, attachment before judgment, attachment in aid of execution, any other enforcement or otherwise) with respect to itself or its property, each Venturer irrevocably waives that immunity in respect of its obligations under this document or otherwise in respect of the joint venture.

28.2 Expenses and Stamp Duty

Each Venturer must bear its own costs arising out of the negotiation, preparation and execution of this document. All stamp duty (including fines, penalties and interest) and other taxes and charges that may be payable on or in connection with the transfer of any Participating Interest in the Joint Venture must be borne by the transferor of the Participating Interest.

28.3 Giving effect to this document

- Each Venturer must do anything (including execute any transfer or other document in blank), and must ensure that its employees and agents do anything (including execute any transfer or other document in blank), that any other Venturer may reasonably require to:
- (a) give full effect to this document; and
 - (b) better secure the payment of all Called Sums and amounts due and payable to each Venturer under this document.

28.4 Waiver of rights

- A right may only be waived in writing, signed by the party giving the waiver, and:
- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
 - (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
 - (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

28.5 Operation of this document

- (a) This document and the Transaction Documents contain the entire agreement between the Venturers about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.

- (b) Any right or remedy that a person may have under this document is in addition to, and does not replace or limit, any other right or remedy that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.
- (d) Without limiting clause 28.5(a) to (c), clauses 1 (Interpretation), 4.3 (Venturer's liability), 8 (Intellectual Property and Information), 10 (Rehabilitation), 23.3 (Survival of claims and obligations), 24 (Confidentiality), and this clause 28 (General) remain in full force and continue to bind each Venturer despite any transaction or other thing (including the expiry or termination of this document or a Venturer ceasing to be a Venturer).

28.6 Operation of Indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A person may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

28.7 Consents

Where this document contemplates that the Venturer may agree or consent to something (however it is described), the Venturer may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
 - (b) agree or consent subject to conditions,
- unless this document expressly contemplates otherwise.

28.8 Statements

A statement by an authorised representative of a Venturer on any matter relating to this document (including any amount owing by the Venturer) is evidence of its contents.

28.9 No merger

Nothing in this document merges with any other Security Interest or any guarantee, judgment or other right or remedy, that a Venturer may hold at any time.

28.10 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a Venturer, or the exercise by a Venturer of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

28.11 Inconsistencies

- (a) If this document is inconsistent with any other document or agreement between the Venturers, this document prevails to the extent of the inconsistency, unless the inconsistency is with the Master Purchase and Farmin Agreement in which case the Master Purchase and Farmin Agreement prevails to the extent of the inconsistency.
- (b) If a schedule or annexure to this document is inconsistent with any provision of this document the provision prevails to the extent of the inconsistency.

28.12 Counterparts

This document may be executed in counterparts.

28.13 Attorneys

Each person who executes this document on behalf of a Venturer under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Schedule 1

JOINT VENTURE PROPERTY

The following items are included in “Joint Venture Property:”

A. Hidden Valley Tenements

Tenement No.	Title
ML 151	Hidden Valley
LMP 80	Repeater Tower
ME 82	Access Road

B. Plant, equipment and other property

Item	Description
Motor Vehicles	
CHVP081	Toyota 10 Seater Tro
CHVP200	TOYOTA LANDCRUISER U
CHVP201	TOYOTA LANDCRUISER P
CHVP202	TOYOTA LANDCRUISER P/
CHVP203	TOYOTA LANDCRUISER P/
CHVP204	TOYOTA LANDCRUISER P/
CHVP205	TOYOTA LANDCRUISER P/
CHVP206	TOYOTA LANDCRUISER P/
CHVP207	TOYOTA LANDCRUISER P/
CHVP208	TOYOTA LANDCRUISER P
CHVP209	TOYOTA LANDCRUISER P/
CHVP210	TOYOTA LANDCRUISER P/
CHVP211	TOYOTA LANDCRUISER P/
CHVP212	TOYOTA LANDCRUISER P/
CHVP213	TOYOTA LANDCRUISER P/
CHVP214	TOYOTA LANDCRUISER P
CHVP215	TOYOTA LANDCRUISER P/

Item	Description
CHVP216	TOYOTA LANDCRUISER P/
CHVP217	TOYOTA LANDCRUISER P/
CHVP225	TOYOTA LANDCRUISER U
CHVP226	TOYOTA LANDCRUISER U
CHVP227	TOYOTA LANDCRUISER U
CHVP228	TOYOTA LANDCRUISER U
CHVP229	TOYOTA LANDCRUISER U
CHVP230	TOYOTA LANDCRUISER U
CHVP231	TOYOTA LANDCRUISER U
CHVP232	TOYOTA LANDCRUISER U
CHVP233	TOYOTA LANDCRUISER U
CHVP234	TOYOTA LANDCRUISER U
CHVP235	TOYOTA LANDCRUISER U
CHVP236	TOYOTA LANDCRUISER U
CHVP237	TOYOTA LANDCRUISER U
CHVP250	HINO GT1JHPA 4X4 6.0
Office Equipment	
CHVP048	COMMUNICATIONS UPGRA
CHVP158	HP LASERJET 4350N PR
CHVP159	LATITUDE D620 LAPTOP
CHVP244	MULTI FUNCTION PRINT
CHVP519	HAMS SERVER, HIDDEN
CHVP522	COMBO PRINTER/SCANNE
CHVP135	COMPUTERS FOR TECHNI
CHVP136	SURPAC FOR TECHNICAL
CHVP176	WHITTLE LICENSE FOR
CHVP179	GEOTECHNICAL SOFTWAR
CHVP106	Dell laptop for Logi
CHVP107	2xAO-745SF — Dell

Item	Description
CHVP530	DELL LATITUDE D630 L
CHVP080	LEICA GS20 DIFFERENT
CHVP095	COMPUTERS FOR ACCESS
CHVP098	CANON IMAGE CLASS MF
CHVP101	5 X LAPTOPS FOR PROJ
CHVP249	GPS AND LASER SURVEY
CHVP300	HIDDEN VALLEY MINING
CHVP520	LAPTOP REPLACEMENT
	Plant/Machinery & Equipment
10129	MINOLTA SLR CAMERA
10130	MINOLTA SLR CAMERA
C032	POWERMATE WATER PUMP
C067	3xSOLAR PANELS — MT
C094	CURRENT METER AND AC
CHVP049	PRIMAVERA PROJECT PL
CHVP050	ENVIRONMENT OFFICE U
CHVP057	Range Gas 6 Burner O
CHVP078	CLOTHES WASHING MACH
CHVP093	DISHWASHER
CHVP099	SIMPSON 36S550 W/MAC
CHVP100	2 PAD DEEP FRYER MOD
CHVP103	REFRIGERATOR — ENVIR
CHVP104	GM HOUSE UPGRADE
CHVP108	2 Freezer and 2 chil
CHVP133	FG Wilson Generator
CHVP141	HV LAUNDRR — 3 ONLY
CHVP241	SATELLITE DISHES FOR
CHVP501	HAMATA CAMP WATER PU
HVSAT	HIDDEN VALLEY VSAT

Item	Description
CHVP134	BAIN MARIE FOR ACCES
CHVP164	TRAFFIC RADAR — ASSE
CHVP165	FIT FOR WORK KITS —
CHVP539	5 KVA GENSET FOR BOO
CHVP182	GEOTECHNICAL EQUIPME
CHVP183	PRISMS FOR GEOTECHNI
CHVP184	GEOTECHNICAL EQUIPME
CHVP092	26 SEA CONTAINERS
CHVP188	8 SHIPPING CONTAINER
CHVP243	28 SHIPPING CONTAINNE
CHVP166	LAPTOP FOR MOBILE MA
45COMMS	COMMUNICATIONS HIDDE
C099	STIHL 0 70 CHAINSAW—
C103	STUBBIE CORE SAW-T
CHVP026	SURVEY EQUIPMENTS
CHVP027	RADIOS
CHVP028	LIGHTING SETUP
CHVP029	FUEL SETUP
CHVP033	Hidden Valley Contai
CHVP046	GPS SYSTEM
CHVP052	W-450-1 BUCKET
CHVP053	350 LT CEMENT MIXTUR
CHVP054	LINCOLN WELDER
CHVP079	SIMULATOR — MINING E
CHVP091	6X THROAT OPERATED C
CHVP094	ROCK GRAPPLE AND QUI
CHVP102	15 KW GENSET ELECTRI
CHVP140	SURVEY EQUIPMENT
CHVP167	AUTO WEATHER STN (AW

Item	Description
CHVP180	2 X DIESEL POWERED F
CHVP185	SURVEY EQUIPMENT FOR
CHVP187	MINING SOFTWARE REQU
CHVP367	2 X CHAINSAWS, 36”B
CHVP518	DIESEL POWERED WATER
Property, Plant & Equipment	
CHVP001	KOMATSU PC400 — EXC.
CHVP002	KOMATSU PC400 — EXC
CHVP003	KOMATSU PC400 — EXCA
CHVP004	PC400 KOMATSU EXCAVA
CHVP005	KOMATSU PC300 — EXCA
CHVP006	KOMATSU PC200 — EXCA
CHVP007	KOMATSU PC200 — EXCA
CHVP008	KOMATSU D65EX BULDOZ
CHVP009	KOMATSU D85 BULDOZER
CHVP010	KOMATSU D85 BULDOZER
CHVP011	KOMATSU D155 BULDOZE
CHVP012	KOMATSU D155 BULDOZE
CHVP013	KOMATSU D275 BULDOZE
CHVP014	KOMATSU HM300 DUMP T
CHVP015	KOMATSU HM300 DUMP T
CHVP016	KOMATSU HM300 DUMP T
CHVP017	KOMATSU HM300 DUMP T
CHVP018	KOMATSU HM300 DUMP T
CHVP019	KOMATSU HM300 DUMP T
CHVP020	KOMATSU HM300 DUMP T
CHVP021	KOMATSU WA450 — WHEE
CHVP022	KOMATSU GD655 — MOTO
CHVP023	JQ 1175 JAW CRUSHER

Item	Description
CHVP024	SD100-DC DRUM ROLLER
CHVP025	SD100-DC DRUM ROLLER
CHVP034	TOYOTA L/C P/CARRIER
CHVP035	TOYOTA L/C P/CARRIER
CHVP036	TOYOTA L/C P/CARRIER
CHVP037	TOYOTA L/C P/CARRIER
CHVP038	TOYOTA L/C P/CARRIER
CHVP039	TOYOTA L/C PICKUP 5S
CHVP040	TOYOTA L/C P/CARRIER
CHVP042	AL-D610 — DELL LATIT
CHVP045	KOMATSU GD655-3A MOT
CHVP084	KOMATSU TRACKED DOZE
CHVP085	KOMATSU EXCAVATOR, P
CHVP086	INGERSOLL RAND SURFA
CHVP087	KOMATSU ARTICULATED
CHVP088	KOMATSU ARTICULATED
CHVP090	KOMATSU EXCAVATOR, P
CHVP111	KOMATSU D155a CRAWLE
CHVP112	KOMATSU EXCAVATOR, P
CHVP113	KOMATSU EXCAVATOR, P
CHVP114	KOMATSU EXCAVATOR, P
CHVP115	KOMATSU EXCAVATOR, P
CHVP116	KOMATSU ARTICULATED
CHVP117	KOMATSU ARTICULATED
CHVP118	KOMATSU ARTICULATED
CHVP119	KOMATSU ARTICULATED
CHVP120	KOMATSU ARTICULATED
CHVP121	KOMATSU ARTICULATED
CHVP109	KOMATSU TRACKED DOZE

Item	Description
CHVP110	KOMATSU TRACKED DOZE
CHVP125	KOMATSU EXCAVATOR, P
CHVP126	KOMATSU EXCAVATOR, P
CHVP127	KOMATSU TRACKED DOZE
CHVP128	KOMATSU TRACKED DOZE
CHVP129	KOMATSU TRACKED DOZE
CHVP130	KOMATSU ARTICULATED
CHVP131	KOMATSU ARTICULATED
CHVP132	KOMATSU ARTICULATED

B. Hidden Valley Contracts Schedule

Dataroom Reference	Description	Entity	Third Party
01.05.007	Morobe — Power Supply Agreement	MCG	PNG Power Ltd
01.05.008	Power Supply Agreement	MCG	PNG Power Ltd
12.01.05.002	Deed of Charge June 1997	MCG	Rio Tinto Limited
12.01.05.003	Financing of Mining Fleet for the Hidden Valley Project	MCG	ANZ Harmony Gold Australia Limited
12.01.05.007	ISDA 2002 Master Agreement (Schedule)	MCG	Mitsui & Co Precious Metals Inc
12.01.05.008	Letter of Guarantee	MCG	Mistui & Co Precious Metals Inc
12.01.05.009	Letter — Australian Goldfields NL (Administrators Appointed) Morobe Goldfield	MCG	Australian Gold Fields NL Commonwealth Development Corporation Aurora Gold Ltd
12.01.05.010	Deed of Termination and Release related to the Wau Sale Agreement	MCG	Goldfields PNG Mining Limited Goldfields Porgera Limited Hidden Valley Joint Venture Agreement

				Blake Dawson
Dataroom Reference	Description	Entity	Third Party	
			Australian Goldfields NL	
12.01.05.011	Deed of Termination and Release	MCG	Goldfields PNG Mining Limited	
			Australian Gold Fields NL	
12.01.05.013 (12.03.05.012) (12.03.05.013)	Deed of Release and Indemnity	MCG	CDC Financial Services (Mauritius) Ltd	
			Kula Fund Limited	
			CDC Group pic	
			Aurora Gold Ltd	
			Aurora Gold PNG Pty Limited	
12.01.05.014 (12.03.05.014) (12.03.05.017)	Deed of Accession and Adherence 6 December 1999	MCG	Aurora Gold Ltd	
			Aurora Gold PNG Pty Limited	
12.01.05.015	Notice of Assignment 17 December 1999	MCG	CDC Financial Services (Mauritius) Ltd	
			Kula Fund Limited	
12.01.05.016 (12.03.05.006)	Deed of Assignment	MCG	CDC Financial Services (Mauritius) Ltd	
			Aurora Gold PNG Pty Limited	
			Kula Fund Limited	
12.01.05.018	Letter — Acceptance of Exchange Control Conditions	MCG	Exchange Control Department, Bank of Papua New Guinea	
12.01.05.019	Master Lease Facility Agreement	MCG	Westpac Bank PNG Limited	
12.01.05.020	Letter — Confirmation of Financial Support to Hidden Valley Project	MCG	Harmony Gold Mining Company Limited	
12.01.05.021	Letter — Master Lease Agreement	MCG	Westpac Bank PNG Limited	
12.01.05.022	Terms and Conditions	MCG	Westpac Bank PNG Limited	
			UMW Nuigini Limited	
12.01.07.002	Catering, General Maintenance and Cleaning Services Agreement	MCG	NCS (Hidden Valley) Limited	
			Hidden Valley Joint Venture Agreement	

				Blake Dawson
Dataroom Reference	Description	Entity	Third Party	
12.01.07.003	Supply of Office Cleaning Maintenance Services	MCG	Pro-Clean Limited	
12.01.07.005	Customer Agreement	MCG	Telikom PNG Limited	
12.01.05.029	Deed of Guarantee and Indemnity	MCG	Harmony Gold Mining Company Limited	
			Orica Australia Pty Ltd	
12.01.06.007	Agreement for the Provision of Personal Protective Equipment	MCG Wafi	Bishop Brothers Engineering Pty Ltd	
12.01.07.010	Supply of Domestic and International Air Travel and Accommodation Services	Wafi HGA	Corporate Travel Management	
			Harmony Gold (PNG Services) Pty Limited	
			Harmony Gold Operations Ltd	
12.01.07.011	Agreement for the Provision of Light Vehicle Tyres	MCG	Bridgestone Tyres (PNG) Ltd	
12.01.07.012	Bus Services — Variation of Contract	MCG	NKW Holdings Limited	
12.01.07.013	Invitation to Become an Approved Service Provider HT1003 — Contract for Supply of Bus Service Between Hidden Valley and Lae	MCG	NKW Holdings Limited	
12.01.07.014	Award for Workwear — Morobe and Wafi	MCG Wafi	FRG Clothing Ltd	
12.01.07.015	Invitation to Become an Approved Service Provider HT1008 — Storage and Maintenance of Generators	MCG	Hastings Deering Pty Ltd	
12.01.07.016	Invitation to Become an Approved Service Provider HT1010 — Revegetation of Access Road	MCG	NKW Holdings Limited	
12.01.07.018	Contract for Construction Management Services	MCG	Ausenco International Pty Ltd	
12.01.07.019	Contract for	MCG	Ausenco International	
			Hidden Valley Joint Venture Agreement	

Blake Dawson			
Dataroom Reference	Description	Entity	Third Party
	Engineering, Procurement and Management Services — Gold Plant		Pty Ltd
12.01.07.020	Maintenance of Mining and Construction Equipment.	MCG	UMW Nuigini limited
12.01.07.021	Customer Support Agreement	MCG	Immersive Technologies Pty Ltd
12.01.07.022	Invitation to become an Approved Service Provider — Labour Hire	MCG	NKW Holdings Ltd
12.01.07.023	Invitation to Become an Approved Service Provider HT1078 — Supply of Medical Services	MCG	JTA Corporate Pty Ltd
12.01.07.026	Award of HT1017 — Fuel and Lubricants Contract Including Disposal of Waste Oil if Required	MCG	Interoil Products Limited
12.01.07.027	Buloio Airport Licence	MCG	PNG Forest Productions Limited
12.01.07.028	Air Charter Award	MCG Wafi	Airlines PNG
12.01.07.029	Catering and General Maintenance Contract for the Morobe Compound and offices of Wau	MCG	NKW Holdings Limited
12.01.07.03	Sodium Cyanide Supply Agreement	MCG	Orica Australia Pty Ltd
12.01.07.030	Award for HT1097 Hidden Valley Sample Prep Facility & Grade Control Assays	MCG	ITS PNG Ltd
12.01.10.002 (12.03.10.006)	Share Sale Agreement	MCG	Pacific Minerals Pty Limited CRA Limited CRA Exploration Pty Limited Australian Gold Fields NL Hidden Valley Joint Venture Agreement

Blake Dawson			
Dataroom Reference	Description	Entity	Third Party
12.01.10.003	Wau Sale Agreement	MCG	Goldfields PNG Mining Pty Limited Goldfields Porgera Pty Limited Australian Gold Fields NL
12.01.10.004 (12.03.10.008) (12.03.10.010)	Shareholders Agreement	MCG	Commonwealth Development Corporation Aurora Gold Ltd Aurora Gold PNG Pty Limited
12.01.10.006	Formal Instrument of Agreement	MCG Wafi	Richard Jackson
12.01.10.007	Agreement to Engage Firm for Tax Services	MCG Wafi	PriceWaterhouseCoopers
12.02.10.002 (12.02.10.032) (12.04.10.001)	Share Sale Agreement	Wafi	Rio Tinto Minerals (PNG) Limited Rio Tinto Exploration Pty Limited
12.02.10.004 (12.02.10.031) (12.04.10.002)	Wafi Share Sale Agreement and Consent Deed	Wafi	Rio Tinto Minerals (PNG) Limited Rio Tinto Exploration Pty Limited Abelle Limited
12.01.10.016	Compensation Agreement (Review)	Wafi	Rio Tinto Pty Ltd
12.01.10.016	Compensation Agreement for the Hidden Valley Project	MCG	The Landowners of Mining Easement No. 82
12.01.10.016	Compensation Agreement	MCG	The Landowners of the Project Tenements Mining Lease No. 151 and the Lease for Mining Purposes No. 80
12.01.10.016	Environment Compensation Agreement	MCG	Landowner Leaders of Nauti, Paramamanga, Manki and Biangai Villages Hidden Valley Joint Venture Agreement

Blake Dawson			
Dataroom Reference	Description	Entity	Third Party
12.01.10.016	Memorandum of Agreement	MCG	The Independent State of Papua New Guinea The Morobe Provincial Government The Nakuwi Association Inc The Wau Rural Local Level Government The Watut Rural Local Level Government The Wau Bulolo Urban Local Level Government
12.01.10.018	Memorandum of Understanding and Agreement on Projects for Hidden Valley Landowners January 1997	—	The Morobe Administration Hidden Valley Gold Landowners CRA Minerals (PNG) Pty Limited
12.01.10.024	Mutual Non-Disclosure and Non-Circumvention Agreement 14 February 2006	MCG	EPac-Acron Pty Ltd
12.02.10.017 (12.01.18.003)	Corporate Advisory Role — PNG Royalties	Wafi MCG	Standard Bank Plc
12.01.10.034	Supply of Mining Equipment — Hidden Valley Project	MCG	UMW Nuigini Limited
12.02.10.024 (12.03.07.001)	Logistic Services Agreement	MCG Wafi	Toll North Pty Ltd
12.01.10.036	Co-Siting & Distribution Agreement	MCG	Security Systems Ltd
12.01.10.037	Deed of Termination and Release of Charge upon MCG	MCG	Rio Tinto Limited
12.01.10.040	Co-Siting and Distribution Agreement	MCG	Telikom PNG Limited
12.01.10.042	Agreement for the Transportation of Dry Goods and General Commodities	MCG	Pagini Transport Limited
Hidden Valley Joint Venture Agreement			

Blake Dawson			
Dataroom Reference	Description	Entity	Third Party
12.01.10.043	Agreement for the Provision of Security Services	MCG	Kuima Security Services Limited
12.01.10.044	Agreement to use Aggregate Hopper	MCG	Morobe Concrete Productions Ltd
12.01.10.045	Contract Variation -Dyno Nobel Asia Limited	MCG	Dyno Nobel Asia Pacific Limited
12.01.10.047	Award for HT1080 Hidden Valley Gold Project Road Maintenance	MCG	HBS Machinery Ltd NKW JV trading as Hidden Valley Contractors Limited
12.01.10.048	Consulting Services Agreement	MCG	ProMet101 Consulting PtyLtd
12.01.10.049	Award for Light Maintenance Lae	MCG	Highway Truck & Car Repairs Ltd
12.01.12.001	Award of Administrative Assistance/Support to the PNG Manager Corporate Affairs	MCG	Simon Anakapu
12.01.18.001 (12.03.18.001)	Royalty Deed June 1997	MCG	Rio Tinto Limited Pacific Minerals Pty Limited Australian Gold Fields NL
12.01.18.002 (12.03.18.002)	Royalty Deed July 1997	MCG	
12.01.18.004	Agreement of Sale of Interest in Royalty Deed	MCG	Harmony Gold Mining Company Rio Tinto Limited Rio Tinto Minerals (PNG) Limited
12.01.18.005	Deed of Assignment, Assumption and Release Royalty Deed	MCG	Harmony Gold Mining Company Harmony Gold (PNG Services) Pty Limited Rio Tinto Limited Rio Tinto Minerals (PNG) Limited Abelle Limited
12.01.18.006	Deed of Termination and Release	MCG	Goldfields PNG Mining Limited
			Hidden Valley Joint Venture Agreement

Blake Dawson			
Dataroom Reference	Description	Entity	Third Party
			Australian Gold Fields NL (Administrators Appointed)
12.01.18.007	Extension to Sale and Purchase of Hidden Valley Royalty	MCG	Rio Tinto Limited
			Rio Tinto Minerals (PNG) Limited
12.01.18.008	Deed of Termination and Release of Charge	MCG	Rio Tinto Limited
12.01.18.009	Deed of Termination and Release of Charge	MCG	Rio Tinto Limited
12.01.18.010	Deed of Assignment, Assumption Royalty Deed	MCG	Rio Tinto Limited
			Rio Tinto Minerals (PNG) Limited
			Harmony Gold Mining Company Limited
			Abelle Limited
			Harmony Gold (PNG Services) Pty Limited
12.01.19.001	Compensation Agreement 5 August 2005	MCG	The Landowners of ME 82
12.01.19.002	Compensation Agreement 5 August 2005	MCG	The Landowners of ML 151 and LMP 80
12.01.19.003	Tenement Sale Agreement	MCG	Yuan Otei
12.01.19.004	Tenement Sale Agreement Letter	MCG	Yuan Otei
12.01.21.003	Letter of Termination Pine Lodge 7 February 2005	MCG	Jabanardi Limited
12.01.21.015	Contract for Sale of Land Pine Lodge Bulolo	MCG	Jabanardi Limited
12.03.05.009	Intercreditor Agreement	MCG	HGM (Isle of Man) Pty Ltd
			Westpac Banking Corporation
			Westpac Bank PNG Limited
			Harmony Gold (PNG Services) Pty Limited
			Hidden Valley Joint Venture Agreement

Dataroom Reference	Description	Entity	Third Party
			Harmony Gold Mining Company Limited
12.01.21.007	Agreement of Lease	MCG	Consort Express Lines Limited

C. Leased Plant and Equipment

ITEM	DESCRIPTION
CHVP058	KOMATSU HAUL TRUCK,
CHVP059	KOMATSU HAUL TRUCK,
CHVP060	KOMATSU HAUL TRUCK,
CHVP061	KOMATSU HAUL TRUCK,
CHVP062	KOMATSU HAUL TRUCK,
CHVP063	KOMATSU HAUL TRUCK,
CHVP064	KOMATSU HAUL TRUCK,
CHVP065	KOMATSU HD785-7 DUMP
CHVP066	KOMATSU EXCAVATOR, P
CHVP067	KOMATSU EXCAVATOR, P
CHVP068	ATLAS COPCO ECM 720
CHVP069	ATLAS COPCO ECM 720
CHVP070	ATLAS COPCO ECM 720
CHVP071	ATLAS COPCO ECM 720
CHVP072	KOMATSU WATER TRUCK,
CHVP073	KOMATSU SERV TRUCK,
CHVP074	KOMATSU TRACKED DOZE
CHVP075	KOMATSU TRACKED DOZE
CHVP076	KOMATSU SURFACE GRAD
CHVP077	KOMATSU SURFACE GRAD
CHVP143	KOMATSU EXCAVATOR, P
CHVP144	KOMATSU HD785 DUMP T
CHVP145	KOMATSU HD785 DUMP T

ITEM	DESCRIPTION
CHVP146	KOMATSU HD785 DUMP T
CHVP147	KOMATSU HD785 DUMP T
CHVP148	KOMATSU HD785 DUMP T
CHVP149	KOMATSU HD785 DUMP T
CHVP150	KOMATSU HD785 DUMP T
CHVP151	KOMATSU D275A TRACK
CHVP152	KOMATSU GD825A MOTOR

Schedule 2

ACCOUNTING PROCEDURE

1. GENERAL

1.1 Definitions

The following definitions apply in this document:

Audit means an audit of the Joint Account and the Operator conducted in accordance with section 2.5, and **Auditor** means the registered company auditor appointed to conduct that audit.

Cost has the meaning given to that term in section 4.

Joint Account means the accounts maintained by the Operator in accordance with the Joint Venture Agreement and section 2, and **for the Joint Account** or **to the Joint Account** means for the account, expense, risk or benefit of each Venturer in accordance with its Participating Interest.

Statement means a statement given under clause 12.3 and section 2.2.

1.2 Joint Venture Agreement definitions

Any term used in this document that is not defined in this document but is defined in the Joint Venture Agreement has the meaning given to it in the Joint Venture Agreement unless it is specifically defined in this document.

1.3 Rules for interpreting this schedule

- (a) All rules for interpreting the Joint Venture Agreement apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) All references to **sections** are references to sections in this document.
- (c) All references to **clauses** are references to clauses in the Joint Venture Agreement.
- (d) If anything in this document is inconsistent with any established accounting practice or principle prevailing in the mining industry in Australia, Papua New Guinea and South Africa, the practice or principle prevails to the extent of the inconsistency.

2. FINANCIAL MATTERS

2.1 Joint Account

The Operator must keep and maintain separate books of account that record all:

- (a) charges and credits made by the Operator or any Venturer conducting operations under the Joint Venture Agreement that are chargeable to the Venturer
- (b) funds received by the Operator from any Venturer; and

- (c) receipts obtained by the Operator in connection with operations conducted under the Joint Venture Agreement.

2.2 Statements and billings

The Operator must send a statement to each Venturer every month that includes:

- (a) the matters specified in clause 12.3; and
- (b) details in relation to that month concerning:
 - (i) charges and credits to the Joint Account summarised by appropriate classifications indicating the nature of those charges and credits; and
 - (ii) any other charges and credits.

2.3 Payments by Venturers

Each Venturer must pay its proportion of all expenses specified in a Statement in accordance with the Joint Venture Agreement.

2.4 Adjustments

- (a) If a Venturer pays an amount specified in a Statement, that payment does not prejudice its right to protest or question the correctness of all or any part of the Statement.
- (b) A Statement sent by the Operator on any matter relating to this document or the Joint Venture Agreement (including amounts owing) will be conclusive unless:
 - (i) an exception specified in section 2.4(c) or section 2.6(a) applies; or
 - (ii) a Venturer:
 - (A) gives the Operator notice of its opinion within 12 months after the end of month in which that Statement is sent; and
 - (B) requests the Operator to make an adjustment to that Statement.
- (c) Adjustments resulting from:
 - (i) a physical stocktake of Joint Venture Property in accordance with section 7; or
 - (ii) the discovery by a Venturer of the Operator's Wilful Misconduct or manifest error,are permissible.

2.5 Audits

- (a) The Joint Venture Committee must appoint an Auditor to conduct an Audit at least once every financial year or at any other intervals the Joint Venture Committee decides.
- (b) An Audit must be limited to 2 financial years of the Joint Venture ending on the last day of the most recent complete financial year.

- (c) A Venturer may, at its own expense, cause an Audit to be conducted by notifying the Operator at least 20 Business Days before the commencement of the Audit.
- (d) If more than one Venturer requires an Audit, each Venturer requiring the Audit must make every reasonable effort to conduct joint or simultaneous Audits that will cause the Operator minimum inconvenience.
- (e) If a material discrepancy is disclosed by an Audit, the Operator must charge the expense of that Audit to the Joint Account.

2.6 Claims

- (a) A Venturer may protest or question the correctness of, or make a claim on the Operator for, any discrepancy or irregularity disclosed by an Audit within 6 months after completion of that Audit.
- (b) An Audit will be regarded as complete when a copy of the Auditor's report is delivered to each Venturer.

3. DEVELOPMENT AND OPERATING CHARGES

3.1 Charges to Joint Account

The Operator is responsible for the payment of, and may charge the Joint Account with, all costs incurred or to be incurred for the purpose of achieving the Objects of the Joint Venture (including the items referred to in sections 3.2 to 3.17) if those costs:

- (a) have been or are to be incurred in accordance with an Operating Program and a Budget; or
- (b) are otherwise authorised by the Joint Venture Agreement.

3.2 Tenement costs

- (a) Rentals, rates, compensation and all other costs relating to the Tenements.
- (b) Royalties relating to Mineral Products produced.
- (c) Any charge, fee, payment or other consideration payable in relation to any Authorisation required for the purposes of the Joint Venture Agreement or the Joint Venture or both.

3.3 Labour

- (a) Salaries and wages of employees and amounts to or on account of consultants of a Venturer or the Operator who are directly engaged on any Operating Program (including salaries and wages paid to employees and amounts to or on account of consultants who are temporarily assigned to, and directly employed in, any Operating Program.)
- (b) Salaries and wages of employees and amounts to or on account of consultants of a Venturer or the Operator who the Operator uses to perform or supervise operations under the Joint Venture Agreement and whose time is not charged to the Joint Venture/who are not engaged in operations under the Joint Venture Agreement full time, must be charged proportionately to the time actually devoted to those operations.

- (c) Reasonable travelling and living expenses of employees and consultants referred to in sections 3.3(a) and (b) when occupied with operations under the Joint Venture Agreement away from their usual place of employment.
- (d) Holiday leave, long service leave, workers' compensation, sickness and disability benefits, and other customary allowances applicable to:
 - (i) the salaries and wages chargeable under sections 3.3(a) and (b); or
 - (ii) the engagement of consultants in accordance with those paragraphs.Those costs are to be reasonably determined by the Operator and may be charged on a "when and as accrued basis" on the salaries, wages and other amounts chargeable under paragraphs (a) and (b) and apportioned over the period the relevant services are provided to the Joint Venture.
- (e) Costs imposed by any Government Agency that apply to the salaries, wages and other amounts charged under paragraphs (a) and (b) (including salaries and wages tax, fringe benefits tax and superannuation guarantee charge).
- (f) All costs incurred by the Operator in the performance of its duties under the Joint Venture Agreement that are:
 - (i) of an overhead nature; and
 - (ii) not referred to in sections 3.3(a) to (e) or section 3.4,apportioned as appropriate between the Joint Venture and the Operator's other activities but excluding the Operator's head office administrative expenses, corporate audit expenses, share registry expenses and similar overhead charges on the basis that it is intended and agreed that the Operator should not make a profit or loss by acting in that capacity.

3.4 Employee benefits

- (a) The Operator's actual cost of employees' field allowances, bonuses, travelling and living expenses, group life insurance, medical, superannuation, retirement and other benefits of a similar nature.
- (b) Costs imposed by any Government Agency that apply to matters charged under paragraph (a) (including fringe benefits tax and similar Taxes).

3.5 Materials

- (a) Materials, equipment and supplies hired, leased or purchased or supplied by the Operator or any of the Venturers for the purposes of the Joint Venture Agreement or the Joint Venture or both (including surface, underground and shaft equipment, expendable stores and materials, power, water and tools).
- (b) Costs chargeable under section 3.5(a) include costs of installation, loading, unloading and handling.
- (c) The Operator must:
 - (i) only acquire quantities of materials that are required for immediate use for the Joint Venture; and
 - (ii) avoid the accumulation of surplus stocks,

to the extent that it is reasonably practical and consistent with efficient and economic operation.

3.6 Transportation

- (a) Transportation costs of or in relation to personnel, equipment, material and supplies necessary for conducting any Operating Program, including the costs of:
 - (i) repairs and maintenance of vehicles;
 - (ii) vehicles purchased, rented or otherwise obtained for or in connection with operations under the Joint Venture Agreement; and
 - (iii) transportation of personnel from their residence to the JV Area.
- (b) If transportation referred to in section 3.6(a) is used partly for the purposes of the Joint Venture and partly for other purposes, the cost of transportation must be rateably apportioned according to usage between the Joint Venture and those other purposes.

3.7 Services

- (a) The cost of services obtained from third parties. These costs include the cost of Audits and amounts paid to or on account of contractors for or in connection with:
 - (i) earthmoving;
 - (ii) surveying;
 - (iii) construction of Joint Venture Facilities;
 - (iv) trucking;
 - (v) mapping and photography;
 - (vi) chartered aircraft (including helicopters);
 - (vii) blasting, drilling and dredging;
 - (viii) shaft sinking;
 - (ix) mining (including site preparation, underground development, open pit development, cutting and drifting, raising and stoping);
 - (x) assaying and analysis of samples;
 - (xi) processing;
 - (xii) geophysics;
 - (xiii) metallurgical testing;
 - (xiv) water searching and production;
 - (xv) food, messing and accommodation;
 - (xvi) the provision of water, electricity (including power station management costs) and gas;

- (xvii) security services;
 - (xviii) technical services; and
 - (xix) other services, if any,
- and any other operations conducted in connection with any Operating Program.

(b) The cost of using the Operator's exclusively owned equipment and facilities in accordance with section 4.4.

3.8 Damages and losses to Joint Venture Property and equipment

- (a) All costs necessary to replace or repair damage or loss to Joint Venture Property and equipment caused by fire, flood, storm, theft, accident or any other cause.
- (b) The Operator must give each Venturer notice of damage or loss to Joint Venture Property and equipment incurred as soon as practical after the Operator learns of it but only if the damage or loss exceeds \$10,000.

3.9 Legal costs

All costs of litigation or other legal services necessary or expedient for the conduct of Joint Venture affairs and protection of Joint Venture Property, including:

- (a) solicitors' and barristers' fees and expenses;
- (b) judgments obtained against a Venturer on account of operations under the Joint Venture Agreement in the conduct of those operations); and
- (c) all costs incurred by a Venturer in securing evidence for defending against any action or claim prosecuted or threatened against the Joint Venture, Joint Venture Property or the subject matter of the Joint Venture Agreement.

3.10 Taxes and agency fees

All:

- (a) Taxes paid by the Operator for the benefit of the Venturers (including excise, customs and other duties, goods and services tax, salaries and wages tax, fringe benefits tax and other charges of a similar nature); and
- (b) agency fees payable on or in relation to services contracted and materials purchased for or in connection with operations under the Joint Venture Agreement,
- (a) but excluding Taxes assessed in connection with the ownership and sale of Mineral Products after production and allocation to Venturers.

3.11 Insurance and claims

- (a) Premiums paid for insurance in accordance with the Joint Venture Agreement and all expenditure incurred and paid in settlement of losses, claims, damages or judgments not recovered from an insurer and not excepted in section 3.9.
- (b) if no insurance is required, all actual expenditure incurred and paid by the Operator in settlement of all losses, claims, damages or judgments not excepted in section 3.9.
- (c) The Operator must receive the following for the Joint Account:

- (i) any payment made by an insurer in settlement of a claim made under an insurance policy carried for the benefit of the Joint Venture; and
- (ii) any award of an arbitrator or court arising out of a claim.

3.12 Shared services

- (a) A proportion of:
 - (i) the salaries, wages, fees and expenses of the Operator's employees and consultants serving the Joint Venture whose time is not allocated directly to the Joint Venture, based on the time spent on operations under the Joint Venture Agreement in the JV Area;
 - (ii) the cost of establishing, maintaining and operating:
 - (A) a production office in the JV Area; and
 - (B) any necessary suboffice maintained in connection with that office, and
 - (iii) all necessary camps (including housing facilities for employees and consultants if required), roads, helipads and airstrips established to facilitate the conduct of operations under the Joint Venture Agreement in the JV Area.
- (b) The cost of the facilities referred to in section 3.12(a) is to be calculated by:
 - (i) deducting revenue from those facilities; and
 - (ii) including depreciation or a fair monthly rental in lieu of depreciation where those facilities serve more than one project.
- (c) Charges must be apportioned to each project served on an equitable basis consistent with the Operator's accounting practice but subject to section 1.3(d).
- (d) Costs charged under this section include the cost of:
 - (i) office supplies, telephone, email and facsimile charges and other operating costs of the production office referred to in section 3.12(a); and
 - (ii) shared transport costs including chartered aircraft and helicopters; and
 - (iii) construction, maintenance and operation of stores, machine shops and other facilities.

3.13 Depreciation

- (a) In relation to plant and equipment actually owned by the Operator and used for the purposes of the Joint Venture, depreciation at rates:
 - (i) in accordance with the Operator's usual practice; and
 - (ii) consistent with what is permitted under the *Income Tax Act* 1959 (as amended), jointly, as applicable,

but excluding:

- (iii) any item whose cost has been charged under any other section of this document); and
 - (iv) the amount of any depreciation charged under section 3.12; and
 - (v) the amount of any depreciation charged under sections 4.4(a)(ii) and 4.4(a)(iii).
- (b) If an item is used partly for the purposes of the Joint Venture and partly for other purposes, the depreciation charged must be rateably apportioned according to usage between the Joint Venture and those other purposes.
- (c) If the Operator receives rent for a depreciable item, depreciation cannot be charged under this subsection.

3.14 Rehabilitation costs

- (a) Any amounts the Operator reasonably estimates (by applying prudent accounting principles) are required to make provision for estimated rehabilitation costs arising due to operations under the Joint Venture Agreement in the JV Area.
- (b) The Venturers authorise the Operator to pay those amounts as and when they arise using capital and accrued interest in that sinking fund.

3.15 Capital usage charges

To the extent that the Operator or a Venturer makes property or other capital items available for use by the Joint Venture, a reasonable amount representing:

- (a) rent or hire charge for that property or other capital item; or
- (b) the net cost (based, where appropriate, on the cost of borrowings equivalent to the cost price of that property or other capital item) to the Operator or that Venturer of acquiring and managing that property or capital item, after taking into account:
 - (i) any receipts received from third parties; and
 - (ii) any outgoings together with administration costs incurred by that Venturer (including overheads).

3.16 Cost of securities

If the Operator or a Venturer provides a security deposit, bond or other security in connection with any Authorisation or Joint Venture Asset, an amount representing the cost of:

- (a) borrowings equivalent to the amount of the security deposit; or
- (b) any other expenses of providing that security deposit, bond or other security.

3.17 Other expenses

Any other expenses not referred to in sections 3.2 to 3.16 properly incurred by the Operator for the conduct of operations under the Joint Venture Agreement in the JV Area to the extent that those expenses are included in an Operating Program and a Budget (including first aid and safety expenses).

4. BASIS OF CHARGES TO THE JOINT ACCOUNT

4.1 Purchases

- (a) Services obtained by the Operator for the Joint Venture must be charged at the price actually paid by the Operator after deducting all discounts actually received.
- (b) Materials, equipment and supplies purchased or supplied by the Operator for the Joint Venture must be charged on the basis of Cost.

For the purposes of this document **Cost** means the actual, current local or landed costs determined as follows:

- (c) **(Class A)** for imported materials, equipment and supplies, Cost includes:
 - (i) net invoice prices of manufacturers (after deducting all trade and cash discounts actually received) plus goods and services and other Taxes (if any), fees or costs paid to third parties for purchasing, shipping, insurance premiums, transportation to the loading place, crating and handling costs;
 - (ii) transportation to port of entry, customs fees and similar importation costs;
 - (iii) any other applicable duties; and
 - (iv) unloading of ships and aeroplanes to the customs warehouse and handling transportation from the customs warehouse to the Operator’s warehouse or the JV Area; and
- (d) **(Class B)** for materials, equipment and supplies acquired in Papua New Guinea, Cost includes:
 - (i) the net invoice price of manufacturers (after deducting all trade and cash discounts actually received) plus goods and services and other Taxes (if any); and
 - (ii) transportation and other costs incurred from the time and place of purchase until delivery to the Operator’s warehouse or the JV Area.

4.2 Prices

Materials specified in section 4.1 as Class “A” or “B” required for operations under the Joint Venture Agreement in the JV Area must be purchased for direct charge to the Joint Account when practical, but the Operator may apply those materials from its own stocks on the following conditions:

- (a) new materials: at Cost (condition “A”);
- (b) second hand and used materials: (conditions “B” and “C”);
 - (i) material that is in sound and serviceable condition and is suitable for reuse without reconditioning is to be classed as condition “B” and priced at 75% of Cost; and
 - (ii) material that cannot be classified as condition “B” but:
 - (A) after reconditioning at the cost of the Joint Account will be serviceable for its original function as good second hand material; or

(B) is serviceable for its original function but is substantially unsuitable for reconditioning,
is to be classed as condition “C” and priced at 50% of Cost;

- (c) material that cannot be classified as condition “B” or condition “C” is to be priced at a value commensurate with its use; and
- (d) tanks, buildings and other equipment involving erection costs must be charged at “knocked down” cost.

4.3 Warranty of materials supplied by the Operator

The Operator does not warrant materials supplied by it beyond any dealer’s or manufacturer’s warranty.

4.4 Operator’s exclusively owned equipment and facilities

- (a) The following rates apply to services rendered to the Joint Venture for equipment and facilities owned exclusively by the Operator.
 - (i) water, fuel, power, compressor and other auxiliary services: at rates equal to the cost of providing them to the Joint Venture;
 - (ii) automotive equipment: at rates equal to the cost of ownership and operation. (Automotive rates may include the cost of fuel, lubricants, repairs, insurances, other operating expenses, depreciation and wages and expenses of drivers other than those chargeable under sections 3.3 and 3.4);
 - (iii) use of other items of machinery or equipment sufficient to cover maintenance, repairs, depreciation and running costs: at a fair rate but the charges must not exceed those currently prevailing in the district where the JV Area is located; and
 - (iv) laboratory services performed or provided by the Operator (including water, core, assay and any other analyses and tests): at a fair rate but the charges must not exceed those currently prevailing among outside service laboratories performing comparable services.
- (b) The Operator must inform each Venturer in advance of the rates it proposes to charge.
- (c) Rates must be revised and adjusted when found to be excessive or insufficient.

5. DISPOSAL

5.1 Operator’s rights

The Operator is not obliged to purchase a Venturer’s interest in surplus, new or second hand material.

The Operator may dispose of surplus material in accordance with its mandate approved by the Joint Venture Committee.

5.2 Material purchased by a Venturer

The proceeds of sale of surplus material purchased by a Venturer must be credited to the Joint Account in the month that material is sold.

5.3 Division in kind

- (a) The division of surplus material in kind must be in proportion to each Venturer’s Participating interest.
- (b) Each Venturer must be charged severally with the value of the material received or receivable by it Corresponding credits must be made by the Operator to the Joint Account.

5.4 Sales to third parties

In relation to sales of jointly owned Joint Venture Property to third parties, the Operator must:

- (a) credit the Joint Account with the net amount received from the purchaser; and
- (b) charge any claim by the purchaser for defective material or otherwise back to the Joint Account if and when paid.

6. PRICING MATERIAL TRANSFERRED

6.1 Bases of pricing material

Material purchased by a Venturer or divided in kind must be valued on the bases specified in sections 6.2 to 6.7 unless all Venturers agree otherwise.

6.2 New Material

New Material obtained for the Joint Venture but never used: at 100% of Cost.

6.3 Good used material

Good used material that is in sound and serviceable condition and suitable for reuse without reconditioning:

- (a) at 75% of Cost if that material was charged to the Joint Venture under section 4.2(a) as new; or
- (b) at 65% of Cost if that material was originally charged to the Joint Venture under section 4.2(b) as second hand at 75% of Cost.

6.4 Other used material

Used material that:

- (a) after reconditioning at the purchaser’s cost will be serviceable for its original function as good second hand material; or
 - (b) is serviceable for its original function but is substantially unsuitable for reconditioning,
- at 50% of Cost

6.5 Bad order material

Used material that is no longer useable for its original purpose without excessive repair cost but is useable for any other purpose is to be priced on a comparable basis with items normally used for that purpose.

6.6 Junk

Junk that is obsolete and scrap material is to be priced at prevailing prices.

6.7 Temporarily used material

If material was used temporarily and its service to the Joint Venture does not justify the reduction in price to the level specified in section 6.3(b), that material is to be priced on a basis that will leave a net charge to the Joint Account consistent with the value of the service provided.

7. STOCKTAKE

7.1 Periodic stocktake

The Operator must do a stocktake of all Joint Venture Property ordinarily considered controllable by Operators of mining properties annually.

7.2 Notice to Venturers

The Operator must give notice of its intention to stocktake to all Venturers 20 Business Days before any stocktake is to begin so that a Venturer may be represented when the stocktake is taken.

7.3 Representation of Venturers

If:

- (a) a Venturer is not represented at a stocktake; and
- (b) the Operator has given that Venturer notice in accordance with section 7.2,

that Venturer is bound to accept that stocktake except in the case of the Operator’s Gross Negligence, Wilful Misconduct or manifest error.

7.4 Copies to Venturers

The Operator must give each Venturer a copy of a summary of the stocktake results.

7.5 Reconciliation and adjustment of stock

- (a) The Operator must:
 - (i) reconcile stock with charges to the Joint Account (including a list of surpluses and shortages) after a stocktake; and
 - (ii) make stock adjustments for surpluses and shortages.
- (b) The Operator will only be held accountable for shortages due to its Gross Negligence, Wilful Misconduct or manifest error. (Shortages aggregating \$5,000 will be considered to be due to lack of reasonable diligence).

7.6 Special stocktakes

- (a) A special stocktake may be taken, at the request and expense of the Assignee, if there is a change of Participating Interest in the Joint Venture or in the Joint Venture Property.

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- (b) The Assignor and the Assignee may be represented at a special stocktake and will be bound by the result of that stocktake except in the case of the Operator's Gross Negligence, Wilful Misconduct or manifest error.

Hidden Valley Joint Venture Agreement

Schedule 3

DEEMED CONTRIBUTION

The following terms apply in this Schedule.

Farmin Milestone has the meaning given to it in the Master Purchase and Farmin Agreement.

Harmony Expenditure has the meaning given to it in the Master Purchase and Farmin Agreement.

Hidden Valley Project has the meaning given to it in the Master Purchase and Farmin Agreement.

Stage 2 Project Expenditure means the amount paid by Newcrest to the Operator under clause 6.1 of the Master Purchase and Farmin Agreement.

A	If the Master Purchase and Farmin Agreement is terminated before Newcrest achieves the Farmin Milestone:
MCG:	(69.99% minus the applicable aggregate percentage earned by Newcrest in accordance with clause 11.5 of the Master Purchase and Farmin Agreement) of the aggregate which is (\$400 million plus Harmony Expenditure in relation to the Hidden Valley Project plus Stage 2 Project Expenditure in relation to the Hidden Valley Project up to the date of termination of the Master Purchase and Farmin Agreement).
Newcrest:	(30.01% plus the applicable aggregate percentage earned by Newcrest in accordance with clause 11.5 of the Master Purchase and Farmin Agreement) of the aggregate which is (\$400 million plus Harmony Expenditure in relation to the Hidden Valley Project plus Stage 2 Project Expenditure in relation to the Hidden Valley Project up to the date of termination of the Master Purchase and Farmin Agreement).
B	If Newcrest achieves or is deemed to have achieved the Farmin Milestone under clause 6.1(c) of the Master Purchase and Farmin Agreement:
MCG:	50% of the aggregate which is (\$400 million plus Harmony Expenditure in relation to the Hidden Valley Project plus Stage 2 Project Expenditure in relation to the Hidden Valley Project).
Newcrest:	50% of the aggregate which is (\$400 million plus Harmony Expenditure in relation to the Hidden Valley Project plus Stage 2 Project Expenditure in relation to the Hidden Valley Project).

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Schedule 4
PRIORITY DEED

Hidden Valley Joint Venture Agreement

Priority Deed

[Name of Chargor]

[Name of Financier]

[Name of Cross Chargee]

[Name of Cross Chargee]

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Reference

RAF MMR 07 1427 3151

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		Priority Deed

Priority Deed

DATE

PARTIES

- [Name of Party] (Chargor)
- [Name of Party] (Financier)
- [Name of Party]
- [Name of Party]
(together referred to as **Cross Chargees**)

RECITALS

- A. The Chargor, the Operator and the Cross Chargees have entered into the Joint Venture Agreement.
- B. Under the terms of the Joint Venture Agreement, each party must perform certain obligations. The Chargor and each Cross Chargee has executed a Cross Charge in favour of each other to secure the performance of those obligations.
- C. The Chargor proposes charging its Participating Interest in favour of the Financier and is required by the Joint Venture Agreement to enter into this document.

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Assign means to sell, transfer, assign or make a gift of, lease, license or part possession with, declare a trust over or in any other way dispose of, deal with or create an interest in a party’s interest (or, if applicable, any interest in it) or to agree to do any of those things other than by creating an Encumbrance.

Companies Act means the Companies Act 1997.

Cross Charge means any cross charge granted, or to be granted, by the Chargor in accordance with the terms of the Joint Venture Agreement.

Encumbrance means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set off or right to withhold payment of a deposit or other money, a notice under section 356 of the *Income Tax Act 1959* or any similar legislation, or an easement, restrictive covenant, caveat or similar restriction over property, or an agreement to create any of them or to allow any of them to exist.

Excluded Tax means a Tax on net income in any jurisdiction, other than:

- (a) a Tax that is calculated on or by reference to the gross amount of any payment derived by a party under this document or the transactions that this document contemplates (unless the Tax is imposed because the party has not given its tax file number to the person who made the payment); or

- (b) a Tax that is imposed because a party is regarded as being subject to tax in a jurisdiction solely because it is a party or because it is participating in the transactions that this document contemplates.

Financier’s Charge means any Security Interest granted, or to be granted, by the Chargor to the Financier that is a Permitted Encumbrance.

Government Agency means:

- (a) a government or government department or other government body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

GST means a goods and services tax or similar value added tax levied on or imposed under the GST Law or otherwise on a supply.

GST Law means the *Goods and Services Tax Act 2003*.

Joint Venture Agreement means the joint venture agreement between Morobe Consolidated Goldfields Limited, Newcrest PNG 1 Limited and Hidden Valley Services Limited dated **[insert date and reference to any amending deeds and assumption deeds]**.

Permitted Encumbrance means an Encumbrance expressly permitted pursuant to clause 25.2 of the Joint Venture Agreement.

Security Interest means an Encumbrance that secures the payment of money or the performance of an obligation, or any other interest or arrangement of any kind that gives a creditor priority over other creditors in relation to any property.

Transaction Documents means the Joint Venture Agreement, the Services Agreement, the Cross Charge and **[insert other relevant documents]**.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or a Government Agency, together with any related interest, penalty, fine or other charge.

Venturer means a party to the Joint Venture Agreement, excluding the Operator.

1.2 Joint Venture definitions apply

Any term used in this document that is not defined in this document but is defined in the Joint Venture Agreement has the meaning given to it in the Joint Venture Agreement.

1.3 Rules for interpreting this document

- (a) All rules for interpreting the Joint Venture Agreement set out in clause 1.2 to 1.3 of that document apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) All references to clauses are references to clauses (including subclauses and paragraphs) in this document unless specifically stated otherwise in this document.

2. PRIORITY

The Financier acknowledges to and agrees with each Cross Chargee that, as between each Cross Chargee and the Financier:

- (a) the order of priority will be:
 - (i) first, the security constituted by the Cross Charge; and
 - (ii) then, the security constituted by a Financier's Charge;
- (b) the order of priority set out in clause 2(a) applies despite anything that, but for this clause, would affect that order or priority, including:
 - (i) the respective dates or order of execution or registration of the Cross Charge and a Financier's Charge;
 - (ii) the respective dates on which any money secured by the Cross Charge or a Financier's Charge is advanced or becomes owing or payable;
 - (iii) any change in the amount of money secured by the Cross Charge or a Financier's Charge;
 - (iv) any change in the amount of the Chargor's indebtedness or liability to any Cross Chargee;
 - (v) the grant by a Cross Chargee or any other person of any time, waiver or other indulgence or concession;
 - (vi) the full or partial discharge or release of the Chargor or any other person;
 - (vii) the failure by a Cross Chargee to give notice to the other Cross Chargees or the Chargor of any default by any person;
 - (viii) any laches, acquiescence, delay, act, omission or mistake on the part of or suffered by a Cross Chargee or any other person in relation to this document, the Cross Charge or a Financier's Charge, any other Security Interest or any other document or agreement;
 - (ix) anything that is done or omitted to be done under or in relation to the Cross Charge or a Financier's Charge, or any money secured by either of them;
 - (x) anything contained in the Cross Charge or a Financier's Charge; and
 - (xi) anything or any rule of law or equity to the contrary; and
- (c) the Financier's powers, rights, discretions and remedies under a Financier's Charge must be and are subject to, and rank subsequent to, all the Cross Chargees' powers, rights, discretions and remedies under the Cross Charge.

3. NOTICE OF DEFAULT

3.1 Notice of default under Cross Charge

The Cross Chargees must or must cause the Operator to:

- (a) promptly give the Financier a copy of any notice served on the Chargor under clause 16.2 (Default Notice) of the Joint Venture Agreement; and
- (b) notify the Financier of service of that notice.

3.2 Notice of default under Financier’s Charge

The Financier must promptly give the Operator and the Cross Chargees:

- (a) notice of any breach or default under a Financier’s Charge (whether or not the Financier has waived any right it may have acquired because of that breach or default); and
- (b) a copy of any notice or demand it has served on or given to the Chargor in relation to any breach or default by the Chargor.

3.3 Money secured becomes due and payable

If the money secured by the Cross Charge or a Financier’s Charge (each a **Security**) becomes due and payable or capable of being declared due and payable before the stated date of maturity (other than through the exercise by the Chargor of an optional right of prepayment in the absence of default):

- (a) the money secured by the other Security will, at the option of the chargee or chargees under that Security, become immediately due and payable; and
- (b) the other Cross Chargees and the Financier will, where practical, consult in good faith to decide what action will be taken to enforce their respective powers, rights, discretions and remedies under each Security.

3.4 Enforcing a Security

- (a) Nothing in clause 3.1, 3.2 or 3.3 requires or prevents the exercise by the Cross Chargees or the Financier of any power, right, discretion or remedy.
- (b) Neither the Cross Chargees nor the Financier may exercise any power, right, discretion or remedy under or in relation to a Security unless it gives each other party to this document at least [5] Business Days’ notice before doing so.

3.5 Crystallisation

- (a) If a Security that ceased to operate as a floating charge in relation to any property crystallises and operates as a fixed charge in relation to that property, the other Security will, if it creates a floating charge over that property, automatically and immediately crystallise and operate as a fixed charge in relation to that property.
- (b) Clause 3.5(a) applies despite anything contained in either a Security or any other document or agreement.

4. ENFORCING FINANCIERS’ CHARGE

The Financier covenants with each Cross Chargee that, so long as the Chargor is a Venturer:

- (a) the powers, rights, discretions and remedies conferred by the Financier’s Charge must be and are subordinate to the Cross Chargee’s powers, rights, discretions and remedies;

- (b) the Financier's Charge will in no way affect the Participating Interests of the Venturers other than the Chargor;
- (c) it must not enforce or exercise or take any action to enforce or exercise any of its rights, powers, discretions or remedies under the Financier's Charge in a manner that would (or would be likely to) impede, obstruct or adversely affect the level of output from any operations contemplated or conducted by the Joint Venture under the Joint Venture Agreement.
- (d) the exercise or enforcement of any:
 - (i) power of sale or administration; or
 - (ii) other power, right, discretion or remedy contained in or conferred under the Financier's Charge, by the Financier or any person (including any receiver (as defined in the Companies Act) or an analogous person) claiming through the Financier, are subject to the Joint Venture Agreement as if the person exercising that power, right, discretion or remedy were a Venturer and, in particular:
 - (iii) if that person takes possession of any right or benefit under the Joint Venture Agreement (including the Chargor's Participating Interest) that is subject to the Financier's Charge, it will be bound by the provisions of the Joint Venture Agreement; and
 - (iv) that person will not exercise any power of sale under the Financier's Charge, except on terms the same as those contained in clause 17 (Consequence of Default) of the Joint Venture Agreement;
- (e) without limiting the generality of clause 4(d):
 - (i) the constituent parts of a Participating Interest may not be sold or taken possession of on the enforcement of a Financier's Charge, but all or a fractional part may be;
 - (ii) no part of a Participating Interest may be sold or taken possession of on the enforcement of a Financier's Charge if it would result in any party holding a Participating Interest of less than 5%;
 - (iii) neither the Financier, nor any person (including any receiver (as defined in the Companies Act) or an analogous person) claiming through him or her, may:
 - (A) seek partition or take any action (whether by any court order or otherwise) for partition or sale in lieu of partition (and the Financier waives any rights it may have under any applicable law to seek and do any of those things and acts), during the continuance of the Joint Venture Agreement, of any Joint Venture Property or any other property in which the Chargor or any other person has or may have or acquire by any means an interest with the other Joint Venturers under the Joint Venture Agreement; or
 - (B) waive, release, surrender or forfeit all or part of the Chargor's Participating Interest, without the prior consent of all Cross Chargees;

- (f) it must apply the proceeds of the exercise of any power of sale under a Financier's Charge in the following order:
 - (i) first in payment of all the Chargor's debts under clause 16.2 (Default Notice) of the Joint Venture Agreement to:
 - (A) the Operator, to the extent that contributions have not been made to the Operator under clause 16.4 of the Joint Venture Agreement; and
 - (B) each other Cross Chargee, to the extent that the Cross Chargee has made a contribution under that clause; and
 - (ii) then in payment of all other amounts owing by the Chargor to any Venturer,
and, to the extent of the application of proceeds, the Financier must be and is subrogated to the rights of the Operator, the Cross Chargees or the Venturers (as the case may be);
- (g) the Financier's Charge must be automatically and immediately released when the Chargor ceases to be a Venturer; and
- (h) the covenants contained in this clause must be terms of the Financier's Charge. To the extent that they are not expressly included in the Financier's Charge, they must be and are regarded by this clause as being included in and incorporated into the Financier's Charge.

5. ENFORCING CROSS CHARGE

Each Cross Chargee covenants with the Financier that it will not seek to enforce the Charge until at least 10 Business Days after the Financier has been given notice under clause 3.

6. TERM

The rights and obligations under this document begin on **[insert date]**, even if this document is executed at a later date and terminate when the Chargor ceases to be a Venturer under the Joint Venture Agreement or a party to a Cross Charge or when each Security referred to in clause 3.3 has been finally and irrevocably discharged.

7. ASSIGNMENT OF RIGHTS

7.1 Assignment by Financier

The Financier covenants with each Cross Chargee that it will not Assign any of its rights under the Financier's Charge unless:

- (a) the Assignment is made expressly subject to the terms of this document; and
- (b) the Assignee binds itself to the terms of this document (or substantially to those terms) to the satisfaction of each Cross Chargee.

7.2 Assignment by Cross Chargees

Each Cross Chargee covenants with each other and with the Financier that it will not Assign any of its rights under the Cross Charge unless:

- (a) the Assignment is made expressly subject to the terms of this document; and
- (b) the Assignee binds itself to the terms of this document (or substantially to those terms) to the satisfaction of each other Cross Chargee and the Financier.

8. LIABILITY FOR EXPENSES

The Chargor must indemnify each Cross Chargee and the Financier against, and must pay each Cross Chargee and the Financier on demand the amount of, all Taxes (other than Excluded Taxes) and reasonable costs and expenses incurred in connection with:

- (a) the negotiation, preparation, execution, stamping and registration of this document;
- (b) the transactions that this document contemplates; and
- (c) any amendment to, or any consent, approval, waiver, release or discharge of or under, this document, including legal expenses on a full indemnity basis and expenses incurred in engaging consultants.

9. GST

9.1 GST indemnity

If the Financier or the Cross Chargees must pay GST on any supply under or in connection with this document, then:

- (a) the Chargor must
 - (i) indemnify the Financier and each of the Cross Chargees from that GST; and
 - (ii) pay to the Financier or each Cross Chargee, as the case may be, an amount equal to that GST within 5 Business Days of a request by the Financier (or the Cross Chargee) for payment for the GST, which may be in the form of a tax invoice; and
- (b) the Financier (or the Cross Chargee) need not refund to the Chargor any amount for GST paid to the [Commissioner of Taxation] unless the Financier (or the Cross Chargee) received a refund or credit for that amount.

9.2 GST on claims

- (a) If a payment to satisfy a claim or a right to claim under or in connection with this document (for example, for misleading or deceptive conduct or for misrepresentation or for a breach of any warranty or for indemnity or for reimbursement of any expense) gives rise to a liability to pay GST, the payer must pay, and indemnify the payee on demand against the amount of that GST.
- (b) If a party has a claim under or in connection with this document for a cost on which that party must pay GST, the claim is for the cost plus all GST (except any GST for which that party is entitled to an input tax credit).
- (c) If a party has a claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as

reimbursement for GST (whether that amount is separate or included as part of a larger amount).

10. NOTICES

10.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person’s address; or
 - (ii) sent by fax to that person’s fax number and the machine from which it is sent produces a report that states that it was sent in full.

10.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail:
 - (i) within Papua New Guinea — 3 Business Days after posting; or
 - (ii) to or from a place outside Papua New Guinea — 7 Business Days after posting.

10.3 Address for notices

A person’s address and fax number are those set out below, or as the person notifies the sender:

Chargor
Address: [address]
Fax number: [number]
Attention: [name]

Financier
Address: [address]
Fax number: [number]
Attention: [name]

[Cross Chargee]
Address: [address]
Fax number: [number]

Attention: [*name*]

[Cross Charges]

Address: [*address*]

Fax number: [*number*]

Attention: [*name*]

11. **GENERAL**

11.1 **Governing law**

- (a) This document is governed by the laws of Papua New Guinea.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Papua New Guinea, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.
- (c) To the extent that any party has or in the future acquires any immunity from the jurisdiction of any court or from any legal process (whether through suit, service of notice, attachment before judgment, attachment in aid of execution any enforcement or otherwise) with respect to itself or its property, each party irrevocably waives that immunity in respect of its obligations under this document or otherwise in respect of the joint venture

11.2 **Giving effect to documents**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

11.3 **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

11.4 **Operation of this document**

- (a) Any right that a person may have under this document and the Transaction Documents is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

11.5 Operation of Indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.
- (c) if a provision of this document is expressed to:
 - (i) indemnify;
 - (ii) exclude or limit any liability of; or
 - (iii) otherwise benefit,a person who is not a party to this document, the parties agree that the party holds the benefit of that indemnity, exclusion, limitation or other benefit on trust for that person and may enforce this document on their behalf and for their benefit.

11.6 Operation of relevant provisions

Clauses 1 (Interpretation), 8 (Liability for expenses), 10 (Notices), 11 (General) survive the expiry or termination of this document.

11.7 Consents

- Where this document contemplates that a party may agree or consent to something (however it is described), the party may:
- (a) agree or consent, or not agree or consent, in its absolute discretion; and
 - (b) agree or consent subject to conditions,
- unless this document expressly contemplates otherwise.

11.8 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

11.9 Inconsistency with other documents

- If there is a conflict between provisions in this document and any of the Transaction Documents then, unless otherwise expressly agreed in writing by the parties, they rank in order of precedence as follows:
- (a) first, the Joint Venture Agreement including any amendment;
 - (b) second, the Deed of Cross Charge;
 - (c) third, this document; and
 - (d) fourth, the other Transaction Documents.

11.10 Counterparts

This document may be executed in counterparts.

Executed as a deed

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Schedule 5
CROSS CHARGE

Cross Charge

[name of Venturer]

[name of Venturer]

Blake Dawson
Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
Australia
T 61 7 3259 7000
F 61 7 3259 7111

Reference RAF MMR 07 1427 3151

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		Cross Charge	

Cross Charge

DATE

PARTIES

[name of Venturer] of [address] (Venturer 1)
[name of Venturer] of [address] (Venturer 2)

RECITALS

- A. Each party has entered into the Joint Venture Agreement.
- B. Under the terms of the Joint Venture Agreement, each party must perform certain obligations. Each party is entering into this document in favour of each other party to secure the performance of those obligations.
- C. This document is the Cross Charge required by the Joint Venture Agreement.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Charge means the charge created by clause 2.

Charged Property means, in relation to a Venturer, at any time:

- (a) its Participating interest in all the Joint Venture Property;
- (b) its rights and benefits under the Transaction Documents;
- (c) its Share of Production;
- (d) its rights and benefits under any sales contracts for the sale of its Share of Production; and
- (e) the insurance proceeds (present and future) receivable by it from insurance taken out in relation to any Joint Venture Property.

Companies Act means the *Companies Act 1997*.

Default Event means, in relation to a Venturer, if a Default Event (as defined in the Joint Venture Agreement) happens or occurs in relation to that Venturer.

Defaulting Venturer means a Venturer who commits a Default Event.

Encumbrance means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set off or right to withhold payment of a deposit or other money, a notice under section 356 of the *Income Tax Act 1959* or any similar legislation, or an

easement, restrictive covenant, caveat or similar restriction over property, or an agreement to create any of them or to allow any of them to exist.

Enforcing Party means:

- (a) a Venturer entitled under clause 4 to take action to enforce the Charge; and
- (b) a Receiver entitled under clause 5 to take action to enforce the Charge.

Fixed Charge Property means, in relation to a Venturer, all its right, title and interest (legal or equitable, present and future) in:

- (a) the Tenements;
- (b) all real property included in the Joint Venture Property (including the rights to enter and occupy lands the subject of the Tenements) and any buildings and fixtures on the real property;
- (c) all Joint Venture Intellectual Property;
- (d) all fixed plant, machinery and equipment that are held or acquired as Joint Venture Property; and
- (e) the goodwill of the Joint Venture.

Floating Charge Property means all Charged Property that is not Fixed Charge Property.

Government Agency means:

- (a) a government or government department or other government body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

GST means goods and services tax or similar value added tax levied or imposed under the GST Law or otherwise on a supply.

GST Law means the *Goods and Services Tax Act 2003*.

Indebtedness means, in relation to a Venturer, any amount (including any Unpaid Called Sum and interest) that is owing by that Venturer (whether alone or with any other person) to another Venturer under the Joint Venture Agreement, and any Liability including any right of contribution or indemnity arising under any Transaction Document.

Joint Venture Agreement means the joint venture agreement between Morobe Consolidated Goldfields Limited, Newcrest PNG 1 Limited and Hidden Valley Services Limited dated [*Insert date and reference to any amending deeds and assumption deeds*].

Liability means a claim, demand, proceeding, cost, loss, expense, obligation and liability, arising under statute or common law or in equity, and arising in contract or in tort or otherwise.

Non-Defaulting Venturer means a Venturer that is not a Defaulting Venturer.

Other Obligations means, in relation to a Venturer, all its covenants, agreements, obligations (other than the obligation to pay Indebtedness) and Liabilities arising under, from or in connection with any Transaction Document.

Priority Deed means a deed between the parties to this document and the lenders or other persons taking security from any one of the Venturers.

Receiver means a receiver (as defined in the Companies Act) or an analogous person appointed under clause 5.

Security Interest means an Encumbrance that secures the payment of money or the performance of an obligation, or any other interest or arrangement of any kind that gives a creditor priority over other creditors in relation to any property.

Taxes means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or a Government Agency, together with any related interest, penalty, fine or other charge.

Transaction Documents means:

- (a) this document;
- (b) the Joint Venture Agreement;
- (c) the Services Agreement; and
- (d) any Priority Deed.

Venturer means each party to the Joint Venture Agreement for the time being, including any person which becomes a party by assignment and assumption, but excluding the Operator.

1.2 **Joint Venture Agreement definitions**

Any term used in this document that is not defined in this document but is defined in Joint Venture Agreement has the meaning given to it in Joint Venture Agreement.

1.3 **Rules for Interpreting this document**

- (a) All rules for interpreting the Joint Venture Agreement set out in clauses 1.2 and 1.3 of that document apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) All references to **clauses** are references to clauses (including subclauses and paragraphs) in this document unless specifically stated otherwise in this document.
- (c) If a person is registered as part of a group of companies, references to GST which that person must pay and to input tax credits to which that person is entitled include GST which the representative member of the group of companies must pay and deductions of input tax credits to which the representative member is entitled.

2. **CREATION OF CHARGE**

2.1 **Charging provision**

Each Venturer as beneficial owner, subject to the terms of the Joint Venture Agreement, charges all its Charged Property in favour of each other Venturer severally to secure:

- (a) the payment of its Indebtedness; and
- (b) the performance of its Other Obligations.

2.2 Fixed and floating charge

The Charge operates:

- (a) as a fixed charge over all Fixed Charge Property; and
- (b) subject to clause 2.5, as a floating charge over all Floating Charge Property.

2.3 Priority

- (a) The Charge is a first ranking equitable charge. The Charge takes priority over all and any other Encumbrances whether fixed or floating, created, attempted to be created or permitted to exist by a Venturer or any related corporation in relation to the whole or any part of its Charged Property.
- (b) Each Venturer covenants for the benefit of each other Venturer that it will not:
 - (i) create, attempt to create or permit to exist, any Encumbrance over all or any of its rights or interests referred to in clause 25 (Encumbrances) of the Joint Venture Agreement; or
 - (ii) Assign its Participating Interest, except as permitted by clause 25 (Encumbrances) or clause 26 (Amendment and Assignment) of the Joint Venture Agreement.

2.4 Licence to deal with Floating Charge Property

Subject to clauses 2.3(b) and 2.5, each Venturer licenses each other Venturer to dispose of or otherwise deal with its Floating Charge Property in the ordinary course of its ordinary business.

2.5 Crystallisation

The Charge will cease to operate as a floating charge and will operate as a fixed charge, and the licence under clause 2.4 will automatically and immediately terminate:

- (a) in relation to all of a Venturer's Floating Charge Property, if:
 - (i) a Default Event occurs; or
 - (ii) a Non-Defaulting Venturer takes action to enforce the Charge as contemplated under clause 4;
- (b) in relation to part of a Venturer's Floating Charge Property, if:
 - (i) that Venturer breaches clause 2.3(b) in relation to that part of the Floating Charge Property;
 - (ii) any step is taken to levy or enforce any distress or other execution on or against that part of the Floating Charge Property or to enforce any Encumbrance relating to that part of the Floating Charge Property; or
 - (iii) after a Default Event, a Non-Defaulting Venturer gives notice to that Venturer that the Charge is to crystallise in relation to that part of the Floating Charge Property; or
- (c) in relation to any proceeds of any debt or other money included in the Floating Charge Property that may be or become payable for any reason to a Venturer, if

any other Venturer gives notice to a Venturer that the Charge is to crystallise in relation to those proceeds; or

- (d) in relation to any money included in the Floating Charge Property that may now or in the future be or become due to or held for the Venturer, or any other part of the Floating Charge Property that any Government Agency may in any way rank for payment of Taxes ahead of a floating charge, when the Venturer fails to pay any Taxes.

2.6 Floating nature of charge restored

If the Charge has become a fixed charge under clause 2.5 in relation to all or part of a Venturer’s Floating Charge Property then the other Venturers may at any time, restore the licence under clause 2.4 by notice to that Venturer so that the Charge will again operate as a floating charge and not as a fixed charge in relation to that Floating Charge Property.

3. PROSPECTIVE LIABILITY

The Venturers acknowledge that for the purpose of fixing priorities between the Charge and any subsequent charge registered or registrable under the Companies Act and for no other purposes, the Charge secures each Venturer’s prospective Liability (being the Liability to pay the Indebtedness and to indemnify the Enforcing Party as provided in this document) up to a maximum of \$100 million. This clause does not limit the amount secured by or recoverable under this document and does not affect any obligation of any Venturer under any Transaction Document. The Charge may also secure prospective liabilities in excess of this specified maximum amount.

4. ENFORCEMENT OF CHARGE

A Non-Defaulting Venturer may take action (in its own name) under this document to enforce the Charge and exercise the powers in this document in respect of all Indebtedness and Other Obligations owing to it by the Defaulting Venturer, if permitted to do so under clause 16.7 of the Joint Venture Agreement by written notice to each other Venturer (but without the need for the consent or agreement of any other Venturer).

5. APPOINTMENT OF RECEIVER

5.1 Power to appoint and remove

- (a) A Venturer entitled under clause 4 to take action to enforce the Charge may at any time after it becomes entitled to enforce the Charge:
 - (i) appoint a Receiver of all or part of a Defaulting Venturer’s Charged Property; and
 - (ii) remove any Receiver it appointed and appoint another in its place.
- (b) Any appointment or removal under this subclause must be in writing.
- (c) Where more than one Venturer is entitled to appoint and remove the Receiver, the appointment and removal must be made jointly, and in the case of retirement or death of a Receiver, to appoint (and remove) another Receiver in his or her place.

5.2 After commencement of winding up

The power to appoint a Receiver under clause 5.1 may be exercised even though:

- (a) an order has been passed to wind up the Defaulting Venturer when the Non-Defaulting Venturer becomes entitled to enforce the Charge, or when an appointment is made; or
- (b) a Receiver appointed in the circumstances specified in the preceding paragraph may not, or may not in some respects, act as the Defaulting Venturer's agent.

6. AGENCY

6.1 Agent of Defaulting Venturer

- (a) Subject to clauses 6.1(b) and 6.2, every Receiver appointed under clause 5 is taken to be the Defaulting Venturer's agent, and the Defaulting Venturer alone is responsible for the Receiver's acts, defaults and remuneration.
- (b) A Non-Defaulting Venturer (or each Non-Defaulting Venturer, if more than one) may by notice to the Receiver and the Defaulting Venturer, require the Receiver to act as its (or their) agent.

6.2 Ceasing to be agent

If for any reason (including operation of law) a Receiver ceases to be the Defaulting Venturer's agent because of an order passed to wind up the Defaulting Venturer, the Receiver immediately becomes the agent of the Non-Defaulting Venturer (or each Non-Defaulting Venturer, if more than one).

7. POWERS OF ENFORCING PARTY

7.1 Enforcing Party's powers

Subject to clause 7.2, the Enforcing Party may exercise any or all of the following powers, rights and discretions and has full power to do all or any of the following:

- (a) take possession of, collect and get in the Charged Property and for that purpose to take any proceedings (in the name of the Defaulting Venturer or otherwise as seems expedient);
- (b) give receipts for all money and other property that may come into the hands of the Enforcing Party in exercise of any power given by this document;
- (c) cause the Defaulting Venturer to continue to be associated with the other Venturers for the purpose of fulfilling its obligations under the Joint Venture Agreement and the other Transaction Documents or concur in the continuance of those documents;
- (d) for the purposes of clause 7.1(c), raise money on the Charged Property in priority to this Charge with the consent of all Venturers;
- (e) let or lease any of the Charged Property for any term;
- (f) sell or concur in selling the Charged Property or any part of interest in the Charged Property, in accordance with the terms of the Joint Venture Agreement and otherwise on such terms as it may be in its absolute discretion think fit and to carry

any such sale into effect by conveying and transferring in the name and on behalf of the Defaulting Venturer otherwise;

- (g) execute any document (in the name for and on behalf of itself on the Defaulting Venturer or otherwise) for the purpose of carrying into effect any power, right or discretion conferred on the Enforcing Party as it may see fit;
- (h) make any settlements, arrangements or compromise that it thinks fit;
- (i) acquire, in any manner (including, without limitation, to take on a lease of) any property or any interest in any property, which will then be included in the relevant Charged Property;
- (j) commence, defend, prosecute, settle, discontinue and otherwise compromise proceedings in the name of the Defaulting Venturer;
- (k) perform or enforce, to exercise or refrain from exercising the Defaulting Venturer's rights and powers under, or otherwise to obtain the benefit of, any documents or agreements or rights which form part of the relevant Charged Property and any documents entered into in exercise of any power;
- (l) employ any person as employee, contractor, agent, professional adviser, consultant or auctioneer for any purpose at such salary or remuneration as the Enforcing Party thinks fit;
- (m) delegate to any person for such time as the Enforcing Party approves any of the powers conferred on the Enforcing Party;
- (n) surrender or transfer any of the relevant Charged Property;
- (o) make, enforce, compromise and settle all claims in respect of insurance;
- (p) do anything which the Defaulting Venturer might reasonably do for the protection or improvement of any of the relevant Charged Property or for obtaining income or returns from any of that Charged Property (including, without limitation, by effecting insurance, improvements and repairs or scrapping any property);
- (q) operate any bank account comprising part of the relevant Charged Property and to open any further bank account;
- (r) make debtors bankrupt and to wind up and to do all things in relation to any bankruptcy or winding up which the Enforcing Party thinks necessary or desirable;
- (s) exchange with any person any of the relevant Charged Property for other property;
- (t) have access to and make use of the premises, plant, equipment and accounting and other services of the Defaulting Venturer and the services of its staff;
- (u) do or cause to be done everything with respect to the Charged Property (without being responsible for any resulting loss or damage) that it thinks necessary and which could have been done or caused to be done by the Enforcing Party if it was the absolute owner of the Charged Property; and
- (v) do anything incidental to any power, right or discretion referred to in this clause 7.1.

7.2 Construction of Enforcing Party's powers

The Enforcing Party's powers, rights and discretions referred to in clause 7.1:

- (a) must be interpreted separately and not by reference to one another; and

- (b) are in addition to all other powers, rights and discretions conferred on it by law and subject always to the Joint Venture Agreement.
- 7.3 Sale of Defaulting Venturer’s Participating Interest**

If under clause 7.1(f), the Enforcing Party wishes to exercise the power of sale in respect of the Defaulting Party’s Participating Interest in all of the Joint Venture Property, the Enforcing Party shall give notice to the Operator that it wishes to enforce the Charge in this manner, and clause 17.4, 17.5 and 17.6 of the Joint Venture Agreement will thereupon take effect and the Defaulting Party’s Participating Interest will be dealt with in accordance with those provisions.
- 8. PROTECTION OF THIRD PARTIES**
- 8.1 Dealing with Enforcing Party**

Any person dealing with (including, without limitation, any sale or disposal) the Enforcing Party is not:

 - (a) bound to enquire whether any event has occurred to authorise the Enforcing Party to act, whether there has been a default, whether a Receiver has been properly appointed or about the propriety or regularity of a dealing; or
 - (b) affected by express notice that a dealing is unnecessary or improper.
- 8.2 Dealing deemed to be authorised and valid**

Despite any irregularity or impropriety in any dealing, it is to be treated, for the protection of the person, the party to the dealing, as being authorised by this document and valid.
- 8.3 Receipt of money by Enforcing Party**

The receipt of money by any Enforcing Party effectually discharges the person paying any money from being concerned to see to the application, or being liable or accountable for any loss or misapplication, of such money.
- 9. POWERS EXERCISABLE BY NON-DEFAULTING VENTURER**
- 9.1 Exercise of powers**
 - (a) If and when the Charge becomes enforceable under clause 4, a Non-Defaulting Venturer may exercise any power of the Enforcing Party in addition to any power it has as a Non-Defaulting Venturer.
 - (b) A Non-Defaulting Venturer may do so even though a Receiver is appointed.
- 9.2 Protection of Non-Defaulting Venturer**

The exercise of any power by a Non-Defaulting Venturer does not cause that Non-Defaulting Venturer to:

 - (a) be a mortgagee in possession;
 - (b) account as mortgagee in possession; or
 - (c) be answerable for any act or omission for which a mortgagee in possession is liable.

9.3 Several or Joint exercise

Each Non-Defaulting Venturer may exercise its right severally or jointly with any other Non-Defaulting Venturer.

10. REALISATION

After the Charge has become enforceable, the Defaulting Venturer must do anything, and ensure that its employees and agents do anything, that the Enforcing Party may reasonably require to assist it to realise the Charged Property and exercise any power, right, discretion or remedy including:

- (a) execute any transfer (including any transfer in blank) or other document of or in relation to any Charged Property;
- (b) do anything that the Enforcing Party thinks is necessary or desirable under the law in force in any place where any Charged Property is situated; and
- (c) give any notice, order, direction and consent that the Enforcing Party thinks is necessary or desirable.

11. APPLICATION OF MONEY

11.1 Order of application of money

Money that the Enforcing Party receives under or because of this document is to be applied in the following order:

- (a) first, in payment of all costs, charges and expenses of and incidental to the:
 - (i) appointment of a Receiver; and
 - (ii) exercise or attempted exercise by the Enforcing Party of any power, right or discretion referred to in this document (including the Enforcing Party's reasonable remuneration);
- (b) then, in payment of any other outgoings that the Enforcing Party thinks fit to pay;
- (c) then, in discharging any Security Interest having priority to the Charge;
- (d) then, in payment to each Non-Defaulting Venturer in proportion to any Indebtedness owing to it by the Defaulting Venturer and not otherwise recovered;
- (e) then, in payment to the Enforcing Party of any amount necessary to give effect to any indemnity contained in this document; and
- (f) then, subject to proper claims enforceable under other Encumbrances, any surplus must be paid to the Defaulting Venturer.

11.2 Pari passu

If there is more than one Enforcing Party, claims arising from the priority described in clauses 11.1(a), 11.1(b) and 11.1(e) rank pari passu with the result that if the amount realised is insufficient to discharge all Indebtedness described in these clauses, the amount available is to be apportioned among the claimants in proportion to their respective claims.

12. CONTINUING SECURITY

The Charge is a continuing security, and remains in full force in respect of each Venturer until a final irrevocable discharge of the Charge is given to that Venturer by each other Venturer despite any transaction or other thing (including a settlement of account or Intervening payment).

13. INDEMNITY

The Enforcing Party is entitled to receive all reasonable costs and expenses (including fees of legal advisers) and all Taxes incurred by it in exercising its rights or fulfilling its obligations under this document. The Defaulting Venturer agrees to pay promptly on demand from time to time all amounts which the Enforcing Party is entitled to receive in accordance with this clause and agrees to indemnify the Enforcing Party and each Non-defaulting Venturer for and to hold them harmless against any Liability incurred by the Enforcing Party as a result of enforcing the Charge.

14. ENFORCEMENT SUBJECT TO JOINT VENTURE AGREEMENT

To the extent that the Charge relates to a Defaulting Venturer's Participating Interest, the enforcement of the Charge will also be subject to the provisions of the Joint Venture Agreement. In particular, each person exercising a power of sale or enforcing any other right conferred by law or by this document must:

- (a) comply with clauses 26.1 to 26.7 (having regard to the exceptions specified in clause 26.8) of the Joint Venture Agreement as if it were a party to it; and
- (b) cause an Assignee of a Participating interest to comply with clause 26.7 (having regard to the exceptions specified in clause 26.8) of Joint Venture Agreement.

15. NO MARSHALLING

A Non-Defaulting Venturer is not under any obligation to marshal, appropriate or exercise, apply, perfect or recover any Encumbrance that the Non-Defaulting Venturer holds at any time or any funds or property that the Non-Defaulting Venturer may be entitled to receive or have a claim on.

16. AUTHORITY TO GRANT CHARGE

Each Venturer warrants to each other Venturer that it has full power to charge the Charged Property as provided in this document and also that, if default is made in payment of the Indebtedness or any part, it is lawful for a Enforcing Party to enter into and upon or receive and quietly hold, occupy, and enjoy, or take, and have the Charged Property or any part thereof, without any lawful interruption or disturbance by the Venturer giving the Charge and freed and discharged from all Encumbrances, claims and demand whatever, other than those subject to which the Charge is expressly given.

17. NO PAYMENT AVOIDANCE

If any payment by the Defaulting Venturer to a Non-Defaulting Venturer is avoided for any reason (including any legal limitation, disability or incapacity of or affecting the Defaulting Venturer or any other fact or circumstance), and whether or not:

- (a) the Indebtedness was illegal, void or substantially avoided; or
- (b) any fact or circumstance was or ought to have been within the knowledge of the Non-Defaulting Venturer, the Defaulting Venturer:
- (c) as an additional independent obligation indemnifies the Non-Defaulting Venturer against that avoided payment; and
- (d) acknowledges that any Liability of the Defaulting Venturer under this document is the same as if that payment had not been made.

18. POWER OF ATTORNEY

18.1 Appointment of attorney

When the Charge becomes enforceable in relation to a Defaulting Venturer, that Defaulting Venturer irrevocably appoints each Non-Defaulting Venturer severally to be its attorney to:

- (a) do anything necessary or desirable in the opinion of the Enforcing Party to:
 - (i) give full effect to this document;
 - (ii) better secure the payment of the Defaulting Venturer’s Indebtedness, the performance of the Defaulting Venturer’s Other Obligations or both to each Non-Defaulting Venturer;
 - (iii) better secure the Charged Property to each Non-Defaulting Venturer in a manner consistent with this document; or
 - (iv) assist in the execution or exercise of any power, including execute any transfer (including any transfer in blank) or other document;
- (b) exercise any power, right, discretion or remedy of the Defaulting Venturer; and
- (c) do anything that the Defaulting Venturer must or may do, or that any Non-Defaulting Venturer may do, under this document or by law,

at that Defaulting Venturer’s cost.

Each Non-Defaulting Venturer may appoint and remove substitutes, and may delegate its powers under this clause (including this power of delegation) and revoke any delegation.

18.2 General

- (a) An attorney appointed under clause 18.1 may do anything contemplated by that clause even if the attorney is affected by an actual or potential conflict of interest or duty, or might benefit from doing it.
- (b) An attorney appointed under clause 18.1 may do anything contemplated by that clause in its name, in the name of the Defaulting Venturer or in the name of both of them.
- (c) The Defaulting Venturer must ratify anything done by an attorney under clause 18.1.
- (d) The Defaulting Venturer gives the power of attorney in clause 18.1:

- (i) to secure:
 - (A) performance by the Defaulting Venturer of its other Obligations, payment of its Indebtedness or both to each Non-Defaulting Venturer under this document;
 - (B) the Charged Property to each Non-Defaulting Venturer in a manner consistent with this document; and
 - (C) any property interest of a Non-Defaulting Venturer under this document; and
- (ii) for valuable consideration, receipt of which is acknowledged by the Defaulting Venturer.

19. DISCHARGE

Each Venturer acknowledges and agrees that no other Venturer is under any obligation to grant a discharge of the Charge or any other Security Interest granted under it unless:

- (a) the Venturer seeking the discharge has no continuing or subsisting obligations under the Joint Venture Agreement;
- (b) no Indebtedness is owing or Other Obligation is to be performed by the Venturer seeking the discharge; and
- (c) no Indebtedness is contingently owing or Other Obligation is contingently to be performed by the Venturer seeking the discharge (except where there is no reasonable likelihood of the contingent event occurring),

at the time that discharge is sought.

20. REGISTRATION AND STAMPING

Each Venturer must at its own cost:

- (a) use its best endeavours to cause this document to be approved and registered under the Mining Act in respect of the Tenements;
- (b) ensure that this document is registered (and not just provisionally) under the Companies Act;
- (c) ensure that this document is registered in any other places which any other Venturer notifies to it if any other Venturer is reasonably satisfied that registration is necessary or desirable to perfect the Charge or to protect the rights of any other Venturer under this document;
- (d) obtain all necessary Authorisations in relation to this document and lodge them for registration in each jurisdiction required to perfect the Charge;
- (e) ensure that this document is stamped for the proper amount in each jurisdiction in which this document is required to be stamped; and
- (f) do everything necessary in each jurisdiction required to perfect the Charge.

21. LIABILITY FOR EXPENSES

Subject to clause 13, each Venturer must bear its own expenses (including fees of legal advice incurred in connection with:

- (a) the negotiation, preparation, execution, stamping and registration of this document;
- (b) the transactions that this document contemplates; and
- (c) any amendment to, or any consent, approval, waiver, release or discharge of or under, this document.

22. GST

If all or any part of any payment by a Venturer under this document is the consideration for a taxable supply for GST purposes, then:

- (a) subject to the payee first providing a tax invoice to that Venturer, when making the payment the Venturer must pay to the payee an additional amount equal to that payment multiplied by the appropriate rate of GST (currently 10%); and
- (b) to the extent that this clause does not cover a matter between the parties relating to GST, the provisions of the Joint Venture Agreement apply.

23. NOTICES

23.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.

23.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail:

- (i) within Papua New Guinea — 3 Business Days after posting; or
- (ii) to or from a place outside Papua New Guinea — 7 Business Days after posting.

23.3 Address for notices

A person’s address and fax number are those set out below, or as the person notifies the sender:

MCG
Address: [address]
Fax number: [number]
Attention: [name]

Newcrest
Address: [address]
Fax number: [number]
Attention: [name]

24. GENERAL

24.1 Governing law

- (a) This document is governed by the laws of Papua New Guinea.
- (b) Each party submits to the jurisdiction of the courts of Papua New Guinea and of any court that may hear appeals from any of those courts, for any proceedings in connection with this document.
- (c) To the extent that any party has or in the future acquires any immunity from the jurisdiction of any court or from any legal process (whether through suit, service of notice, attachment before judgment, attachment in aid of execution any enforcement or otherwise) with respect to itself or its property, each party irrevocably waives that immunity in respect of its obligations under this document or otherwise in respect of the Joint Venture.

24.2 Giving effect to documents

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

24.3 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

24.4 Severance

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

24.5 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

24.6 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
 - (b) agree or consent subject to conditions,
- unless this document expressly contemplates otherwise.

24.7 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

24.8 Inconsistency with other documents

If there is a conflict between provisions in any of the Transaction Documents then, unless otherwise expressly agreed in writing by the parties to this document, they rank in order of precedence as follows:

- (a) first, the Joint Venture Agreement;
- (b) second, this document; and
- (c) third, the other Transaction Documents.

24.9 Counterparts

This document may be executed in counterparts.

Blake Dawson

EXECUTED as a deed.

Each person who executes this document on behalf of a party under power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Cross Charge 16

MEMORIAL OF APPROVAL OF AN INSTRUMENT

I, [], Minister for Mining, by virtue of the powers conferred by the Mining Act 1992 and all other powers me enabling, and after considering the recommendation of the Mining Advisory Council, hereby approve this instrument.

DATED at this day of , 2008.

[]
Minister for Mining

To be completed by the Registrar upon the Minister approving an Instrument.

I, [], Registrar, pursuant to all powers conferred under the Mining Act 1992, certify that I have this day registered the instrument.

(Registrar's signature)
(date)

Schedule 6
ASSUMPTION DEED

Assumption Deed

[Name of Outgoing Party]

[Name of New Party]

[Name of Continuing Party]

[Name of Continuing Party]

Blake Dawson

Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
Australia
T 61 7 3259 7000
F 61 7 3258 7111

Reference

RAF MMR 07 1427 3161

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ASSUMPTION DEED

DATE

PARTIES

- [Name of Party] (Outgoing Party)
- [Name of Party] (New Party)
- [Name of Party]
- [Name of Party] (Operator)
- (together referred to as the Continuing Parties)

RECITALS

- A. The Continuing Parties and the Outgoing Party are the only parties to the Joint Venture Agreement, the Services Agreement and, among others, are parties to the Master Co-operation Agreement and [specify other transaction documents].
- B. The New Party is to replace the Outgoing Party under the Joint Venture Agreement and the Services Agreement on the terms set out below.
- C. Under the Joint Venture Agreement, it is a condition precedent to the Outgoing Party transferring its Participating Interest to the New Party that the New Party executes an Assumption Deed under which the New Party becomes bound by the Joint Venture Agreement and the Services Agreement.
- D. This document is the Assumption Deed required under clause 27.7(a) of the Joint Venture Agreement.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Authorisation means:

- (a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any mining title, development approval, environmental approval and any renewal or amendment of any of them.

Business Day means:

- (a) for determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and
- (b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Port Moresby and Melbourne, Australia.

Companies Act means the *Companies Act 1997*.

Effective Date has the meaning set out in clause 3.1.

Encumbrance means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set off or right to withhold payment of a deposit or other money, a notice under section 356 of the *Income Tax Act 1959* or any similar legislation, or an easement, restrictive covenant, caveat or similar restriction over property, or an agreement to create any of them or to allow any of them to exist.

Excluded Tax means a Tax on net income in any jurisdiction, other than:

- (a) a Tax that is calculated on or by reference to the gross amount of any payment derived by a party under this document or the transactions that this document contemplates (unless the Tax is imposed because the party has not given its tax file number to the person who made the payment); or
- (b) a Tax that is imposed because a party is regarded as being subject to tax in a jurisdiction solely because it is a party or because it is participating in the transactions that this document contemplates.

Existing Cross Charge means the Cross Charge dated **[Insert date]** between the Outgoing Party and the Continuing Parties (other than the Operator).

Government Agency means:

- (a) a government or government department or other government body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

GST means a goods and services tax or similar value added tax levied or imposed under the GST Law or otherwise on a supply.

GST Law means *Goods and Services Tax Act 2003*.

Guarantee means a guarantee, indemnity, letter of credit, performance bond, binding letter of comfort, or other undertaking or obligation (whether conditional or unconditional):

- (c) to:
 - (i) provide funds (including by the purchase of property), or otherwise to make property available, in or to enable payment or discharge of;
 - (ii) indemnify against the consequences of default in the payment or performance of; or
 - (iii) otherwise be responsible for,

an obligation (whether or not it involves the payment of money), or

- (d) otherwise to be responsible for the solvency or financial condition, of any other person.

Joint Venture Agreement means the joint venture agreement between Morobe Consolidated Goldfields Limited, Newcrest PNG 1 Limited and Hidden Valley Services Limited dated **[Insert date and reference to any amending deeds and assumption deeds]**.

Liability means a claim, demand, proceeding, cost, loss, expense, obligation and liability, arising under statute or common law or in equity, and arising in contract or in tort or otherwise.

New Cross Charge means the Cross Charge to be given by the New Party in favour of the Continuing Parties (other than the Operator).

Security Interest means an Encumbrance that secures the payment of money or the performance of an obligation, or any other interest or arrangement of any kind that gives a creditor priority over other creditors in relation to any property.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or a Government Agency, together with any related interest, penalty, fine or other charge.

Transaction Documents means the Joint Venture Agreement, the Existing Cross Charge, the Services Agreement **[any other relevant documents eg Priority Deeds]**.

Venturer means a party to the Joint Venture Agreement, excluding the Operator.

1.2 **Joint Venture Agreement definitions apply**

Any term used in this document that is not defined in this document but is defined in the Joint Venture Agreement has the meaning given to it in the Joint Venture Agreement.

1.3 **Rules for interpreting this document**

- (a) All rules for interpreting the Joint Venture Agreement set out in clauses 1.2 and 1.3 of that document as amended, apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) All references to **clauses** in this document are references to clauses (including subclauses and paragraphs) in this document unless specifically stated otherwise in this document.

2. **ASSIGNMENT OF RIGHTS AND ASSUMPTION OF OBLIGATIONS UNDER CERTAIN AGREEMENTS**

2.1 **Assignment and assumption**

With effect on and from the Effective Date:

- (a) the Outgoing Party assigns all its rights and interests under the Joint Venture Agreement, the Existing Cross Charge and the Services Agreement **[any relevant third party agreement including any Priority Deeds]** to the New Party;

- (b) the New Party assumes all of the Outgoing Party's obligations and Liabilities under the Joint Venture Agreement and the Services Agreement other than obligations and Liabilities that arose before the Effective Date;
- (c) the New Party is bound by and must comply with all of the Outgoing Party's obligations under the Joint Venture Agreement and the Services Agreement (other than obligations that arose before the Effective Date) as if the New Party were a party to the Joint Venture Agreement and the Services Agreement instead of the Outgoing Party; and
- (d) the New Party agrees to be bound by all valid decisions of the Joint Venture Committee which are applicable to the Outgoing Party.

2.2 Continuing Parties' consent

Each Continuing Party:

- (a) consents to the Outgoing Party transferring its Participating Interest to the New Party;
- (b) consents to the Outgoing Party assigning its rights and interests under the Joint Venture Agreement, the Existing Cross Charge and the Services Agreement to the New Party under clause 2.1;
- (c) consents to the New Party assuming the Outgoing Party's obligations and Liabilities under the Joint Venture Agreement and the Services Agreement under clause 2.1;
- (d) acknowledges and agrees that the New Party can exercise all of the rights and benefits of the Outgoing Party under the Joint Venture Agreement, the Existing Cross Charge and the Services Agreement; and
- (e) agree to be bound by the Joint Venture Agreement and the Services Agreement with the New Party as party to it instead of the Outgoing Party.

2.3 No further rights and release from obligations

[Note: This clause 2.3 is not used if an Outgoing Party is transferring its Participating Interest to a related corporation or if it is not assigning all of its Participating Interest].

With effect on and from the Effective Date, each Continuing Party and the Outgoing Party:

- (a) have no further rights against each other under the Joint Venture Agreement and the Services Agreement other than rights that arise before the Effective Date; and
- (b) release each other from all obligations and Liabilities under the Joint Venture Agreement and the Services Agreement other than obligations and Liabilities that arise before the Effective Date.

2.4 Continued responsibility for prior obligations

Each Continuing Party and the Outgoing Party continue to be responsible for all of its obligations and Liabilities under the Joint Venture Agreement and the Services Agreement that arise before the Effective Date.

3. EFFECTIVE DATE

3.1 Effective Date

The Effective Date is 5pm on the later to occur of:

- (a) **[date]**; and
- (b) the next Business Day after the date on which the Continuing Parties notify the other parties that all of the following conditions precedent have been satisfied or otherwise waived:
 - (i) this document (including the giving of the New Cross Charge pursuant to clause 3.2(a)) has been approved by the Minister for Mining and is registered pursuant to the *Mining Act 1992*; and
 - (ii) New Party obtains certification under the *Investment Promotion Act 1992* on terms acceptable to each Continuing Party.

3.2 What must be done on the Effective Date

On the Effective Date:

- (a) the New Party must execute and deliver the New Cross Charge in accordance with clause 11.1 of the Joint Venture Agreement;
- (b) the Outgoing Party must execute and deliver to New Party an effective assignment or novation of **[describe relevant document]** and the consent to the assignment of each person, If consent is needed;
- (c) ***[insert administration documents to be completed, procedures to be performed on the Effective Date to assign the Participating Interest and rights under the JVA and the Services Agreement].***

3.3 Waiver of conditions

- (a) The Continuing Parties may, in their sole and absolute discretion, rely on or waive the breach or non fulfilment of a condition referred to in clause 3.1(b) (except that the party must not waive a condition if it would result in a breach of law).
- (b) The breach or non fulfilment of a condition may only be waived in writing.

3.4 Obligation to satisfy conditions

Each party must:

- (a) use its reasonable endeavours (other than waiver) to ensure that each condition referred to in clause 3.1(b) is satisfied on or before the Effective Date;
- (b) promptly give each other party all information reasonably requested by that party in connection with any application required to satisfy a condition;
- (c) keep each other party informed of any circumstances which may result in any of those conditions not being satisfied in accordance with its terms; and
- (d) promptly advise each other party of the satisfaction of a condition.

3.5 Result of non-satisfaction of conditions

- (a) If the conditions referred to in clause 3.1(b) are not satisfied or waived under clause 3.3 on or before **[insert date]**, then any Continuing Party may, before satisfaction or waiver of those conditions, terminate this document by giving written notice to the other parties.
- (b) If this document is terminated in accordance with clause 3.5(a), then all rights and obligations under this document other than:
 - (i) this clause 3 and clauses 1 (Interpretation), 4 (Liability for expenses), 6 (Notices) and 7 (General);
 - (ii) any clause which is expressed to survive termination of this document; and
 - (iii) rights that accrue before the date on which the notice is given, terminate on the day of the notice.

4. LIABILITY FOR EXPENSES

4.1 Liability of each party

Subject to clause 4.2 and clause 5.1, each party must pay its own expenses incurred in negotiating, executing and registering this document.

4.2 Liability of New Party

The New Party must indemnify each other party against, and must pay each other party on demand the amount of, all Taxes (other than Excluded Taxes) and reasonable expenses incurred in connection with:

- (a) the negotiation, preparation, execution, stamping and registration of this document and the satisfaction of any conditions precedent (including the stamping and registration of the New Cross Charge);
- (b) the transactions that this document contemplates; and
- (c) any amendment to, or any consent, approval, waiver, release or discharge of or under, this document, including legal expenses on a full indemnity basis, each Continuing Party’s internal administration and legal costs at the rate and on the basis determined by the Continuing Party and expenses incurred in engaging consultants.

5. GST

5.1 GST Indemnity

If the Outgoing Party or the Continuing Parties must pay GST on any supply under or in connection with this document, then:

- (a) the New Party must:
 - (i) indemnify the Outgoing Party and each Continuing Party from that GST; and

- (ii) pay to the Outgoing Party (or the Continuing Parties) an amount equal to that GST within 5 Business Days of a request by the Outgoing Party (or the Continuing Parties) for payment for the GST, which may be in the form of a tax invoice; and
- (b) the Outgoing Party (or the Continuing Parties) need not refund to the New Party any amount for GST paid to the Commissioner of Taxation unless the Outgoing Party (or the Continuing Parties) received a refund or credit for that amount

5.2 GST on claims

- (a) If a payment to satisfy a claim or a right to claim under or in connection with this document (for example, for misleading or deceptive conduct or for misrepresentation or for a breach of any warranty or for indemnity or for reimbursement of any expense) gives rise to a Liability to pay GST, the payer must pay, and indemnify the payee on demand against the amount of that GST.
- (b) If a party has a claim under or in connection with this document for a cost on which that party must pay GST, the claim is for the cost plus all GST (except any GST for which that party is entitled to an input tax credit).
- (c) If a party has a claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

6. NOTICES

6.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.

6.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail:

- (i) within Papua New Guinea — 3 Business Days after posting; or
- (ii) to or from a place outside Papua New Guinea — 7 Business Days after posting.

6.3 Address for notices

A person’s address and fax number are those set out below, or as the person notifies the sender:

Outgoing Party

Address: [address]
Fax number: [number]
Attention: [name]

New Party

Address: [address]
Fax number: [number]
Attention: [name]

Continuing Party

Address: [address]
Fax number: [number]
Attention: [name]

Continuing Party

Address: [address]
Fax number: [number]
Attention: [name]

7. GENERAL

7.1 Governing law

- (a) This document is governed by the laws of Papua New Guinea.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Papua New Guinea, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.
- (c) To the extent that any party has or in the future acquires any immunity from the jurisdiction of any court or from any legal process (whether through suit, service of notice, attachment before judgment, attachment in aid of execution, any enforcement or otherwise) with respect to itself or its property, each party irrevocably waives that immunity in respect of its obligations under this document or otherwise in respect of the joint venture.

7.2 Giving effect to documents

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document

7.3 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right

7.4 Operation of this document

- (a) Any right that a person may have under this document and the Transaction Documents is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document

7.5 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.
- (c) if a provision of this document is expressed to:
 - (i) indemnify;
 - (ii) exclude or limit any Liability of; or
 - (iii) otherwise benefit,a person who is not a party to this document, the parties agree that the party holds the benefit of that indemnity, exclusion, limitation or other benefit on trust for that person and may enforce this document on their behalf and for their benefit.

7.6 Operation of relevant provisions

Clauses 1 (Interpretation), 4 (Liability for expenses), 6 (Notices), 7 (General) survive the expiry or termination of this document

7.7 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

7.8 No merger

Nothing in this document merges with any other Security Interest, or any Guarantee, judgment or other right or remedy that a party may hold at any time.

7.9 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

7.10 Inconsistency with other documents

If there is a conflict between provisions in this document and any of the Transaction Documents then, unless otherwise expressly agreed in writing by the parties, they rank in order of precedence as follows:

- (a) first, Joint Venture Agreement;
- (b) second, this document;
- (c) third, the Service Agreement; and
- (d) fourth, the other Transaction Documents.

7.11 Counterparts

This document may be executed in counterparts.

EXECUTED as a deed.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

MEMORIAL OF APPROVAL OF AN INSTRUMENT

I, [] Minister for Mining, by virtue of the powers conferred by the Mining Act 1992 and all other powers me enabling, and after considering the recommendation of the Mining Advisory Council, hereby approve this instrument.

DATED at this day of , 2008.

Minister for Mining

To be completed by the Registrar upon the Minister approving an Instrument.

I, [], Registrar, pursuant to all powers conferred under the Mining Act 1992, certify that I have this day registered the instrument.

(Registrar’s signature)

(date)

Schedule 7

CONFIDENTIALITY AGREEMENT

To insert onto Operator’s letterhead

[Date]

[Addressee]

PRIVATE AND CONFIDENTIAL

Dear [name]

Hidden Valley Joint Venture — Access to site and information

1. CONFIDENTIALITY

In accordance with clause 7.9 of the Joint Venture Agreement dated [*insert date*] relating to the Hidden Valley Joint Venture (**Joint Venture**), the Venturer has notified that us you wish to gain access to a Joint Venture tenement or information relating to the Joint Venture, or both, for one of the following purposes:

- ☐ financing of Venturer’s interest in Joint Venture;
- ☐ restating Venturer’s reserves; or
- ☐ directly in connection with proposed sale of Venturer’s interests in the Joint Venture.

(tick appropriate box)

each of which purpose is permitted by clause 7.9 (**Permitted Purpose**). The terms of the JVA require that you to agree to keep strictly confidential all Confidential Information disclosed to you as a consequence of being provided Access.

In consideration of being given the Access sought, you acknowledge that the Confidential Information is secret, confidential and of value to the Joint Venture, and its unauthorised use or disclosure may significantly damage the Joint Venture’s business, and you agree that you must:

- (a) keep the Confidential Information secret and confidential at all times;
- (b) not use the Confidential Information except for a Permitted Purpose;
- (c) not disclose any Confidential Information to anyone except those of your officers, employees, advisers or agents who need to receive that information for the Permitted Purpose, and then only to the extent needed for each such person; and
- (d) ensure that each person to whom you disclose the information makes the same acknowledgment, and agrees to comply with, and does comply with (a), (b) and (c) above.

2. RETURN OF CONFIDENTIAL INFORMATION

On request by us, you must deliver up to us all documents, materials, media or other things recording, containing, setting out or referring to any Confidential Information and all copies of them, or if they are in electronic form, erase or destroy them and provide evidence of erasure or destruction to our satisfaction.

3. CONTINUING OBLIGATIONS

The obligations set out in this letter continue beyond the period of your Access and continue after return of the Confidential Information.

4. INTERPRETATION

In this letter:

Affiliates means, in relation to a body corporate:

- (a) that body’s related corporations;
- (b) that body’s directors; and
- (c) the person’s who have a substantial holding in that body.

Confidential Information means all information in any form or medium relating to the Joint Venture, its businesses or affairs which is disclosed to you or your officers, employees, advisers or agents by Hidden Valley Services Limited or the Venturer or any of its officers, employees, advisers or agents, including, without limitation, any information derived in any manner by you or on your behalf from the information disclosed, but does not include any information which you can show:

- (a) is in the public domain, otherwise than as a result of a breach of the contents of this letter; or
- (b) is already known to you prior to the disclosure or which is subsequently known to you as a result of disclosure by another source which was not subject to any agreement for confidentiality.

Venturer means [name of Venturer] and each of its Affiliates.

In this letter the following rules apply, in interpreting the letter, unless the context otherwise requires:

- (a) the terms **relevant interest** and **related corporation** have the same meaning as given to those terms in the *Companies Act 1997* (PNG); and
- (b) a person has a **substantial holding** in a body corporate if the total votes attached to the voting shares in the body in which it or its associates have a relevant interest are 5% or more of the total number of votes attached to those shares in the body.

Please indicate your acceptance of these terms by signing the enclosed duplicate of this letter in the space provided, and then returning it to us.

Yours faithfully

Blake Dawson

[Name]
[name of Operator]

[Name of addressee] accepts the obligations imposed by this letter.

Signature of [***name***]


Name (printed)

Date

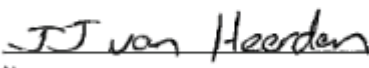
Hidden Valley Joint Venture Agreement

EXECUTED as an agreement.

THE COMMON SEAL of MOROBE
CONSOLIDATED GOLDFIELDS LIMITED
was affixed with authority of the board of
directors in the presence of:



Signature of director



Name



Signature of director/secretary

Gregory John Job

Name

SIGNED by NEWCREST PNG 1 LIMITED
by its duly authorised officers:


Signature of director

Name

Signature of director

Name

THE COMMON SEAL of HIDDEN
VALLEY SERVICES LIMITED was affixed
with authority of the board of directors in
the presence of:



Signature of director



Name



Signature of director/secretary

Gregory John Job

Name

EXECUTED as an agreement.

THE COMMON SEAL of MOROBE
CONSOLIDATED GOLDFIELDS LIMITED
was affixed with authority of the board of
directors in the presence of:

Signature of director

Name

Signature of director/secretary

Name

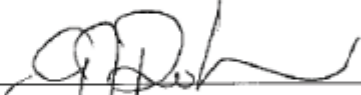
SIGNED by NEWCREST PNG 1 LIMITED
by its duly authorised officers:



Signature of director

I K SMITH

Name



Signature of director

G J ROBINSON

Name

THE COMMON SEAL of HIDDEN
VALLEY SERVICES LIMITED was affixed
with authority of the board of directors in
the presence of:

Signature of director

Name

Signature of director/secretary

Name

MEMORIAL OF APPROVAL OF AN INSTRUMENT

I, Dr Puka Temu, Minister for Mining, by virtue of the powers conferred by the Mining Act 1992 and all other powers me enabling, and after considering the recommendation of the Mining Advisory Council, hereby approve this instrument.

DATED at this day of ,2008.

Hon Dr Puka Temu, CMG, MP
Minister for Mining

To be completed by the Registrar upon the Minister approving an Instrument.

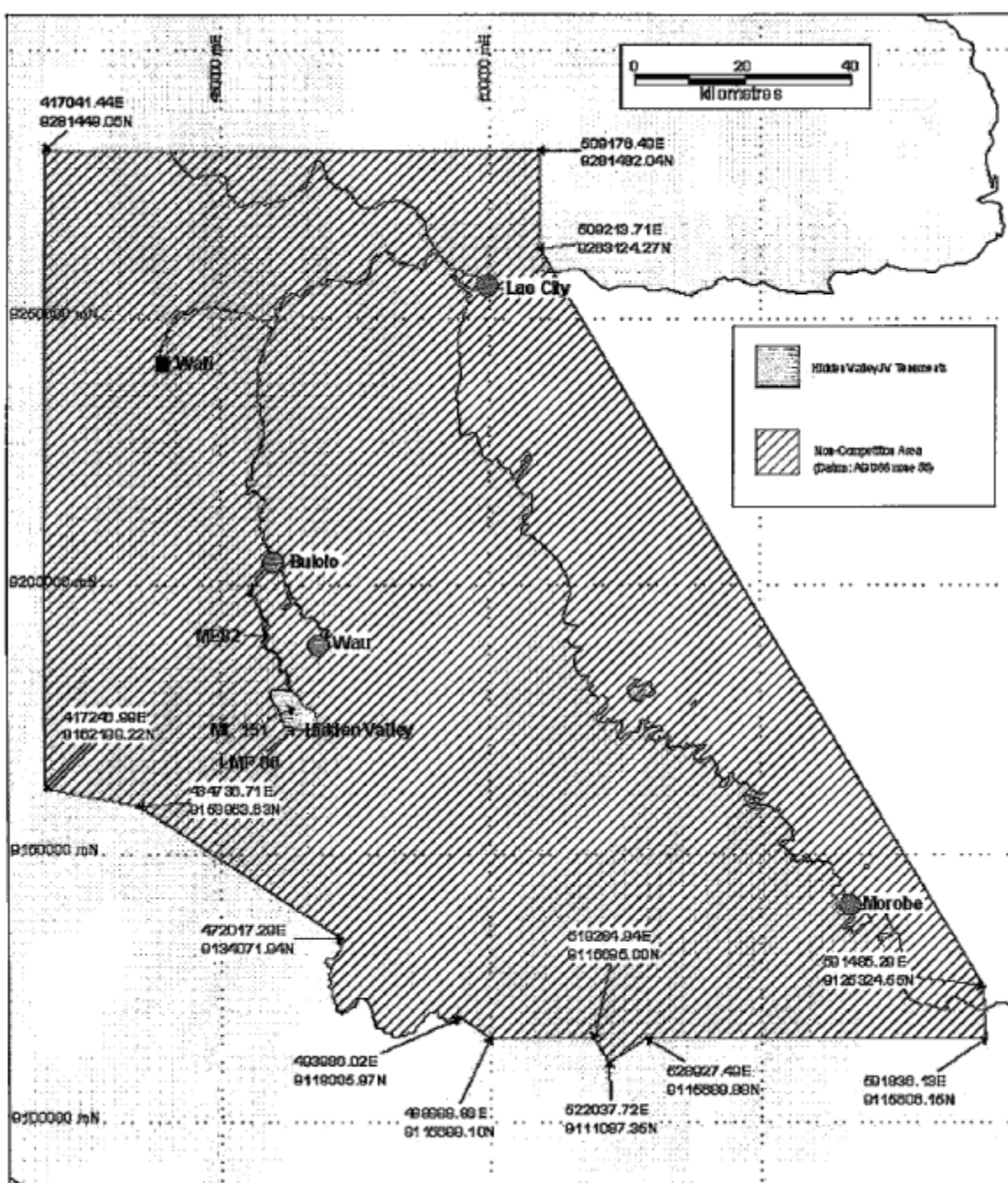
I, Stanley Nekitel, Registrar, pursuant to all powers conferred under the Mining Act 1992, certify that I have this day registered the instrument.

_____ (Registrar’s signature)

_____ (date)

Annexure A
MAP SHOWING JV AREA AND JV NON-COMPETITION AREA

Hidden Valley Joint Venture Agreement



Blake Dawson

Annexure B
SHAREHOLDERS AGREEMENT

Hidden Valley Joint Venture Agreement

**Hidden Valley Services
Limited Shareholders
Agreement**

Morobe Consolidated Goldfields Limited

Newcrest PNG 1 Limited

Hidden Valley Services Limited

Blake Dawson
Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
Australia
T 61 7 3259 7000
F 61 7 3259 7111

Reference
RAF MMR 07 1427 3151

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Hidden Valley Services Limited
Shareholders Agreement

DATE

PARTIES

Morobe Consolidated Goldfields Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(MCG)**

Newcrest PNG 1 Limited, a company incorporated in PNG, the registered office of which is Level 5, Pacific Place, corner of Musgrave Street and Champion Parade, Port Moresby **(Newcrest)**

Hidden Valley Services Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(Company)**

RECITALS

- A. Under the terms of the Joint Venture Agreement, MCG and Newcrest have agreed to establish and, with the Company, operate a joint venture for the exploration for and the development, mining and production of Mineral Products in the Tenements.
- B. The Joint Venture Agreement provides that as soon as possible after the commencement of the Joint Venture, MCG and Newcrest must take all steps necessary to establish the Company, including execution of a shareholders agreement in respect of the Company.
- C. This document records the terms under which MCG and Newcrest have agreed to appoint the Company as the operator of the Joint Venture.
- D. This document records the terms under which the Company will be owned, managed and controlled.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document. Any other term used in this document that is capitalised has the meaning given to it in the Joint Venture Agreement.

A Class Shares means A Class Shares on issue.

B Class Shares means B Class Shares on issue.

Board means the board of directors of the Company.

Business means the business of the Company which is to act as the Operator of the Joint Venture under the terms of the Joint Venture Agreement and any other business which the Shareholders agree by Unanimous Decision should be a business of the Company.

Class has the meaning given in the Constitution, and **Class of Shares** has a corresponding meaning.

Constitution means the constitution of the Company from time to time.

Deal means dispose in any way and includes assign, assure, declare a trust, lend, mortgage, pledge, transfer and sell (and to agree to do any of those things).

Director means a director of the Company.

Joint Venture Agreement means the joint venture agreement between the Company, MCG and Newcrest dated [date] 2008.

Master Purchase and Farmin Agreement means the document of that name between MCG, Wafi Mining Limited, Morobe Exploration Limited, Newcrest, Newcrest PNG 2 Limited and Newcrest PNG 3 Limited.

Operating Committee means the committee of the Board established in accordance with clause 6.2.

Party means a party to this document.

Proportionate Interest has the meaning given in the Constitution.

Share means an ordinary issued share in the capital of the Company.

Shareholder means MCG or Newcrest.

Shareholders' Meeting means a meeting of members of the Company held in accordance with the Constitution.

SMR means a senior management representative of a party but the SMR must not be directly involved in the Dispute or as a Representative appointed under clause 9.3(a).

Transaction Documents has the meaning given in the Joint Venture Agreement.

Unanimous Decision means 100% of votes in favour of a proposed resolution at a meeting of Directors or Shareholders.

Unanimous Vote means all of the votes that may be cast on a proposed resolution by those participating in the vote whether present at the meeting or otherwise are cast in favour of the resolution.

1.2 Rules for interpreting this document

- (a) All rules for interpreting the Joint Venture Agreement set out in clauses 1.2 and 1.3 of that document as amended, apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) All references to **clauses** in this document are references to clauses (including subclauses and paragraphs) in this document unless specifically stated otherwise in this document.

2. CONDITIONS PRECEDENT

2.1 Conditions precedent to document

The formation of a binding contract by this document and any rights and obligations arising under it (except for this clause and clauses 1 (Interpretation), 12 (Notices),

11 (Confidentiality) and 14 (General) are subject to all conditions precedent set out in the Joint Venture Agreement being satisfied or waived in accordance with the terms of that document.

2.2 Failure of conditions precedent

If the conditions referred to in clause 2.1 have not been satisfied or waived by all the relevant parties by the End Date, this document is cancelled and has no further effect, but without prejudice to any rights or remedies which any Party may have against any other Party which have already arisen.

3. ESTABLISHMENT OF THE COMPANY

3.1 Name of Company

The name **Hidden Valley Services Limited** is the property of the Company.

3.2 Object of the Company

It is the Shareholders' intention that the Company is to act as the Operator of the Joint Venture and is to dedicate itself on an exclusive basis to the efficient and economic conduct of the Joint Venture.

3.3 Obligations on Commencement Date

On or before the Commencement Date, the Shareholders must procure that the Company adopts the document in the form set out in Annexure A as the Constitution of the Company.

4. SHAREHOLDING IN THE COMPANY AT THE COMMENCEMENT DATE

4.1 A Class Shares

Immediately prior to the Commencement Date, MCG will hold 50 A Class Shares (issued at an aggregate subscription price of 50 Kina and paid in full by MCG).

4.2 B Class Shares

On the Commencement Date, Newcrest must apply and pay for, and the Company must issue to Newcrest, 50 B Class Shares at an aggregate subscription price of 50 Kina.

4.3 Shares

Except as provided for in clauses 4.1 and 4.2, the Company must not, without the prior written consent of each Shareholder, issue or grant options over (or agree to issue or grant options over) any Shares or other securities of the Company to any person.

5. THE BOARD

5.1 Appointment and removal of Directors

- (a) Subject to the appointee Directors being eligible to act, the holder of each class of Shares must appoint 3 Directors to the Board and, while it remains a Shareholder, may replace these Directors in accordance with this clause and the Constitution.

- (b) A Shareholder may only appoint or replace a Director under this clause by giving to the Company and the other Shareholder:
 - (i) notice of the appointment and the date and time the appointment is to take effect; and
 - (ii) before a Director is appointed, a signed consent to act as a Director from the person nominated as a Director.
- (c) If a Shareholder ceases to be the legal holder of any Shares or ceases to be entitled to appoint a Director, it must immediately remove each Director appointed by it.
- (d) If a Director is disqualified or prohibited from acting as a Director under this document, the Constitution, the Companies Act or any other law, the office of the Director is vacated and the appointing Shareholder must appoint a replacement under clause 5.1(b).

5.2 Directors

- (a) Immediately prior to the Commencement Date, the following persons are to be appointed as Directors, being nominated by MCG:
 - (i) Johannes Van Heerden, Gregory Job and Jeffery Shepherd.
- (b) On the Commencement Date, the following persons are to be appointed as Directors, being nominated by Newcrest:
 - (i) [Director’s name] [Director’s name] and [Director’s name],subject to their first having consented in accordance with the Companies Act and being eligible to act.

5.3 Chairman of Directors

- (a) The Shareholders must ensure that the Directors appoint one of the Directors as chairman of the Board.
- (b) The first chairman is Johannes Van Heerden.

5.4 Shareholders to ensure Board performance

- (a) Subject to any overriding obligations imposed by law, if any provision of a Transaction Document imposes an obligation on the Company or the Board, there is an obligation on each Shareholder to do everything in its power to ensure that the Company or the Board (as the case may be) performs that obligation.
- (b) For the purpose of this clause, each Shareholder is taken to have power to control the actions of Directors appointed by it.

6. MANAGEMENT OF THE COMPANY

6.1 Board

Subject to the Transaction Documents, the management of the Company vests in the Board.

6.2 Operating Committee

The Parties must ensure that at the first meeting of the Board on or immediately following the Commencement Date, the Board appoints a committee (**Operating Committee**) in accordance with the provisions of the Constitution and this document.

The Board will determine the composition, role and powers of the Operating Committee and shall appoint a General Manager who will report to the Operating Committee on a monthly basis.

7. CONTRACTS WITH VENTURERS OR AFFILIATES

The Operator must not contract with a Venturer or an Affiliate of a Venturer where the payments or liabilities under the contract exceed or are likely to exceed \$500,000 without the prior approval of the Joint Venture Committee.

8. TRANSFER OF SHARES AND CHANGE OF CONTROL

8.1 Restriction on Transfer

A Shareholder must not Deal with the Shares that it holds, except as provided in clauses 8.2, 8.3 and 8.4.

8.2 Pre-emptive right

If a Shareholder (or an Affiliate of a Shareholder) makes an offer to Assign all of its Participating Interest to the other Shareholder (or an Affiliate of the other Shareholder) in accordance with clause 26.4(a) of the Joint Venture Agreement, then it must (or must procure that) the offer made to the other Shareholder (or an Affiliate of the other Shareholder) includes all of its Shares for no additional consideration and otherwise subject to clause 26.5(a) of the Joint Venture Agreement.

8.3 Partial sale- no pre-emptive right

For the avoidance of doubt, clause 8.2 does not apply if a Shareholder makes an offer to Assign part, but not all, of its Participating Interest (or an Affiliate of a Shareholder).

8.4 Obligation to transfer

Unless the Shareholders agree otherwise in writing:

- (a) if a Shareholder (or an Affiliate of a Shareholder) ceases to hold, or under the Joint Venture Agreement ceases to be entitled to hold, any Participating Interest in the Joint Venture; or
- (b) if clause 18.3 of the Joint Venture Agreement applies to a Shareholder (or an Affiliate of a Shareholder), it must transfer all of its Shares to the other Shareholder free of any Encumbrance (and without payment).

8.5 Notice on Share certificate

The Company must ensure that all Share certificates issued contain a notice to the effect that the Shares evidenced by the Share certificate are subject to restrictions on transfer.

9. DISPUTE RESOLUTION

9.1 Application

Any dispute or difference between the Shareholders arising under or in connection with this document or the Constitution, including any dispute or difference as to the formation, validity, existence or termination of any of those documents **(Dispute)** must be resolved as set out in this clause 9.1.

For the avoidance of uncertainty, this clause 9 does not apply to:

- (a) any decision made by or resolution of the Board or of any committee of the Board (including the Operating Committee); or
- (b) any decision or other act which requires the consent of Shareholders or to be approved by a unanimous decision or resolution of the Shareholders or by a special or ordinary resolution of Shareholders.

9.2 Notice of dispute or difference

- (a) If a Dispute arises a party must commence the process contained in this clause for its resolution by giving notice **(Dispute Notice)** to the other party. The party sending the Dispute Notice is the Referring Party.
- (b) The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 9.2;
 - (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any:
 - (I) provisions of the relevant document;
 - (II) information, whether written or in any other form; and
 - (III) acts or omissions of any person, relevant to the Dispute;
 - (C) the amount in dispute (whether monetary or any other commodity) and if not known, the best estimate available; and
 - (iv) be given within 10 Business Days of the circumstances giving rise to the Dispute first occurring.

9.3 Negotiation between Representatives

- (a) Within 10 Business Days of the Referring Party giving a Dispute Notice, Representatives of the parties to the Dispute must meet to attempt to resolve the Dispute.

- (b) If, and to the extent that, the Dispute is resolved, the Board must immediately detail the resolution of the Dispute in writing. This document must clearly state which parts of the Dispute are resolved, and the agreed basis for its resolution.
- (c) If a written agreement is not produced pursuant to clause 9.3(b) in relation to all or part of the Dispute within 10 Business Days after the Dispute Notice has been given, the Dispute, or the part of the Dispute in respect of which there is no written agreement produced, is deemed to be unresolved.

9.4 Negotiation by senior management

- (a) If, 10 Business Days after the Dispute Notice has been given:
 - (i) the meeting required by clause 9.3 has not been held; or
 - (ii) the agreement has not been recorded in accordance with clause 9.3(b); or
 - (iii) the Dispute (or any part of it) is otherwise unresolved,the Referring Party must give notice to the other party that it requires the Dispute (or the parts of it that have not been resolved or have not been recorded in accordance with clause 9.3(b)) to be referred to senior management for resolution in accordance with clause 9.4(b).
- (b) The notice referred to in clause 9.4(a) must:
 - (i) be in writing;
 - (ii) state that it is made pursuant to clause 9.4(a);
 - (iii) annex a copy of the Dispute Notice (and any accompanying documents) given pursuant to clause 9.2 together with any documents which the Referring Party considers would further assist senior management in resolving the Dispute;
 - (iv) if part of the Dispute has been resolved, annex a copy of the document prepared pursuant to clause 9.3(b); and
 - (v) be given no later than 5 Business Days after the Dispute Notice has been given.
- (c) Within 20 Business Days of the Referring Party giving notice pursuant to clause 9.4(a), a senior management representative (**SMR**) from each of the parties to the Dispute must meet to attempt to resolve the Dispute. The parties are not permitted to delegate this function to any other person.
- (d) The SMRs may meet more than once within the period referred to in clause 9.4(c) to resolve any Dispute. The SMRs may meet in person, via telephone, videoconference, internet-based instant messaging or any other means of instantaneous communication.
- (e) Each party to the Dispute must ensure that their SMR:
 - (i) has full authority to resolve the Dispute; and
 - (ii) makes a genuine effort to resolve the Dispute.
- (f) The outcome of the SMR meeting must be reduced to writing and signed by the SMR for both parties to the Dispute (**SMR Outcome Document**). The SMR Outcome Document must clearly state in respect of the Dispute or any part of the

Dispute whether it is resolved or unresolved (clearly stating if the Dispute is only partly resolved, which part is resolved, and which part remains unresolved).

- (g) if:
- (i) an SMR Outcome Document:
 - (A) is not produced or is not produced within whichever is the later to occur of:
 - (I) 20 Business Days of the notice being given pursuant to clause 9.4(a); or
 - (II) 35 Business Days of the Dispute Notice being given; or
 - (B) states that the Dispute (or any part of the Dispute) is unresolved; or
 - (C) is silent in respect of any part of the Dispute which was unresolved after the meeting held pursuant to clause 9.3(a); or
 - (ii) the Dispute or any part of the Dispute is otherwise unresolved within 35 Business Days of the Dispute Notice being given,
- the Dispute or the relevant part of the Dispute is deemed to be unresolved and thereafter the Dispute or the relevant part of the Dispute shall be referred to arbitration in accordance with clause 9.5.

9.5 Arbitration

Any Dispute, or part of a Dispute that is deemed to be unresolved under clause 9.4(g) must be resolved by arbitration in accordance with the UNCITRAL Rules which are current as at the date on which the Dispute Notice was given. The seat of the arbitration will be Brisbane, Australia and the language of the arbitration will be English.

9.6 Continuance of performance

Despite the existence of a Dispute, the parties must continue to perform their respective obligations under the Transaction Documents.

9.7 Summary or urgent relief

Nothing in this clause 9 prevents a party from instituting court proceedings to seek enforcement of any payment due under any Transaction Document or to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

10. TERMINATION

10.1 Termination of document

- This document terminates on the earlier of:
- (a) any date agreed by the Shareholders; and
 - (b) the date when the Company is wound up.

10.2 Consequences of termination

On termination, subject to clause 10.3, this document is at an end as to its future operation except for the enforcement of any right or claim which arises on, or has arisen before, termination.

10.3 Clauses surviving termination

Despite any other provision of this document, unless the Shareholders otherwise agree unanimously in writing, clauses 1 (Interpretation), 10.4 (Company to be wound up), 11 (Confidentiality), 12 (Notices) and 14 (General) survive the termination of this document.

10.4 Company to be wound up

If one Shareholder does not own or is not entitled to own all the Shares on termination of the Joint Venture Agreement, the Shareholders must after the Company has complied with its obligations under the Joint Venture Agreement and the Services Agreement cause the Company to be wound up, its assets realised and the proceeds distributed to the Shareholders according to their Proportionate Interests at the date of winding up of the Company.

11. CONFIDENTIALITY

A Party must not disclose any information concerning the contents of, or the transactions contemplated by, this document to any person who is not a Party, except to the extent that:

- (a) the disclosure is expressly permitted by this document;
- (b) all Parties consent to the disclosure;
- (c) the information is already in the public domain, unless it entered the public domain because of a breach of confidentiality by that party;
- (d) the disclosure is made on a confidential basis to that party's or any of its Affiliates' officers, employees, agents, financiers or professional advisers, and is necessary for the business of that party or its Affiliates;
- (e) the disclosure is necessary to comply with any applicable law, or an order of a court or tribunal or the rules of any stock exchange;
- (f) the disclosure is necessary to comply with a directive or request of any Government Agency or stock exchange (whether or not having the force of law) so long as a responsible person in a similar position would comply;
- (g) the disclosure is necessary or desirable to obtain an Authorisation from any Government Agency or stock exchange; or
- (h) the disclosure is necessary or desirable in relation to any discovery of documents, or any proceedings before a court, tribunal, other Government Agency or stock exchange.

12. NOTICES

12.1 How to give a notice

- Without limiting the means by which service may be effected on a company pursuant to the Companies Act, a notice, consent or other communication under this document is only effective if it is:
- (a) in writing, signed by or on behalf of the person giving it;
 - (b) addressed to the person to whom it is to be given; and
 - (c) served by being:
 - (i) left at the address of the person;
 - (ii) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person’s postal address; or
 - (iii) sent by fax to the fax number of that person and the machine from which it is sent produces a report that states that it was sent in full.

12.2 When a notice is given

- A notice, consent or other communication that complies with this clause is regarded as given and received:
- (a) if any of the requirements of section 436(1) of the Companies Act apply, when those requirements are satisfied; or
 - (b) in any other case if it is:
 - (i) delivered to a person or left at an address:
 - (A) by 5.00 pm (local time in the place of receipt) on a Business Day -on that day; or
 - (B) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day;
 - (ii) sent by mail — five days after it is posted; or
 - (iii) sent by fax — on the day following the day on which it was sent.

12.3 Address for notices

A person’s address, postal address, and fax number are those set out below, or as the person notifies the sender.

MCG
Address: Level 2,189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

Newcrest
Address: Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: + 61 3 9521 3564
Attention: Bernard Lavery

Company
Address: Level 2,189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

13. AMENDMENT AND ASSIGNMENT

13.1 Amendment

This document can only be amended, supplemented, replaced or novated by another document signed by the Parties.

13.2 Assignment to related corporations

A Shareholder (**Assignor**) must transfer all of its Shares to any related corporation (**Assignee**) to whom it has Assigned all of its Participating Interest in accordance with clause 26 of the Joint Venture Agreement and such transfer must be conditional on:

- (a) the related corporation agreeing in writing with the other Shareholder to reassign the Shares to the Assignor if for any reason the Assignee ceases to be a related corporation of the Assignor; and
- (b) the Assignor agreeing with the Assignee to accept the reassignment.

14. GENERAL

14.1 Governing law

- (a) This document is governed by the law in force in Papua New Guinea.
- (b) Each Party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Papua New Guinea for any proceedings in connection with any Transaction Document and waives any right it might have to claim that those courts are an inconvenient forum.

14.2 Liability for expenses

Each Party must pay its own expenses incurred in negotiating, executing, stamping and registering this document.

14.3 No partnership or agency

Nothing in this document is to be treated as creating a partnership and except as specifically provided in this document, no Party may act as agent of or in any way bind another Party to any obligation.

14.4 Giving effect to this document

Each Party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other Party may reasonably require to give full effect to this document.

14.5 Waiver of rights

A right may only be waived in writing, signed by the Party giving the waiver, and:

- (a) no other conduct of a Party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

14.6 Operation of this document

- (a) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

14.7 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A Party may recover a payment under an indemnity in this document before it makes the payment.

14.8 Consents

Where this document contemplates that a Shareholder may agree or consent to something (however it is described), the Shareholder may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

14.9 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a Shareholder, or the exercise by the Shareholder of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

14.10 Counterparts

This document may be executed in counterparts.

14.11 Inconsistency with the Constitution

- (a) If this document is inconsistent with the Constitution, this document prevails to the extent of the inconsistency.
- (b) Each Shareholder undertakes with each other Shareholder to:

- (i) exercise all votes, powers and rights under the Constitution to give effect to the provisions and intentions of this document; and
- (ii) observe and comply promptly with the provisions of the Constitution.
- (c) Nothing contained in this document constitutes an amendment of the Constitution.
- (d) If any provision of this document to be effective needs to be included in the Constitution, the Shareholders must amend the Constitution accordingly.

14.12 Attorneys

Each person who executes this document on behalf of a Party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

EXECUTED as an agreement.

Annexure A
CONSTITUTION OF THE COMPANY

Annexure C
CONSTITUTION FOR COMPANY ACTING AS OPERATOR

Hidden Valley Joint Venture Agreement

**Constitution of
Hidden Valley Services
Limited**

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CONSTITUTION OF HIDDEN VALLEY SERVICES LIMITED

1. PRELIMINARY

1.1 Definitions

Unless the context otherwise requires, the following definitions apply in this constitution.

Act means the Companies Act 1997 as it is amended and applies to the Company from time to time.

Alternate Director means a person appointed as an alternate director under clause 15.1.

Appointor means in respect of an Alternate Director, the Director who appoints that Alternate Director under clause 15.1.

Auditor means the auditor of the Company from time to time.

Board means the Directors acting collectively under this constitution.

Business Day means a day on which banks in Papua New Guinea generally are open for the full range of banking business.

Chairman means the person appointed as chairman of the Board under clause 18.7 from time to time.

Class means a class of ordinary Shares.

Common Seal means the common seal of the Company.

Company means the company named above whatever its name may be from time to time.

Deputy Chairman means the person appointed as deputy chairman of the Board under clause 18.7 from time to time.

Director means a person appointed as a director for the time being of the Company (including, where appropriate, an Alternate Director).

Dividend means any distribution to Shareholders in relation to Shares as a dividend of any property (including, without limitation, money and shares (including bonus shares) or other securities of the Company or of any other body corporate).

Executive Director means any Managing Director and any other Director who is an employee of the Company.

Managing Director means a person (if any) appointed as a managing director of the Company under clause 16.1.

Official Seal means the duplicate common seal referred to in clause 20.7.

Prescribed Rate means in respect of each clause in which that term is used 10 per cent per annum or any other rate prescribed by the Board from time to time in respect of that clause.

Proportionate Interest means, in relation to a Shareholder, the percentage calculated in accordance with the following formula:

Proportionate Interest =

Participating Interest x 100%

Combined Participating Interest

Where

Participating Interest means the Participating Interest of a Shareholder in the Hidden Valley Joint Venture established by the Hidden Valley Joint Venture Agreement dated [] between Morobe Consolidated Goldfields Limited, Newcrest PNG 1 Limited and the Company.

Combined Participating Interest means the total of the Participating Interests of the Class A Shareholder and the Class B Shareholder.

Register means the register of Shareholders kept pursuant to the Act.

Secretary means a person appointed as a secretary of the Company from time to time (including any person appointed to perform the duties of a secretary temporarily).

Share means a share in the capital of the Company.

Shareholder means a person whose name is entered in the Register as the holder of a Share.

Shareholders Agreement means the Shareholders Agreement dated [] between Morobe Consolidated Goldfields Limited, Newcrest PNG 1 Limited and the Company.

Shareholder’s Liability means, in respect of a Shareholder:

- (a) all money due and payable by the Shareholder to the Company; and
- (b) all money (whether payable or not) called or payable at a fixed time in respect of Shares held by that Shareholder.

Voting Shareholder means a Shareholder:

- (a) who is entitled to be present at a meeting of Shareholders;
- (b) present at the meeting in any of the ways set out in clause 9.1; and
- (c) in respect of whom there is at least one item of business to be considered at the meeting on which the Shareholder is not disqualified from voting.

1.2 Interpretation

In this constitution, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation or statutory instrument issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;
- (c) a reference to an individual or person includes a corporate body, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (d) a reference to a person is also to the legal personal representative of that person;

- (e) a reference to any gender includes all genders;
- (f) a reference to a clause or a schedule is to a clause of or schedule to this constitution;
- (g) a schedule is part of this constitution;
- (h) a reference to any agreement or document (including this constitution) is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (i) an expression defined in, or given a meaning for the purposes of, the Act (except where defined, or given a meaning, in this constitution) has the same definition or meaning in this constitution where it relates to the same matters for which it is defined, or given a meaning, in the Act;
- (j) a reference to a matter being written includes that matter being in any mode of representing or reproducing words, figures or symbols in written form;
- (k) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (l) a reference to power is also to authority and discretion;
- (m) where an expression is defined anywhere in this constitution it has the same meaning throughout;
- (n) a reference to a particular Part, Division, section, sub-section, paragraph or sub-paragraph is a reference to a Part, Division, section, sub-section, paragraph or sub-paragraph of the Act;
- (o) a reference to a Class of Shareholders is a reference to the holders for the time being of a Class, and a reference to a Class of Directors is a reference to the Directors for the time being appointed by a particular Class of Shareholders;
- (p) a reference to an A Class Shareholder is a reference to a shareholder forming part of the Class of Shareholders holding A Class Shares and a reference to an A Class Director is a reference to one of the Class of Directors appointed by the Class of Shareholders holding A Class Shares, and this provision applies (modified as required) to references to Shareholders and Directors of Classes of Shareholders other than A Class; and
- (q) a reference to a matter being with the consent of Shareholders is to consents to that matter having been given to the Company in accordance with clause 1.4 by each Shareholder at the time that the matter arises.

1.3 Headings

In this constitution headings are for convenience of reference only and do not affect interpretation.

1.4 Mode of consent

For the purposes of clause 1.2(q), a Shareholder consents to a matter if and only if the Company receives a notice signed by the Shareholder (or the Shareholder’s attorney);

- (a) which is delivered at the registered office of the Company or of which a legible copy is received there by facsimile transmission; and
- (b) which sets out the matter to which the Shareholder consents,

and the Company has not received a notice, similarly signed and delivered, revoking that consent.

2. SHARES

2.1 Control of Board

Subject to clauses 2.6 and 2.7, the Board may issue or grant options over or otherwise dispose of Shares in the Company to the persons, on the terms and conditions, with the rights and privileges (including, without limitation, different Classes of Shares and Shares which rank equally with, or in priority to, existing Shares), and at the times that the Board determines.

2.2 Preference and redeemable preference Shares

Subject to clauses 2.6 and 2.7, the Company may issue any Shares as preference shares or otherwise and which are redeemable:

- (a) at the option of the Company; or
- (b) at the option of the holder of the Share; or
- (c) on a date determined by the Board,
for a consideration that is:
 - (d) determined by the Board; or
 - (e) to be calculated by reference to a formula; or
 - (f) required to be fixed by a suitably qualified person who is not associated with or interested in the Company.

2.3 Proportionate Interests

Notwithstanding any other provision of this document, the rights, entitlements, obligations and liabilities of Shareholders as between themselves or as between the Company and the Shareholders collectively is proportionate to their Proportionate Interests from time to time. This applies irrespective of the number of Shares on issue at any time, and does not create any express, implied or resulting trust in respect of any Shares in the Company. As a consequence, all rights, entitlements, obligations and liabilities of Shareholders are determined according to their respective Proportionate Interests including, without limitation, entitlements of a Class of Directors or Class of Shareholders to vote, to receive dividends or other distributions or to receive any proceeds of winding up or liquidation of the Company.

2.4 Issue of Shares

Section 45 shall not apply to the issue of Shares by the Company unless the terms of issue of any Shares otherwise provide.

2.5 Buy backs of Shares

The Company, with the consent of Shareholders, is authorised to:

- (a) agree to purchase or otherwise acquire any of its own Shares from one or more Shareholders; and
- (b) redeem any redeemable Shares.

2.6 A and B Class Shares

The capital of the Company comprises:

- (a) A Class ordinary Shares; and
- (b) B Class ordinary Shares;

and, subject to this constitution, the A Class Shares and B Class Shares rank equally in all respects.

2.7 Pro-rata issues

Notwithstanding any other provision of this constitution, the Board may not, except with the consent of Shareholders:

- (a) issue any voting Shares which are not ordinary Shares of a Class provided for in clause 2.6;
- (b) issue or grant any option over, ordinary Shares or preference shares otherwise than to Shareholders in the same proportions in which they hold ordinary Shares; or
- (c) convert any preference share or any non-voting Share to an ordinary Share.

3. CERTIFICATES

3.1 Certificates of title

Certificates of title to securities of the Company which are issued by it must be issued in accordance with the Act.

3.2 Replacement of lost certificates

Where a certificate is lost or destroyed, the Company may issue a duplicate certificate in accordance with the Act.

3.3 Replacement of worn out certificates

Where a certificate is defaced or worn out and is produced to the Company and the Company is paid a reasonable fee determined by the Board, the Company may cancel that certificate and issue a new certificate in substitution.

4. REGISTER

Except as required by law or by this constitution (including clause 2.3), the Company must treat the person whose name appears in the Register in respect of a Share as the absolute owner of that Share and, accordingly, the Company is not bound to recognise (whether or not it has notice):

- (a) that a person holds any Share on trust; or
- (b) any equitable, contingent, future or partial interest in, or unit of, any Share.

5. LIEN

5.1 Lien for Shareholder’s debts

The Company has a first and paramount lien on each Share registered in a Shareholder’s name in respect of all money owed to the Company by the Shareholder.

5.2 Lien on payments required to be made by the Company

Where at any time the law of any jurisdiction imposes or purports to impose any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, on account of a Shareholder or referable to a Share held by that Shareholder (whether alone or jointly) or a Dividend declared in respect of a Share held by that Shareholder, the Company:

- (a) is fully indemnified by that Shareholder from that liability;
- (b) may recover as a debt due from the Shareholder the amount of that liability together with interest at the Prescribed Rate from the date of payment by the Company (if the payment is made) to the date of repayment by the Shareholder; and
- (c) subject to compliance with section 65(4), may refuse to register a transfer of any Share by that Shareholder until the amount of that liability has been paid to the Company,

and nothing in this clause in any way prejudices or affects any right or remedy which the Company may have (including, without limitation, any right of set-off) and, as between the Company and the Shareholder, any such right or remedy is enforceable by the Company.

5.3 Extent of lien

The lien described in clause 5.1 extends to all Dividends (if any) payable in respect of the Share and to the proceeds of sale of the Share.

5.4 Waiver by Board

The Board may (but only with the consent of Shareholders) at any time, exempt a Share from the provisions of clause 5.1 to the extent and on any terms and conditions that it determines.

6. ALTERATION OF CAPITAL, SHARES AND RIGHTS

6.1 Alteration of capital

With the consent of Shareholders, the Company may from time to time by ordinary resolution do any or all of the following:

- (a) consolidate and divide all or any of its share capital into Shares of a larger amount than its existing Shares; and
- (b) sub-divide its Shares or any of them.

6.2 Additional rights

Where the Company passes an ordinary resolution under either clause 6.1(a) or clause 6.1(b), the Company may also (but only with the consent of Shareholders) by special resolution determine that, as between the Shares resulting from the consolidation, division

or sub-division, one or more of those Shares has some preference or special advantage as regards Dividends, capital, voting or otherwise over or compared with one or more others.

6.3 Variation of rights

If at any time the Shares are divided into different classes, the rights attached to any Class of Shares (**Subject Class**) (unless the terms of issue of the Subject Class otherwise provide) may only be varied or abrogated with the consent of Shareholders.

7. TRANSFER OF SHARES

7.1 Modes of transfer

Subject to this constitution, a Shareholder may transfer all or any of the Shareholder’s Shares by instrument in writing which is in a form approved by the Board or is in any other usual or common form.

7.2 Transfer by instrument

Where a Shareholder seeks to transfer all or any of the Shareholder’s Shares in accordance with clause 7.1, the Company may only register a transfer of Shares where an instrument satisfying clause 7.1 is delivered to the Company and the instrument:

- (a) is duly stamped, if necessary;
- (b) is executed by the transferor and the transferee, except where a law provides that execution by either or both transferor and transferee is not required or is deemed to be present;
- (c) except where otherwise permitted by law, is accompanied by the certificate for the Shares the subject of the transfer together with such other evidence as the Board may require to prove the title of the transferor or the transferor’s right to transfer the Shares; and
- (d) relates only to Shares of one Class.

7.3 Restriction on transfer

The provisions of the Shareholders Agreement have effect in respect of Shares to govern all dealings and transactions in and in relation to them and the continued holding of them and the Board must only register any transfer of Shares if that transfer is permitted or required under the Shareholders Agreement.

7.4 Retention of Instruments

On an instrument of transfer or a purported instrument of transfer being delivered to the Company, property to and title in that instrument (but not the Shares the subject of it) pass to the Company which is entitled as against all persons to the possession of the instrument.

7.5 Powers of attorney

Where a power of attorney granted by a Shareholder is lodged with, or produced or exhibited to, the Company and that power of attorney confers power on the attorney to transfer any or all of the Shareholder’s Shares, the Company is entitled to assume, as against the Shareholder, that the power remains in full force and effect and may be relied on by the Company until the Company receives express notice in writing at its registered office of either:

- (a) the revocation of the power of attorney; or
- (b) the death of the Shareholder.

8. MEETINGS OF SHAREHOLDERS

8.1 Methods of holding meetings

A meeting of Shareholders may be held either:

- (a) by a number of Shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) if determined by the Board, by means of audio, or audio and visual, communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

8.2 Annual meeting

Except as provided by the Act, the Company must, in addition to any other meeting held by it, hold an annual meeting in accordance with the Act.

8.3 Convening of special meeting

The Board may convene a special meeting of the Company at any time.

8.4 Requisition of special meeting

Shareholders may requisition the holding of a special meeting as provided by section 102(b).

8.5 Notice of meeting of Shareholders

Written notice of the date, time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting and to every Director and an Auditor of the Company not less than 14 days before the meeting.

8.6 Contents of notice

The notice shall:

- (a) state the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it; and
- (b) include the text of any special resolution to be submitted to the meeting.

8.7 Waiver of irregularity in notice

An irregularity in a notice of a meeting is waived where all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or where all such Shareholders agree to the waiver.

8.8 Omission to give notice

The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a Shareholder does not invalidate the proceedings at that meeting.

8.9 Cancellation or postponement of special meeting

Where notice of a special meeting of Shareholders has been given, the Board may by notice given to all persons entitled to be given notice of the meeting, postpone or cancel the meeting.

8.10 Adjournment of meeting

The chairman of a meeting of Shareholders at which a quorum is present:

- (a) may with the consent of the meeting by ordinary resolution; and
- (b) must, if so directed by the meeting by ordinary resolution, adjourn the meeting from time to time and from place to place.

8.11 Business at adjourned meeting

The only business which an adjourned meeting of Shareholders may deal with is business which was left unfinished from the meeting which was adjourned.

8.12 Notice of adjourned meeting

Where a meeting of Shareholders is adjourned for less than one month, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned.

9. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS

9.1 Representation of Shareholders

A Shareholder may attend a meeting of Shareholders at which the Shareholder is entitled to be present in any of the following ways (if applicable to the Shareholder):

- (a) in person;
- (b) by proxy;
- (c) by attorney; or
- (d) in the case of a Shareholder which is a body corporate, by a representative appointed in respect of the meeting under clause 10.10.

9.2 Quorum

Subject to clause 9.3 no business may be transacted at a meeting of Shareholders unless there is present for that business a quorum of two natural persons:

- (a) at least one of whom is or represents under clauses 9.1(b), (c) or (d) a Class A Shareholder; and
- (b) at least one of whom is or represents under clauses 9.1(b), (c) or (d) a Class B Shareholder.

9.3 Failure of quorum

Where a quorum is not present within 30 minutes after the time appointed for the meeting:

- (a) in the case of a meeting called under Section 102(b) and clause 8.4, the meeting is dissolved; and
- (b) in the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the Directors may appoint, and, where, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

9.4 Chairman

The Chairman (if any) is or, if the Chairman is absent or is unwilling or unable to be the chairman of a meeting of Shareholders, the Deputy Chairman (if any) is, if willing and able, to be the chairman of any meeting of Shareholders.

9.5 Chairman absent

Where a meeting of Shareholders is held and:

- (a) the Chairman and the Deputy Chairman of the Board have not been appointed; or
- (b) the Chairman and the Deputy Chairman of the Board are not present within 15 minutes after the time appointed for the holding of the meeting or being present, are unwilling or unable to act,

the Voting Shareholders present must elect one of their number to be chairman of the meeting.

9.6 Responsibilities of chairman

The chairman of a meeting of Shareholders:

- (a) shall allow a reasonable opportunity for Shareholders of the meeting to question, discuss and comment on the management of the Company as required by section 90(1); and
- (b) subject to paragraph (a) of this clause and Schedule 2(12) of the Act, is responsible for the general conduct of the meeting and to ascertain the sense of the meeting concerning the business transacted at it and for these purposes may, without limitation:
 - (i) prescribe procedures and make rulings, in each case finally and conclusively;
 - (ii) in addition to other powers to adjourn, adjourn the meeting or any item of business of the meeting without the concurrence of the meeting if the chairman determines it is desirable for the orderly conduct of the meeting or the conduct of a poll; and
 - (iii) determine conclusively any dispute concerning the admission, validity or rejection of a vote.

9.7 Method of voting

In the case of a meeting of Shareholders held under clause 8.1(a) unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairman of the meeting:

- (a) voting by voice; or

(b) voting by show of hands,

and in the case of a meeting of Shareholders held under clause 8.1(b) unless a poll is demanded, voting at the meeting shall be by the Shareholders signifying individually their assent or dissent by voice.

9.8 Declaration by chairman

A declaration by the chairman of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 9.9.

9.9 Demand for poll

At a meeting of Shareholders a poll may be demanded by —

- (a) not less than five Shareholders having the right to vote at the meeting; or
- (b) a Shareholder or Shareholders representing not less than 10% of the total voting rights of all Shareholders having the right to vote at the meeting; or
- (c) by a Shareholder or Shareholders holding Shares in the Company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all Shares that confer that right.

9.10 Time for demanding a poll

A poll may be demanded either before or after the vote is taken on a resolution.

9.11 Votes on a poll

Where a poll is taken, votes shall be counted according to the Proportionate Interest of each Shareholder present in person or by proxy, attorney or representative and voting.

9.12 Authority of proxy etc on a poll

The instrument appointing a proxy, attorney or representative to vote at a meeting of the Company confers authority to demand or join in demanding a poll and a demand by a person as proxy, attorney or representative for a Shareholder has the same effect as a demand by the Shareholder.

9.13 Effect and withdrawal of demand for poll

The demand for a poll:

- (a) does not prevent the continuance of a meeting of Shareholders for the transaction of any business except in respect of the resolution for which the poll is demanded; and
- (b) may be withdrawn.

9.14 Conduct of poll

If a poll is properly demanded for the voting on a resolution:

- (a) if the resolution is for the adjournment of the meeting of Shareholders, the poll must be taken immediately at the place and in the manner that the chairman of the meeting determines and declares to the meeting;

- (b) in all other cases, the poll must be taken at the time and place and in the manner that the chairman of the meeting of Shareholders determines and declares to the meeting; and
- (c) the result of the poll, as disclosed by the chairman of the meeting of Shareholders at which the result is declared, is a resolution of the meeting at which the poll is demanded.

9.15 Resolutions determined by majority

Both on a show of hands and on a poll, an ordinary resolution is passed if (and only if) the proportion that the number of votes cast in favour of that resolution bears to the total number of votes cast on the resolution is greater than one half.

9.16 No casting vote of chairman

Under no circumstances does the chairman of a meeting of Shareholders have a casting vote.

9.17 Written resolutions

For the purposes of section 103, two or more documents in identical terms, each signed by one or more Shareholders (or such Shareholders' attorneys or representatives, as the case may be) are to be treated as one document provided that:

- (a) each document is delivered to the registered office of the Company or a legible copy of it is received there by facsimile transmission; and
- (b) where more than one Shareholder, representative or attorney signs the document the date of execution of the document by each Shareholder, attorney or representative is set out.

and the date of the resolution is the last date of execution of any of those documents by a Shareholder or its attorney or representative.

9.18 Minutes to be kept

The Board shall ensure that minutes are kept of all proceedings at meetings of Shareholders.

9.19 Signed minutes

Minutes which have been signed correct by the Chairman of the meeting are prima facie evidence of the proceedings.

9.20 Second Schedule not to apply

Except to the extent that any such provision may be expressly adopted in this constitution, the provisions of the Second Schedule to the Act shall not apply to proceedings at meetings of Shareholders.

10. ENTITLEMENTS TO ATTEND AND VOTE

10.1 Entitlement to attend

Subject to this constitution and any terms of issue of any Share, each Shareholder and each Director is entitled to notice of each meeting and to be present and to speak at that meeting.

10.2 Entitlement to vote

Subject to this constitution and any terms of issue of any Share:

- (a) on voting by voice or a show of hands, each natural person present at a meeting of Shareholders who is a Voting Shareholder or a proxy (other than a person who is present only as one of two proxies appointed by the same Shareholder), representative or attorney appointed by a Voting Shareholder has one vote; and
- (b) on a poll, each natural person present at a meeting of Shareholders has the number of votes calculated as the aggregate of the following:
 - (i) the Proportionate Interest in Shares held by the person; and
 - (ii) the Proportionate Interest in Shares in respect of which Voting Shareholders holding those Shares have appointed the person as proxy, representative or attorney.

10.3 Entitlement to vote by proxy etc

A Shareholder may exercise the right to vote either by being present in person or by proxy, attorney or representative.

10.4 Entitlement of proxy etc

A proxy, attorney or representative for a Shareholder is entitled to attend and be heard at a meeting of Shareholders as if the proxy, attorney or representative was the Shareholder.

10.5 Appointment of proxy

A proxy shall be appointed by notice in writing signed by the Shareholder, the notice shall state whether the appointment is for a particular meeting or a specified term not exceeding one year and the notice shall be in the form of Schedule 1 or in any other form that the Board may from time to time prescribe or accept.

10.6 Production of proxy etc

Any appointment of a proxy, attorney or representative is effective in respect of a particular meeting of Shareholders if, and only if, the following instruments are actually received (which includes receipt of a copy of those instruments by legible facsimile transmission) by the Company at its address for service or registered office (or another place notified by the Board) at or before the time notified for that meeting:

- (a) in the case of a proxy, the instrument of proxy and, if it is executed by an attorney, the relevant power of attorney or an office copy or notarially certified copy of the power of attorney;
- (b) in the case of an attorney, the power of attorney or an office copy or notarially certified copy of the power of attorney; and
- (c) in the case of a representative of a body corporate, an instrument of appointment executed under the common seal of the body corporate and, if it is executed by an attorney, the relevant power of attorney or an office copy or notarially certified copy of the power of attorney executed under the common seal of the body corporate, or other evidence satisfactory to the Board.

10.7 Effect of Incomplete proxy form

An instrument of proxy is not invalid or ineffective merely if any or all of the following applies:

- (a) it does not contain the address of the Shareholder giving it;
- (b) it does not contain the address of the person appointed by it;
- (c) it is not dated; and
- (d) it does not contain a direction to the appointee as to how to vote on any or all items of business.

10.8 Effect of the appointment

An instrument of proxy which is valid and effective except that it does not specify an appointee in respect of any of the Shares of the relevant Shareholder is to be treated as validly appointing the chairman of the meeting of Shareholders to which it relates in respect of all of the Shares of that Shareholder.

10.9 Proxy must vote as directed

Where a Shareholder in a valid instrument of proxy directs the appointee to vote in a specified way in respect of a particular item of business at the relevant meeting of Shareholders:

- (a) the appointee must cast or abstain from casting (as the case may be) a vote on that item of business; and
- (b) the appointee must, on a poll, cast the votes as to which a direction is given by the instrument of proxy in accordance with that direction,

but, if in respect of any vote in respect of that item of business, the Shareholder does not on the instrument of proxy indicate how the appointee is to cast that vote, the appointee may cast, or abstain from casting, that vote as the appointee determines.

10.10 Corporate bodies may act by representatives

A body corporate which is a Shareholder may appoint a representative to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.

10.11 Multiple appointments

Where the Company has received an instrument of proxy in respect of a Share from a Shareholder the appointment made by that instrument is and remains valid and effective, except that where the Company subsequently receives:

- (a) a power of attorney or office copy or notarially certified copy of a power of attorney entitling the attorney to attend and vote at the meeting, the appointment is revoked;
- (b) intimation in writing either of the revocation of the appointment under the instrument of proxy or of the death of the Shareholder, the appointment is revoked; and
- (c) another instrument of proxy from the Shareholder in respect of that Share, the instrument of proxy bearing the later date (or if the instruments bear the same date, the instrument later received by the Company) is an intimation in writing of the revocation of the appointment under the other instrument.

10.12 Presence of Shareholder

If a Shareholder is present in person at a meeting of Shareholders and a person appointed by that Shareholder as proxy or attorney is also present at that meeting, that person may

not exercise the rights conferred by the instrument of proxy or power of attorney while the Shareholder is present.

10.13 Ruling on entitlements and votes

An objection may be raised with the chairman of a meeting of Shareholders as to the qualification of a purported voter or the admission or rejection of a vote by any person present and entitled (or claiming to be entitled) to vote but that objection may be made only at the meeting of Shareholders or adjourned meeting at which the purported voter wishes to vote or the vote objected to is given or tendered and, in relation to that objection:

- (a) the decision of the chairman is final and conclusive; and
- (b) a vote not disallowed as a result is valid and effective for all purposes.

11. SHAREHOLDER PROPOSALS

11.1 Notice to the Board

A Shareholder may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote.

11.2 Notice to Shareholders at Company’s expense

Where the notice is received by the Board not less than one month before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board shall, at the expense of the Company, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

11.3 Notice to Shareholders at proposing Shareholder’s expense

Where the notice is received by the Board not less than seven days and not more than one month before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board shall, at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

11.4 Late notice

Where the notice is received by the Board less than seven days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board may, if practicable, and at the expense of the Shareholder, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

11.5 Proposing Shareholder’s written statement

Where the Directors intend that Shareholders may vote on the proposal by proxy, they shall give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than 1,000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.

11.6 Defamatory statements etc

The Board is not required to include in or with the notice given by the Board a statement prepared by a Shareholder which the Directors consider to be defamatory, frivolous, or vexatious.

11.7 Deposit of costs

Where the costs of giving notice of the Shareholder proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder shall, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

12. DIRECTORS

12.1 Number of Directors

Until the Shareholders otherwise determine by ordinary resolution the number of the Directors (excluding Alternate Directors) must be not less than two nor more than ten.

12.2 Continuing Directors

The Directors holding office at the date of adoption of this constitution continue in office subject to this constitution.

12.3 Appointment of Directors

Each Class of Shareholders has the right by notice in writing to the Company to appoint the Prescribed Number of Directors as determined by clause 12.4.

12.4 Prescribed Number of Directors

The Prescribed Number of Directors at any time is the number obtained by dividing the maximum number of Directors specified in or pursuant to clause 12.1 by the number of Classes on issue at that time, or, if that is not a whole number, the next lowest whole number.

12.5 Removal of Directors

Each Class of Shareholders has the right to remove any of the corresponding Class of Directors in the same way as such Directors can be appointed under clause 12.3.

12.6 Casual vacancy

If at any time a casual vacancy occurs on the Board, the Director whose office is vacated may be replaced by the Class of Shareholders who appointed the Director, and not in any other way.

12.7 Qualification of Directors

A Director need not be a Shareholder.

12.8 Vacation of office

The office of a Director automatically becomes vacant if the Director:

- (a) becomes a bankrupt or an insolvent under administration;
- (b) is not permitted by the Act (or an order made under the Act) to be a Director;

- (c) becomes of unsound mind;
- (d) is removed as a Director under the Act or this constitution;
- (e) either personally or by an Alternate Director fails to attend Board meetings for a continuous period of six months without leave of absence from the Board; or
- (f) resigns by notice in writing in accordance with the Act.

13. DIRECTORS’ REMUNERATION

13.1 Fees of non-executive Directors

Directors (other than Executive Directors) are only entitled to receive fees if this is with the consent of Shareholders, in which case such fees:

- (a) may not in any period of 12 months starting at the end of a financial year of the Company (a **year**) exceed in aggregate the amount last fixed before the end of that year for those fees by ordinary resolution;
- (b) are to be allocated to those Directors as determined by the Board (including those Directors), or, if there is no such determination in any year, equally between them; and
- (c) accrue from day to day.

13.2 Additional remuneration for extra services

If a Director having been requested to do so by the Board, either performs extra services or makes any special exertions for the Company (including, without limitation, going or living abroad), the Company may remunerate that Director by the payment of a fixed sum determined by the Board and that remuneration may be either in addition to or in substitution for any remuneration to which that Director may be entitled under clause 13.1.

13.3 Expenses of Directors

The Company must pay a Director (in addition to any other remuneration) all reasonable expenses including, without limitation, any travelling and accommodation expenses incurred by the Director:

- (a) in attending meetings of the Board or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out that Director’s duties as a Director.

14. DIRECTORS’ MATERIAL INTERESTS AND DUTIES

14.1 Definition of Material Interest

Material Interest means for the purposes of this clause 14, in relation to a Director, but subject to clause 14.6, any interest (other than an interest in relation to which the Act provides that a director is not, or is not to be taken to be, interested including, without limitation, an interest to which section 117(2) applies) which would result in the Director being **Interested** for the purposes of section 117(1) of the Act.

14.2 Disclosure of Material Interest

Where a Director has a Material Interest the Director shall comply with section 118 by causing an entry to be made in the interests register.

14.3 Failure to disclose Material Interest

Where a Director with a Material Interest:

- (a) does not comply with section 118; and
 - (b) exercises any of the powers referred to in section 122,
- the Director is in breach of his duty to the Company.

14.4 Powers of Directors with Material Interest

A Director with a Material Interest who complies with section 118 may do any of the things and exercise all or any of the powers provided for in section 122.

14.5 Director may hold office of Company

The Company may appoint a Director:

- (a) to hold any office in, or place of profit in respect of, the Company (except that of Auditor) on terms determined by the Board; or
- (b) alone or by a firm of which the Director is a member, to act in any professional capacity and the Director or that firm may be remunerated for so acting as if the Director were not a Director.

14.6 Application to Alternate Directors

The provisions of this clause 14 apply to the Material Interests of an Alternate Director, but an Alternate Director does not have a Material interest solely by reason of the fact that the Director who has appointed the Alternate Director has a Material Interest and vice versa.

14.7 Directors may act in interests of Shareholder

The Shareholders acknowledge that the Company has been incorporated to carry out a joint venture between the Shareholders and each Director may, when exercising powers or performing duties as a Director in connection with the carrying out of the joint venture, act in a manner which the Director believes is in the best interests of a Shareholder or Shareholders even though it may not be in the best interests of the Company.

14.8 Directors duties — subsidiaries

Where:

- (a) the Company is a subsidiary, but not a wholly owned subsidiary, of another company; and
- (b) the Shareholders, other than the holding company, have given their prior agreement,

each Director may, when exercising powers or duties as a Director, act in a manner which the Director believes is in the best interests of the Company's holding company or another company within the same group of companies even though it may not be in the best interests of the Company.

15. ALTERNATE DIRECTORS

15.1 Power to appoint Alternate Director

A Director (but not an Alternate Director) may from time to time in accordance with the procedures set out in clause 15.2 appoint any person eligible to be a Director to be the Alternate Director of the Appointor whether for a specified period or until the appointment is revoked.

15.2 Method of appointment

An Alternate Director is appointed as such where:

- (a) the Appointor gives notice in writing (including, without limitation, by facsimile transmission) to the Company in the form of Schedule 2 or in any other form that the Board may from time to time prescribe or accept; and
- (b) the Board (excluding the Appointor from voting) approves the person specified to be the Alternate Director of the Appointor.

15.3 Termination of appointment

The Appointor, at any time and regardless of whether the appointment is for a specified period, may revoke the appointment of a person as the Appointor’s Alternate Director by notice in writing (including, without limitation, by facsimile transmission) to the Company to that effect and the appointment is automatically revoked if the Appointor ceases to be a Director.

15.4 Entitlements of Alternate Director

An Alternate Director by reason of being appointed as such:

- (a) is not entitled to receive notice of meetings of the Board unless the Appointor has by notice in writing (including, without limitation, by facsimile transmission) to the Company required it to do so;
- (b) if the Appointor is not present at a meeting of the Board, may attend and vote at that meeting in place of the Appointor;
- (c) if also a Director, may vote both as a Director and as an Alternate Director;
- (d) and when acting as such, is an officer of the Company and not an agent of the Appointor and, in those circumstances, is subject to all the duties and has all the powers and rights of the Appointor as a Director; and
- (e) may not be remunerated except out of the remuneration which would otherwise be available to be paid to the Appointor and, in respect of that remuneration, the Alternate Director’s only rights (if any) are against the Appointor and not the Company.

16. MANAGING DIRECTOR AND OTHER EXECUTIVE DIRECTORS

16.1 Appointment of Managing Director

The Board may from time to time appoint one or more of the Directors to be a Managing Director either for a fixed term (but not for life) or without fixing a term and on any terms and conditions that it determines.

16.2 Termination of appointment of Managing Director

The appointment of the Managing Director terminates if:

- (a) the Managing Director ceases for any reason to be a Director; or
- (b) the Board revokes the appointment (which this paragraph empowers it to do).

16.3 Remuneration of Executive Directors

The Board may fix the remuneration of each Executive Director and that remuneration may comprise any or all of:

- (a) salary;
- (b) commission on profits or Dividends: or
- (c) participation in profits.

16.4 Powers of Executive Directors

Subject to the Act, and in particular section 111, the Board may, by resolution passed with no Class of Directors voting against it, from time to time and upon any terms and conditions and subject to any restrictions that it considers appropriate:

- (a) confer on an Executive Director any or all of the powers of the Board (which powers may be conferred so as to be concurrent with, but not to the exclusion of, the powers of the Board); and
- (b) withdraw or alter any of those powers.

17. POWERS OF THE BOARD

17.1 Powers generally

Except as otherwise required by the Act, in particular section 110, or any other applicable law or another provision of this constitution:

- (a) the business and affairs of the Company shall be managed by, or under the direction or supervision of, the Board; and
- (b) the Board has all the necessary powers for managing, and for directing and supervising the management of, the business and affairs of the Company,

to the exclusion of any meeting of Shareholders and the Shareholders.

17.2 Appointment of attorney

Subject to the Act, and in particular section 111, the Board may by unanimous resolution by power of attorney appoint any person to be an attorney of the Company for the purposes, with the powers (being powers of the Board), for the period and subject to the conditions determined by it.

17.3 Contents of power of attorney

A power of attorney under clause 17.2 may, without limitation:

- (a) contain any provisions for the protection and convenience of persons dealing with the attorney as the Board determines; and

(b) authorise the attorney to delegate any or all of the powers vested in the attorney.

17.4 Reservation of powers to the Company

The Board may only change the principal business of the Company with the consent of Shareholders.

18. PROCEEDINGS OF THE BOARD

18.1 Mode of meeting

The Board may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means) which allows each person present to hear and be heard by each other person present, and adjourn and otherwise regulate its meetings as it determines.

18.2 Quorum

The quorum of Directors present at a meeting of the Board necessary for the transaction of business at the meeting is one of each Class of Director and for the purposes of this clause and clauses 18.4 and 18.10, a Director is treated as present at the meeting by telephone or other instantaneous means of conferring if the Director is able to hear the entire meeting and be heard by all others attending the meeting.

18.3 Notice of meeting

Notice of each meeting of the Board:

- (a) must be given to each Director (and each Alternate Director in respect of whom the Appointor has given notice to the Company requiring notice to be given to that Alternate Director); and
- (b) may be given by telephone or facsimile message,

but the non-receipt of any notice of a Board meeting by a Director does not affect the validity of the convening of the meeting.

18.4 Place of meeting

Where the Board holds a meeting solely or partly by telephone or other instantaneous means of conferring, the meeting is to be treated as held at the place at which at least one of the Directors present at the meeting is physically located as is agreed by those Directors present at the meeting.

18.5 Period of notice

The Board may determine the period of notice (unless waived by a majority of each Class of Directors to whom notice of a particular meeting is sent) for each meeting of the Board which, until otherwise determined, is 24 hours.

18.6 Convening of Board meeting

A Director may at any time, and the Secretary must on request from a Director, convene a meeting of the Board.

18.7 Appointment of Chairman

- (a) The Class of Directors representing a Shareholder whose Proportionate Interest is greater than 50% may appoint one Director as Chairman and another as Deputy

Chairman and may determine the period (while that Shareholder's Proportionate Interest is greater than 50%) for which each of those Directors is to hold that office.

- (b) If the Proportionate Interest of the Shareholders is 50% each:
 - (i) the Class A Directors may appoint the Chairman and Deputy Chairman until the end of the financial year in which the Proportionate Interest of each of the Shareholders becomes 50%;
 - (ii) the Class B Directors may appoint the Chairman and Deputy Chairman during the financial year after the time referred to in clause 18.7(b)(i); and
 - (iii) the Class A Directors may appoint the Chairman and Deputy Chairman during the financial year after that referred to in clause 18.7(b)(ii),

and so on by way of rotation of the right to appoint the Chairman and Deputy Chairman for periods of one year amongst the Classes of Directors.

18.8 Chairman of Board meetings

Where the Board holds a meeting and:

- (a) a Chairman has not been appointed under clause 18.7 or the Chairman is not present within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act; and
- (b) a Deputy Chairman has not been appointed under clause 18.7 or the Deputy Chairman is not present within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act.

the Directors present at the meeting may choose one of their number to be chairman of that meeting.

18.9 Majority decisions

Except as otherwise provided by this constitution, every question arising and resolution dealt with at a meeting of the Board is to be decided by a majority of votes of the Directors present and voting on the question or resolution, but so that, regardless of the number of Directors present, each Class of Directors has the proportion of votes equal to the Proportionate Interest of the Shareholder which they represent.

18.10 Votes of Directors

Subject to this constitution (and in particular but without limitation, clauses (18.9 and 18.10):

- (a) each Director (including a person who is only a Director by reason of being an Alternate Director) present at a meeting of the Board has a right to participate in the voting on every question or resolution put to a vote at that meeting; and
- (b) under no circumstances does the chairman have a casting vote.

18.11 Exercise of powers by Board

A power of the Board is exercisable only:

- (a) by resolution at a meeting of the Board at which a quorum is present; or
- (b) by a resolution of the Directors under clause 18.14.

18.12 Delegation to committee

- (a) The Board may, by resolution passed with no Class of Directors voting against it, delegate any of its powers (which powers may be delegated so as to be concurrent with, but not to the exclusion of, the powers of the Board) to a committee consisting of an equal number of Directors from each Class of Directors.
- (b) The Board may review, reconsider, vary, alter or reverse any decision of a committee appointed under paragraph (a) and may substitute its own decision on any such matter.

18.13 Committee powers and meetings

Where the Board has appointed a committee under clause 18.12:

- (a) that committee must exercise the powers delegated to it under clause 18.12 in accordance with any directions of the Board;
- (b) a power so delegated when exercised by the committee in accordance with clause 18.13(a) and ratified by the Board is treated as exercised by the Board;
- (c) the members of the committee may elect a chairman from among those members who are Directors;
- (d) where a committee holds a meeting and:
 - (i) has not elected a chairman under paragraph (c) of this clause; or
 - (ii) the chairman so elected is not present at the meeting within 15 minutes of the time appointed for the holding of the meeting or is unwilling or unable to act,

the members of the committee present at the meeting may choose one of their number to be chairman of the meeting;

- (e) the committee may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means) and adjourn and otherwise regulate its meetings as it may determine;
- (f) every question arising and resolution to be dealt with at a meeting of a committee is to be decided by a majority of votes of the members present and voting on the question or resolution, but so that, regardless of the number of members present, the members representing each Class of Directors have collectively only one vote;
- (g) subject to this constitution (and in particular but without limitation, clause 18.13(f)) each member present at a meeting of a committee has a right to participate in the voting on every question or resolution put to a vote at that meeting;
- (h) under no circumstances does the chairman have a casting vote; and
- (i) the committee meetings are otherwise governed by the provisions of this constitution which regulate the meetings and procedures of the Board to the greatest extent practicable.

18.14 Written resolution of Directors

If all the Directors entitled to receive notice of a meeting of the Board and to vote on a resolution sign a document to the effect that they support the resolution (the terms of which are set out in the document), a resolution in those terms is for all purposes treated as

having been passed at a duly convened meeting of the Board held on the date and at the time when the last Director signed the document.

18.15 Several documents suffice

For the purpose of clause 18.14:

- (a) two or more separate documents in identical terms each of which is signed by one or more Directors are treated as one document;
- (b) the signature by an Alternate Director of a document is not required if the Appointor of that Alternate Director has signed the document;
- (c) the signature by the Appointor of an Alternate Director of a document is not required if that Alternate Director has signed the document; and
- (d) a telex, telegram or facsimile message containing the text of the document expressed to have been signed by a Director and sent to the Company is a document signed by that Director at the time of its receipt by the Company.

18.16 Validity of acts of Directors

Each resolution passed or act or thing performed or done by, or with the participation of, a person acting as a Director or member of a committee in respect of whom it is later discovered there was some defect in appointment to, or continuation in, office of that person or that the person was disqualified or not entitled to perform, vote on or do, the resolution, act or thing, is as valid and effective as if that Director or member of committee had been validly appointed, had validly continued in office, had not been disqualified and was entitled so to perform, vote or do.

18.17 Other procedures

Except as provided in this clause 18, the Board may determine its own procedures.

18.18 Fourth Schedule not to apply

Except to the extent that any such provision may be expressly adopted in this constitution, the provisions of the Fourth Schedule to the Act shall not apply to proceedings of the Board.

19. SECRETARY

19.1 Appointment of Secretary

The Board may:

- (a) appoint any person to be a Secretary of the Company;
- (b) determine the term of appointment, powers, duties and remuneration of that person as a Secretary;
- (c) vary any determination so made; and
- (d) terminate or suspend any appointment of a person as a Secretary.

20. COMPANY ADMINISTRATION

20.1 Minutes to be made

The Board must cause minutes to be made of:

- (a) the names of the Directors present at each Board meeting;
- (b) the names of the committee members present at each meeting of a committee appointed under clause 18.12;
- (c) the proceedings and resolutions of each meeting of Shareholders;
- (d) the proceedings and resolutions of each Board meeting; and
- (e) the proceedings and resolutions of each meeting of a committee appointed under clause 18.12.

20.2 Minutes to be entered

The Board must cause all minutes made under clause 20.1 to be entered in the relevant minute book of the Company.

20.3 Signature of minutes

The minutes of a meeting made under clause 20.1, if appearing on their face to be signed by the chairman of the meeting or the chairman of the next succeeding meeting of the relevant body, are sufficient but (except where this constitution otherwise provides) not conclusive evidence without proof of any further facts of the matters stated in them.

20.4 Custody of Common Seal

The Board must provide for the safe custody of the Common Seal.

20.5 Use of Common Seal

The Common Seal may only be used with the authority of either:

- (a) the Board; or
- (b) a committee appointed under clause 18.12 empowered to authorise the use of the Common Seal.

20.6 Mode of execution by Common Seal

An instrument is validly executed under the Common Seal where the Common Seal is affixed to it in the presence of:

- (a) at least one Director from each Class of Directors; or
 - (b) two persons appointed by the Board for the purpose,
- who each sign the instrument to attest the affixing of the Common Seal.

20.7 Official Seal

The Company may have, for use in any place outside Papua New Guinea a duplicate common seal (known as the Official Seal for that place) which shall be a facsimile of the Common Seal but with the addition on its face of the name of the place where it is to be used.

20.8 Authority to affix an Official Seal

The Company may by instrument under the Common Seal authorise any person either generally or in specified circumstances to affix the Official Seal for a particular place in that place to any instrument to which the Company is a party and determine any manner required for the affixing by that person of that Official Seal in that place.

20.9 Effect of Official Seal

Where an Official Seal is affixed to an instrument in the place to which it relates by a person authorised and in the circumstances authorised for that person under clause 20.8 in the manner described in clause 20.8 (if any), that instrument is to be treated for all purposes as having been validly executed under the Common Seal.

20.10 Execution of bills and cheques

All cheques, bills of exchange and other negotiable instruments, all orders for payment and all receipts for money paid to the Company, may only be signed for and on behalf of the Company in the manner (which may include the use of facsimile signatures) determined, and by the persons appointed for the purpose, by the Board from time to time.

21. DIVIDENDS AND OTHER DISTRIBUTIONS

21.1 Declaration of Dividends

Subject to the Act, in particular section 50 and clause 2.6, the Board may authorise the distribution of a Dividend to be distributed to the Shareholders according to their respective Proportionate Interests, determine the property to constitute the Dividend and fix the time for distribution.

21.2 No interest on Dividends

No Dividend (whether in money or otherwise) bears interest as against the Company.

21.3 Obligation to distribute

Where the Board declares a Dividend under clause 21.1 the obligation of the Company to make the distribution only arises where the Board fixes the time for distribution and that time has arrived and, if the Dividend is a distribution of money, no debt arises in respect of the Dividend until that time.

21.4 Payment of Dividend in specie

Without limiting clause 21.1 but subject to section 52, where the Board authorises the distribution of a Dividend by a distribution of money it may also decide that all or any part of that Dividend be paid and satisfied by the distribution of specific assets (including, without limitation, paid up shares or other securities of the Company or of any other body corporate).

21.5 Deductions from Dividends

The Board may deduct from any Dividend which is a distribution of money payable to a Shareholder any money presently payable by the Shareholder to the Company in respect of which a lien then exists under clause 5.

21.6 Retention of Dividends

The Board may retain any Dividend in respect of which the Company has a lien and:

- (a) if the Dividend is a distribution of property other than money, realise that property so that it is represented by money; and
- (b) apply the Dividend in or towards the satisfaction of the debts or liabilities in respect of which the lien exists.

21.7 Settlement of difficulties

Subject to clause 2.6, the Board may settle any difficulty that may arise in respect of any distribution under clauses 21.1 to 21.5 (inclusive) as it considers desirable to adjust the rights of all parties and, in particular, may (without limitation):

- (a) round or disregard any fractional entitlement;
- (b) set the value of each asset to be distributed;
- (c) determine that money to be paid to any Shareholder instead of a particular distribution;
- (d) vest any property in trustees for any Shareholder; and
- (e) appoint a person to execute as agent or attorney on behalf of each Shareholder entitled to a Dividend to be distributed otherwise than as money any instrument of transfer or other document necessary to vest in the Shareholder full legal and equitable title to the property the subject of the Dividend.

21.8 Unclaimed Dividend

All Dividends declared but unclaimed may:

- (a) in the case of Dividends not to be distributed as money, be realised into money; and
- (b) in any case, be invested for the benefit of the Company until claimed or until required to be dealt with under any applicable law dealing with unclaimed money.

22. NOTICES

22.1 Service

Any document required to be served by or on the Company may be served in accordance with the provisions of the Act.

22.2 Binding on others

Any person entitled to a Share (whether by transfer, operation of law or otherwise) is to be treated as having duly received every notice in respect of that Share which was duly given to the person from whom that person derives that entitlement before the person entitled is entered in the Register as the holder of the Share.

22.3 Signature of notice

The signature to any notice given by the Company may be written or affixed in any way.

22.4 Certificate of Director or Secretary

If a Director or Secretary signs a certificate that a notice was given in the manner set out in the certificate, that certificate is prima facie evidence of the accuracy of the matters set out in it.

23. INSPECTION AND SECRECY

23.1 Board to permit Inspection

The books, accounts and other information of the Company is to be available for inspection by Shareholders at all reasonable times.

23.2 Obligation of secrecy

Subject to clause 23.1, every officer of the Company must:

- (a) keep strictly secret all transactions and affairs of, the accounts of and all information concerning the Company; and
- (b) if so required by the Board, sign a declaration accepting the obligation of secrecy and undertaking not to disclose any information within the officer’s knowledge the subject of that obligation to any person, except in the proper course and performance of the officer’s duties, as required by law or as permitted or required by the Board.

24. LIQUIDATION

24.1 Power of Board

The Board may by unanimous resolution authorise the making of an application by the Company for the appointment by the Court of a liquidator to the Company.

24.2 Distribution if insufficient assets

Subject to the terms of issue of a Share, if the Company is in liquidation and the assets available for distribution among the Shareholders (in that capacity) are insufficient to repay all the paid up capital, those assets will be distributed so that, to the greatest possible extent, the amount distributed to a Shareholder is proportional to its Proportionate Interest.

24.3 Distribution of surplus assets

Subject to the terms of issue of a Share, if the Company is in liquidation and after distribution of assets to repay paid up capital there remain assets available for distribution to the Shareholders (in that capacity), those assets will be distributed so that, to the greatest possible extent, the amount distributed to a Shareholder is proportional to its Proportionate Interest.

25. MISCELLANEOUS

25.1 Indemnity

The Company is authorised to indemnify and shall indemnify to the fullest extent permitted by the Act each Director and employee of the Company or a related company:

- (a) for any costs incurred by that person in any proceeding of the kind described in section 140(3); and
- (b) for any:
 - (i) liability to any person other than the Company or a related company for any act or omission in that person’s capacity as a Director or employee; and

- (ii) costs incurred by that person in defending or settling any claim or proceeding relating to any such liability, not being criminal liability or liability in respect of a breach, in the case of a Director, of the duty specified in section 112 or, in the case of an employee, of any fiduciary duty owed to the Company or a related company.

25.2 Insurance

The Company is authorised with the prior approval of the Board, to effect insurance for each Director and employee of the Company or a related company in respect of:

- (a) liability, not being criminal liability, for any act or omission in his capacity as a Director or employee;
- (b) costs incurred by that Director or employee in defending or settling any claim or proceeding relating to any such liability; and
- (c) costs incurred by that Director or employee in defending any criminal proceedings in which he is acquitted.

25.3 Interpretation

Words having extended meanings by section 140(9) shall have those extended meanings in clauses 25.1 and 25.2.

25.4 General authorisation

Where the Act authorises or permits a company to do any thing if so authorised by its constitution, the Company is authorised by this clause to do that thing.

25.5 Acts of Class of Shareholders

Any act or thing which may pursuant to this constitution be done by a Class of Shareholders may be done:

- (a) where a Shareholder holds in excess of one half of the issued Shares of the relevant Class, by that Shareholder; or
- (b) in any other case, by Shareholders of that Class who hold, in aggregate, more than one half of the issued Shares of that Class.

25.6 Inconsistency with Shareholders Agreement

While the Shareholders Agreement is in force, if the Shareholders Agreement is inconsistent with this document, the Shareholders Agreement prevails to the extent of the inconsistency.

Schedule 1
(clause 10.5)
PROXY FORM

Hidden Valley Services Limited

(Name of shareholder or shareholders)

of

(Address of shareholder or shareholders)

(the **Shareholder**), a shareholder of Hidden Valley Services Limited, appoints

(Name of proxy)

of

(Address of proxy)

or, failing that person, the Chairman of the meeting as the Shareholder’s proxy to vote for the Shareholder and on the Shareholder’s behalf at the [special] meeting of Shareholders of the Company to be held on [] at [] am/pm and at any adjournment of that meeting [or until [] being not more than one year from the date of appointment].

The proxy is directed to vote in the following manner:

Resolution #:

For: ☐ Against: ☐ Abstain: ☐

(A mark should be placed in the appropriate box if the Shareholder wishes to direct the proxy to vote in a specified way in relation to the above resolution[s]. If no direction is given, the proxy may vote or not as the proxy sees fit.)

This form must be signed by the Shareholder (in the case of a body corporate under its common seal) or by an attorney of the Shareholder.

Dated:

Signed:

SIGNED for an on behalf of the Shareholder specified above by its duly appointed attorney in the presence of:

Signature of witness

Name

THE COMMON SEAL of the Shareholder (being a body corporate) specified above, the fixing of which was witnessed by:

Signature of director

Name

Attorney

Name

Date of Power of Attorney

Signature of director/secretary

Name

Schedule 2
(clause 15.2)

FORM OF APPOINTMENT OF ALTERNATE DIRECTOR

I, the undersigned, a Director of Hidden Valley Services Limited, exercise the power given to me by the constitution of that company and appoint, subject to the approval of the Board, [insert name] of [insert address] to act as Alternate Director for me. This appointment takes effect *immediately/*on [insert date] and extends until *[insert date]/ *revoked by me.

Notice of meetings of the Board *is/*is not to be given to the person appointed by this notice.

Dated:
(Signature)
(Name printed)

* Delete and complete as required

Blake Dawson

Annexure D
SERVICES AGREEMENT

Hidden Valley Joint Venture Agreement

Services Agreement

Morobe Consolidated Goldfields Limited

Newcrest PNG 1 Limited

Hidden Valley Services Limited

Blake Dawson

Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
Australia
T 61 7 3259 7000
F 61 7 3259 7111

Reference RAF MMR 07 1427 3151

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Services Agreement

DATE

PARTIES

Morobe Consolidated Goldfields Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(MCG)**

Newcrest PNG 1 Limited, a company incorporated in PNG, the registered office of which is Level 5, Pacific Place, corner of Musgrave Street and Champion Parade, Port Moresby **(Newcrest)**

Hidden Valley Services Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby **(Operator)**

RECITALS

- A. Under the terms of the Joint Venture Agreement MCG and Newcrest have agreed to establish and, with the Operator, operate a joint venture for the exploration for and the development, mining and production of Mineral Products in the Tenements.
- B. The Joint Venture Agreement provides that as soon as possible after the commencement of the Joint Venture, MCG and Newcrest must execute a Services Agreement with the Operator.
- C. This document records the terms under which MCG and Newcrest have agreed to appoint the Operator as the operator of the Joint Venture.

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Assign means to sell, transfer, assign, make a gift of, lease, licence, or part possession with, declare a trust over, or in any other way dispose of, deal with or create an interest in or to agree to do any of those things other than by creating an Encumbrance.

Joint Venture Agreement means the joint venture agreement entered into between MCG, Newcrest and the Operator dated on or about the date of this document.

1.2 Joint Venture Agreement definitions apply

Any other term used in this document that is capitalised has the meaning given to it in the Joint Venture Agreement.

1.3 Rules for interpreting this document

- (a) All rules for interpreting the Joint Venture Agreement set out in clauses 1.2 and 1.3 of that document as amended, apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (b) All references to **clauses** in this document are references to clauses (including subclauses and paragraphs) in this document unless specifically stated otherwise in this document.

2. CONDITIONS PRECEDENT

The obligations of the parties under this document do not become binding until the conditions precedent set out in clause 2 of the Joint Venture Agreement are satisfied or waived in accordance with that clause.

3. APPOINTMENT AS THE OPERATOR OF THE JOINT VENTURE

MCG and Newcrest appoint the Operator as the Operator of the Joint Venture and the Operator accepts the appointment subject to the terms of this document and the Joint Venture Agreement.

4. OPERATOR’S COSTS AND EXPENSES

4.1 Costs and expenses

- (a) The Operator is entitled to recover all of its costs and expenses incurred for the purpose of achieving the Objects of the Joint Venture (including the items referred to in sections 3.2 to 3.17 of Schedule 2 of the Joint Venture Agreement) if those costs:
 - (i) have been incurred in accordance with an Operating Program and a Budget; or
 - (ii) are otherwise authorised by the Joint Venture Agreement or this document.
- (b) The costs and expenses referred to in clause 4.1 (a) which are incurred by the Operator in the performance of its functions form part of Joint Venture Expenditure and the Venturers must pay those costs and expenses to the Operator in accordance with the Joint Venture Agreement (including the Accounting Procedure).
- (c) The Operator is not to charge the Venturers a management fee and overhead charges for performing its functions as Operator under this document and the Joint Venture Agreement without the prior approval of the Joint Venture Committee.
- (d) The Operator is entitled to debit, and be indemnified out of, the Joint Account for:
 - (i) the costs and expenses referred to in clause 4.1(a) which are incurred by the Operator; and
 - (ii) the management fees and overhead charges it charges under clause 4.1(c).
- (e) Overhead charges of the Operator under clause 4.1 (c) are restricted to overheads of the Operator arising in Papua New Guinea and do not, except with the prior written consent of the Venturers, include any corporate overheads relating to the shareholders of the Operator.

4.2 Current statements

The Operator must give each Venturer a current statement in accordance with clause 12.3 of the Joint Venture Agreement.

5. AGENCY OF THE OPERATOR

- (a) Subject to the terms of this document, in its capacity as operator of the Joint Venture, the Operator is the agent of the Venturers.
- (b) In that capacity, subject to the supervision of the Joint Venture Committee, the Operator is in charge of all Operating Programs and other activities conducted, or a substantial part of which is conducted, in the JV Area. For that purpose, the Operator has the rights and obligations specified in clause 7.

6. SUPERVISION BY JOINT VENTURE COMMITTEE

The Operator:

- (a) is subject to the supervision of the Joint Venture Committee;
- (b) must carry out any instruction properly given to it by the Joint Venture Committee; and
- (c) must submit all matters of a type described in clause 6.4 of the Joint Venture Agreement to the Joint Venture Committee for consideration and resolution.

7. OPERATOR’S RIGHTS AND OBLIGATIONS

7.1 Operator’s rights and obligations

Subject to clauses 3 to 6 inclusive, the Operator has the following rights and obligations:

- (a) the Operator must carry out the Operating Program from time to time of the Joint Venture in accordance with the provisions of the Joint Venture Agreement and this document and the Operator will dedicate itself on an exclusive basis to the efficient and economic conduct of the Joint Venture. The Operator must not without the prior written consent of the Venturers carry on or be interested in any business activity during the term of its appointment as Operator except under this document and the Joint Venture Agreement;
- (b) the Operator, its directors, employees or agents or independent contractors engaged by the Operator must conduct all activities and operations (including the development and operation of Joint Venture Facilities) subject to this clause 7.1;
- (c) the Operator has the conduct of all operations under the Joint Venture on behalf of the Venturers and has custody of all Joint Venture Property for this purpose;
- (d) the Operator must obtain or cause to be obtained for the Joint Venture in accordance with the provisions of the Joint Venture Agreement, all Authorisations, mining titles and other rights to the use of land and ancillary rights that may be required to conduct operations under this document and the Joint Venture Agreement;
- (e) the Operator must use all reasonable endeavours to maintain each Tenement in good standing in accordance with good mining industry practice, including:

- (i) ensuring that the minimum expenditure requirements arising from each Tenement are met or that exemptions from those requirements are obtained;
- (ii) lodging reports required;
- (iii) making rental and other necessary payments; and
- (iv) making all necessary applications for renewals or replacements by other rights;
- (f) the Operator must conduct operations in respect of the Joint Venture in accordance with all applicable laws, the terms of each Tenement, the Mining Act and good mining industry practice (including any requirement that may be necessary for safety and rehabilitation);
- (g) the Operator:
 - (i) may represent each Venturer in any dealings with a Government Agency concerning the Joint Venture and the furtherance of its Objects; and
 - (ii) may sign and make submissions to a Government Agency on behalf of each Venturer;
- (h) the Operator must pay all costs and expenses properly incurred by it for the Joint Venture and in connection with its activities under this document and the Joint Venture Agreement;
- (i) the Operator must notify each Venturer immediately of any significant event concerning the exploration for, or the development or production of, Mineral Products under this document or the Joint Venture Agreement; and
- (j) the Operator must perform its obligations as set out in the Joint Venture Agreement, including preparing and distributing proposed Operating Programs and Budgets in accordance with clause 7.5 of the Joint Venture Agreement.

7.2 Reports to Venturers

The Operator must:

- (a) give each Venturer a monthly report on operations in the JV Area within 10 Business Days after the end of each calendar month;
- (b) give each Venturer, before the commencement of each quarter during a financial year a forecast of expenditure compared against the Operating Program and Budget for the remainder of that financial year;
- (c) give each Venturer a copy of all exploration results, production reports and other reports, surveys and data relating to operations in the JV Area promptly after it receives any of them;
- (d) give each Venturer a copy of each approved Operating Program and Budget (with amendments, if any) promptly after the Joint Venture Committee approves such Operating Program and Budget;
- (e) give a Venturer a copy of any report, survey or other data relating to operations in the JV Area requested by that Venturer within a reasonable time of that request; and

- (f) respond promptly to a Venturer's reasonable request for information or inquiry concerning operations under this document and the Joint Venture Agreement.

The cost of each report, survey or other data referred to in this clause 7.2 is Joint Venture Expenditure.

7.3 Limits on operations and expenditure

Subject to this clause and clause 7.4 of this document and clause 6.2 of the Master Purchase and Farmin Agreement, the Operator must only:

- (a) undertake operations that are included in an approved Operating Program (including the Stage 2 Operating Program); and
- (b) make expenditure that does not exceed the amount provided in a currently approved Budget; and

Despite the foregoing, the Operator must conduct operations and make expenditure on behalf of each Venturer that is essential to:

- (i) give effect to this document and the Joint Venture Agreement;
- (ii) fully discharge the obligations that would otherwise fall on the Venturers under this document and the Joint Venture Agreement (other than in respect of the payment of Called Sums); and
- (iii) protect the rights and interests of each Venturer to and in each Tenement and other Joint Venture Property held for the purposes of this document or the Joint Venture or both.

7.4 Emergency contributions to expenditure

if an emergency occurs:

- (a) the Operator may make any immediate expenditure it thinks necessary for the protection of life, limb, property or any Venturer's Participating Interest.
- (b) the Operator must immediately report the emergency expenditure to each Venturer; and
- (c) each Venturer is liable for the emergency expenditure in proportion to its Participating Interest and must pay its proportion to the Operator.

7.5 Records and reports

The Operator must:

- (a) keep adequate records of accounts and operations under this document and the Joint Venture Agreement; and
- (b) with the co-operation and assistance of all Venturers, prepare and submit all reports and other data required by applicable law or by any term or condition of a Tenement.

7.6 Liability

Subject to clause 6, none of the Operator, its directors, employees and agents is liable to a Venturer for:

- (a) any act done or omitted to be done by it in the performance of any provision of this document or the Joint Venture Agreement if, in doing or omitting to do the act, the Operator acted in good faith and without Wilful Misconduct or Gross Negligence; and
- (b) any damages or injuries sustained in the conduct of operations under this document or the Joint Venture Agreement if it conducted those operations in good faith and without Wilful Misconduct (including through a conscious or intentional disregard of this document) or Gross Negligence.

7.7 Indemnity

Subject to clause 6, each Venturer must (severally in proportion to its Participating Interest) indemnify each of the Operator, its directors, employees and agents against, and must pay each of them on demand the amount of, all Liabilities and Taxes other than Excluded Taxes incurred in connection with any act done or omitted to be done by it in the performance of any provision of this document or the Joint Venture Agreement, unless in doing or omitting to do the act it acted with Wilful Misconduct or Gross Negligence.

7.8 Audits

The Operator must provide to:

- (a) each Venturer; and
- (b) the Joint Venture Committee,

a copy of the statutory audit undertaken annually in accordance with the provisions of the Companies Act, as soon as practicable on receipt.

8. CONTRACTS

8.1 Tendering for contracts

Subject to agreement otherwise by the parties:

- (a) the Operator must take all reasonable steps to obtain competitive tenders on proposed contracts for the Joint Venture where the cost is or is likely to exceed \$500,000 (or such other amount as may from time to time be determined by the Joint Venture Committee), except where, in the opinion of the Operator, it is not practicable to obtain competitive tenders;
- (b) in the case of any proposed contract for the Joint Venture where the cost is likely to exceed \$500,000 (or such other amount as may from time to time be determined by the Joint Venture Committee), the Operator must, unless otherwise determined by the Joint Venture Committee:
 - (i) provide to the Venturers a list of the persons to be invited to tender (including any sub-contractors) together with the terms of the tender and any pro-forma documents that are part of the tender process, and seek competitive sealed bid tenders from the persons named in such list; and
 - (ii) after:
 - (A) the expiration of the period allowed for tender; and
 - (B) the bids have been opened,

- report details of all bids received and any rebids, amendments to bids and subsequent negotiations to the Venturers and make a recommendation to the Joint Venture Committee as to which bid to accept.
- (iii) request the Operating Committee to approve in writing within 5 Business Days or any extension determined by the Joint Venture Committee, the terms of the recommended bid.

8.2 Contracts to be provided to Venturers

The Operator must provide to any of the Venturers, at its or their request, copies of any contract related to the Joint Venture in the Operator’s custody or control.

8.3 Operator’s entry into contracts

- (a) The Operator must enter into any contract for the Joint Venture solely as agent for the Venturers severally in proportion to their respective Participating Interests and not as principal, unless this document provides otherwise.
- (b) The Operator must use its best endeavours where practicable to disclose to parties to such contracts the existence and identity of each Venturer as a principal under that contract and the amount of each Venturer’s Participating Interest. Failure to do so in respect of a contract does not affect the liability of any Venturer to contribute its Participating Interest share of all Liabilities associated with that contract.
- (c) The Operator must take all reasonable steps to ensure that any contract entered into by it for the Joint Venture are assignable to the Venturers or a successor Operator without the consent of the other party or parties to that contract.
- (d) in the case of a contract which is Joint Venture Property entered into by the Operator before the Commencement Date:
 - (i) the Operator must use its best endeavours to obtain the consent of the other parties to the contract to permit assignment to or novation in favour of the Venturers; and
 - (ii) each Venturer indemnifies the Operator in respect of any Liability arising under the contract in accordance with clause 7.7.

9. EMPLOYEES, AGENTS, CONSULTANTS AND SECONDEES

The Operator may, either in its own capacity or as agent for the Venturers engage employees, agents, consultants and enter into secondment arrangements on such terms as it sees fit for the purpose of carrying out its obligations under this document.

10. ENCUMBRANCES

Except as expressly provided for in the Joint Venture Agreement, the Operator does not have any right or power to create any Encumbrance (other than an Encumbrance which arises by operation of law) over any part of the Joint Venture Property or purport to do so.

11. GOODS AND SERVICES TAX

11.1 GST exclusive amounts

All amounts payable under or in connection with this document are exclusive of GST unless indicated otherwise.

11.2 Payment of GST

- (a) A recipient of a taxable supply under or in connection with this document must pay to the supplier, in addition to the consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply.
- (b) The recipient must make that payment to the supplier as and when the consideration or part of it is provided, except that the recipient need not pay unless the recipient has received a tax invoice (or an adjustment note) for that taxable supply.

11.3 Reimbursements

Where a supplier incurs a cost or expense for which it may be reimbursed by, indemnified against, claim against or set-off against another Venturer under this document, the amount to be paid or credited is the cost or expense (reduced by the input tax credit that the supplier is entitled to claim in relation to that cost or expense) plus the amount in relation to GST payable by the recipient as calculated under this clause.

11.4 Indemnities

- (a) If a release of an indemnity under or in connection with this document gives rise to a liability to pay GST, the indemnified amount must include that GST.
- (b) If a Venturer has a claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

11.5 Member of GST group

If a party is registered as part of a group of companies, references to GST which the party must pay and to input tax to which the party is entitled include GST which the representative member of the group of companies must pay and deductions of input tax credits to which the representative member is entitled.

11.6 Accounting for GST

Each of the Operator and the Venturers must account for GST on an accruals basis unless the Operator and the Venturers agree otherwise.

11.7 GST liability and input tax credits

If the Joint Venture is approved as a GST joint venture, the Operator:

- (a) is liable to pay GST on the taxable supplies or taxable importations that it makes on behalf of the Venturers in the course of activities for which the Joint Venture was entered into; and

- (b) is entitled to claim the input tax credits in relation to the creditable acquisitions or creditable importations it makes on behalf of the Venturers in the course of activities for which the Joint Venture was entered into.

11.8 GST returns

The Operator must prepare and lodge a GST return for each tax period applying to the Operator.

11.9 Registration

The Operator and each Venturer warrants that it is registered for GST. The Operator or a Venturer must immediately notify the other parties to the GST joint venture if it ceases to be registered. The Operator must notify the Venturers of revocation of approval of the Joint Venture as a GST joint venture.

11.10 Indemnity

Each party to the GST joint venture must indemnify each other party to the GST joint venture against, and must pay each other party to the GST joint venture on demand the amount of, all losses and liabilities incurred by each other party to the GST joint venture in connection with any failure by the indemnifying party to comply with any requirement of this clause or the GST Law.

12. FORCE MAJEURE

12.1 Notice and suspension of obligations

If a party is affected, or likely to be affected, by a Force Majeure Event:

- (a) that party must immediately give the other parties prompt notice of that fact including:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;
 - (iii) the obligations affected by it and the extent of its effect on those obligations; and
 - (iv) the steps taken to rectify it; and
- (b) the obligations under this document of the Venturer giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

12.2 Effort to overcome

A party claiming a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a party to:

- (a) settle any industrial dispute in any way it does not want to; or
- (b) enter into any agreement relating to the rights of landholders on terms not acceptable to it for the sole purpose of removing the Force Majeure Event.

12.3 Alternative supply

During any period in which a party is not performing obligations because of a claimed Force Majeure Event, the other parties may make alternative arrangements for the performance, whether by another person or otherwise, of any obligation which the party claiming the Force Majeure Event is not performing without incurring any Liability to that party.

13. TERMINATION

13.1 Term

This document commences on the date that it is executed and continues until the first to occur of the Joint Venture expiring or being terminated and the activities of the Joint Venture being properly wound up.

13.2 Consequences of termination

On termination, this document is at an end as to its future operation, except for this clause and:

- (a) any Claim or enforcing any other right which arises on, or has arisen before, termination; and
- (b) clauses 1 (Interpretation), 14 (Default), 15 (GST), 18 (Confidentiality), 22 (Notices) and 23 (General) and any other clause expressed to survive termination of this document; and
- (c) any other provisions of this document necessary for or incidental to the operation of those clauses.

On termination, the Operator ceases to hold office under the Joint Venture Agreement.

13.3 Delivery of Books and Records

- (a) Immediately on ceasing to hold office, the outgoing Operator must deliver to the successor Operator (the **Successor Operator**) all Joint Venture Property in its possession or under its control and all documents, books records and accounts relating to the Joint Venture which was the responsibility of the outgoing Operator to maintain.
- (b) If title to any Joint Venture Property is held in the name of the outgoing Operator it must promptly transfer that title to the Successor Operator and the costs of that transfer will be Joint Venture Expenditure.
- (c) The outgoing Operator irrevocably appoints the Successor Operator and each of the directors, secretaries and managers of the Successor Operator and each of them severally as its attorneys and attorney in its name and on its behalf or otherwise to take all steps, execute all documents and do everything which the outgoing Operator ought to do under and for the purposes of this clause 14.

13.4 Successor Manager to be bound

Upon its appointment as the Successor Operator, the Successor Operator must bind itself, in a form acceptable to the Venturers (acting reasonably) to observe and perform the obligations on the part of the Operator under the Joint Venture Agreement and this document.

14. CONFIDENTIALITY

A party to this document must not disclose any information concerning the contents of this document, or the transactions contemplated by the Joint Venture or the Joint Venture Agreement to any person who is not a Venturer or the Operator, except to the extent that:

- (a) the disclosure is expressly permitted by this document;
- (b) all of the Venturers consent to the disclosure;
- (c) the information is already in the public domain, unless it entered the public domain because of a breach of confidentiality by that party;
- (d) the disclosure is made on a confidential basis to that party's or any of its Affiliates' officers, employees, agents, financiers or professional advisers, and is necessary for the business of that party or its Affiliates;
- (e) the disclosure is necessary to comply with any applicable law, or an order of a court or tribunal or the rules of any stock exchange;
- (f) the disclosure is necessary to comply with a directive or request of any Government Agency or stock exchange (whether or not having the force of law) so long as a responsible person in a similar position would comply;
- (g) the disclosure is necessary or desirable to obtain an Authorisation from any Government Agency or stock exchange;
- (h) the disclosure is necessary or desirable in relation to any discovery of documents, or any proceedings before a court, tribunal, other Government Agency or stock exchange; or
- (i) in respect of a disclosure made by a Venturer only, the disclosure is made on a confidential basis to a prospective Assignee or financier of the Venturer's Participating Interest, or to any other person approved by the Joint Venture Committee who:
 - (i) proposes to enter into contractual relations with the Venturer; and
 - (ii) agrees to keep the disclosure confidential in accordance with this clause.

15. ASSIGNMENT AND AMENDMENT

15.1 Amendment

This document may only be amended, supplemented, replaced or novated by another document signed by the parties.

15.2 Restrictions on Assignment

- (a) A Venturer must not, except as permitted or required under the Joint Venture Agreement, Assign its rights or interests or any part of them under this document without the prior written consent of the other parties to this document;
- (b) The Operator must not Assign its rights or interests under this document or any part of them without the prior written consent of the other parties to this document.

16. DISPUTE RESOLUTION

16.1 Application

Any dispute or difference between the parties arising under or in connection with this document, including any dispute or difference as to the formation, validity, existence or termination of this document (**Dispute**) must be resolved as set out in this clause 16.1.

16.2 Notice of dispute or difference

- (a) If a Dispute arises a party must commence the process contained in this clause for its resolution by giving notice (**Dispute Notice**) to the other party. The party sending the Dispute Notice is the Referring Party.
- (b) The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 16.2;
 - (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any:
 - (I) provisions of the relevant document;
 - (II) information, whether written or in any other form; and
 - (III) acts or omissions of any person, relevant to the Dispute;
 - (C) the amount in dispute (whether monetary or any other commodity) and if not known, the best estimate available; and
 - (iv) be given within 10 Business Days of the circumstances giving rise to the Dispute first occurring.

16.3 Negotiation between Representatives

- (a) Within 10 Business Days of the Referring Party giving a Dispute Notice, representatives of the parties to the Dispute must meet to attempt to resolve the Dispute.
- (b) If, and to the extent that, the Dispute is resolved, the representatives must immediately detail the resolution of the Dispute in writing. This document must clearly state which parts of the Dispute are resolved, and the agreed basis for its resolution.
- (c) If a written agreement is not produced pursuant to clause 16.3(b) in relation to all or part of the Dispute within 10 Business Days after the Dispute Notice has been given, the Dispute, or the part of the Dispute in respect of which there is no written agreement produced, is deemed to be unresolved.

16.4 Negotiation by senior management

- (a) If, 10 Business Days after the Dispute Notice has been given:
 - (i) the meeting required by clause 16.3 has not been held; or
 - (ii) the agreement has not been recorded in accordance with clause 16.3(b); or
 - (iii) the Dispute (or any part of it) is otherwise unresolved,the Referring Party must give notice to the other parties that it requires the Dispute (or the parts of it that have not been resolved or have not been recorded in accordance with clause 16.3(b)) to be referred to senior management for resolution in accordance with clause 16.4(b).
- (b) The notice referred to in clause 16.4(a) must:
 - (i) be in writing;
 - (ii) state that it is made pursuant to clause 16.4(a);
 - (iii) annex a copy of the Dispute Notice (and any accompanying documents) given pursuant to clause 16.2 together with any documents which the Referring Party considers would further assist senior management in resolving the Dispute;
 - (iv) if part of the Dispute has been resolved, annex a copy of the document prepared pursuant to clause 16.3(b); and
 - (v) be given no later than 5 Business Days after the Dispute Notice has been given.
- (c) Within 20 Business Days of the Referring Party giving notice pursuant to clause 16.4(a), a senior management representative, being the chief executive officer (**SMR**) from each of the parties to the Dispute must meet to attempt to resolve the Dispute. The parties are not permitted to delegate this function to any other person.
- (d) The SMRs may meet more than once within the period referred to in clause 16.4(c) to resolve any Dispute. The SMRs may meet in person, via telephone, videoconference, internet-based instant messaging or any other means of instantaneous communication.
- (e) Each party to the Dispute must ensure that their SMR:
 - (i) has full authority to resolve the Dispute; and
 - (ii) makes a genuine effort to resolve the Dispute.
- (f) The outcome of the SMR meeting must be reduced to writing and signed by the SMR for both parties to the Dispute (**SMR Outcome Document**). The SMR Outcome Document must clearly state in respect of the Dispute or any part of the Dispute whether it is resolved or unresolved (clearly stating if the Dispute is only partly resolved, which part is resolved, and which part remains unresolved).
- (g) if:
 - (i) an SMR Outcome Document:

- (A) is not produced or is not produced within whichever is the later to occur of:
 - (I) 20 Business Days of the notice being given pursuant to clause 16.4(a); or
 - (II) 35 Business Days of the Dispute Notice being given; or
 - (B) states that the Dispute (or any part of the Dispute) is unresolved; or
 - (C) is silent in respect of any part of the Dispute which was unresolved after the meeting held pursuant to clause 16.3(a); or
 - (ii) the Dispute or any part of the Dispute is otherwise unresolved within 35 Business Days of the Dispute Notice being given,
- the Dispute or the relevant part of the Dispute is deemed to be unresolved and thereafter the Dispute or the relevant part of the Dispute shall be referred to arbitration in accordance with clause 16.5.

16.5 Arbitration

Any Dispute, or part of a Dispute that is deemed to be unresolved under clause 16.4(g) must be resolved by arbitration in accordance with the UNCITRAL Rules which are current as at the date on which the Dispute Notice was given. The seat of the arbitration will be Brisbane, Australia and the language of the arbitration will be English.

16.6 Continuance of performance

Despite the existence of a Dispute, the parties must continue to perform their respective obligations under the Transaction Documents.

16.7 Summary or urgent relief

Nothing in this clause prevents a party from instituting court proceedings to seek enforcement of any payment due under any Transaction Document or to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

17. NOTICES

17.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person’s address; or
 - (ii) sent by fax to that person’s fax number and the machine from which it is sent produces a report that states that it was sent in full.

17.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail:
 - (i) within Papua New Guinea — 3 Business Days after posting; or
 - (ii) to or from a place outside Papua New Guinea — 7 Business Days after posting.]

17.3 Address for notices

A person’s address and fax number are those set out below, or as the person notifies the sender

MCG
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

Newcrest
Address: Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: +61 3 9521 3546
Attention: Bernard Lavery

Operator
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

18. GENERAL

18.1 Governing law

- (a) This document is governed by the laws of Papua New Guinea.
- (b) Each party to this document submits to the non-exclusive jurisdiction of the courts of Papua New Guinea and of any court that may hear appeals from any of those courts, for any proceedings in connection with this document and waives any right it may have to claim that those courts are an inconvenient forum.
- (c) To the extent that any of the parties to this document has or in the future acquires any immunity from suit from the jurisdiction of any court or from any legal process (whether through suit service of notice, attachment before judgment, attachment in aid of execution, any other enforcement or otherwise) with respect to itself or its property, each party irrevocably waives that immunity in respect of its obligations under this document or otherwise in respect of the Joint Venture.

18.2 Giving effect to documents

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

18.3 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

18.4 Severance

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

18.5 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

18.6 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent or not agree or consent, in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

18.7 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

18.8 Counterparts

This document may be executed in counterparts.

EXECUTED as an agreement.

Blake Dawson

Annexure E
MASTER CO-OPERATION AGREEMENT

Hidden Valley Joint Venture Agreement

Master Co-operation Agreement

Hidden Valley Services Limited

Wafi-Golpu Services Limited

Morobe Exploration Services Limited

Harmony Gold (PNG Services) Pty Limited

Blake Dawson

Level 36, Riverside Centre
123 Eagle Street
Brisbane QLD 4000
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Reference

RAF JMCS 07 1427 3151

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Master Co-operation Agreement

DATE 2008

PARTIES

Hidden Valley Services Limited, a company incorporated in Papua New Guinea as agent for the Hidden Valley JV, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby (**HVSL**)

Wafi-Golpu Services Limited, a company incorporated in Papua New Guinea, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby as agent for the Wafi-Golpu JV (**WGSL**)

Morobe Exploration Services Limited, a company incorporated in Papua New Guinea, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby as agent for the Exploration Portfolio JV (**MESL**)

Harmony Gold (PNG Services) Pty Limited ACN 083 828 853, a company registered in Australia the registered office of which is Level 2,189 Coronation Drive, Milton, Brisbane, Queensland, Australia (**HGPL**)

RECITALS

- A. Under the terms of a joint venture agreement Morobe Consolidated Goldfields Limited and Newcrest PNG 1 Limited have agreed to establish a joint venture to be known as the Hidden Valley JV for the exploration for and the development, mining and production of Mineral Products in certain Tenements. HVSL has been established to operate the Hidden Valley JV.
- B. Under the terms of a joint venture agreement Wafi Mining Limited and Newcrest PNG 2 Limited have agreed to establish a joint venture to be know as the Wafi-Golpu JV for the exploration for and the development, mining and production of Mineral Products in certain Tenements. WGSL has been established to operate the Wafi-Golpu JV.
- C. Under the terms of a joint venture agreement Morobe Consolidated Goldfields Limited, Wafi Mining Limited, Morobe Exploration Limited and Newcrest PNG 3 Limited have agreed to establish a joint venture to be know as the Exploration Portfolio JV for the exploration for and development, mining and production of Mineral Products in certain Tenements. MESL has been established to operate the Exploration Portfolio JV.
- D. To facilitate the establishment and operation of each JV it may be necessary, from time to time, for any asset held, service provided or personnel employed or engaged by a JV or by HGPL (**Right Holder**) to be used by or shared with another JV (**Sharing JV**).
- E. This document records the procedure and principles under which the Operators may agree that any asset held, service provided or personnel employed or engaged by the Right Holder can be shared with another JV.

1. INTERPRETATION

1.1 Definitions

Allocation Percentage means the average proportion of total employee time for each JV determined retrospectively on a quarterly basis.

Exploration Portfolio JV means the joint venture established under the Exploration Portfolio Joint Venture Agreement dated [date] between Morobe Consolidated Goldfields Limited, Wafi Mining Limited, Morobe Exploration Limited, Newcrest PNG 3 Limited and MESL.

Hidden Valley JV means the joint venture established under the Hidden Valley Joint Venture Agreement dated [date] between Morobe Consolidated Goldfields Limited, Newcrest PNG 2 Limited and HVSL.

JV means any of the Hidden Valley JV, the Wafi Golpu JV and the Exploration Portfolio JV.

Operators means any of HVSL, WGSL or MESL (acting on behalf of the respective JVs) or HGPL (acting as principal).

Price means the price calculated for use of a Shared Right by the Sharing JV.

Right Holder has the meaning given to it in Recital D of this document.

Shared Right means any assets held, services provided or personnel employed or engaged by a Venturer or HGPL that may be shared with another JV, being the Shared Rights listed in Schedule 1 and any additional shared rights agreed by the Parties under clause 2.

Sharing JV has the meaning given to it in Recital D of this document.

Venturer means a Venturer under any of the JVs.

Wafi-Golpu JV means the joint venture established by the Wafi-Golpu Joint Venture Agreement dated [date] between Wafi Mining Limited, Newcrest PNG 2 Limited and WGSL.

1.2 Joint Venture Agreement definitions apply

Any other term used in this document that is capitalised has the meaning given to it in the agreements constituting the JVs.

1.3 Rules for Interpreting this document

- (a) The rules set out in clauses 1.2 and 1.3 of the agreements constituting the JVs as amended, apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) All references to **clauses** in this document are references to clauses (including subclauses and paragraphs) in this document unless specifically stated otherwise in this document.

2. CO-OPERATION

2.1 General

- (a) If a JV requires the use of a Shared Right, the Operator of that JV and the Operator of the Right Holder must use reasonable endeavours to agree the terms and conditions on which the Shared Right can be shared.
- (b) Each Operator agrees with each other Operator that it must act in good faith, honestly and reasonably in complying with its obligations under this document.

2.2 Shared Rights

- (a) The Price is to be paid by the Operator of the Sharing JV to the Operator of the Right Holder.
- (b) Schedule 1 identifies in respect of each Shared Right:
 - (i) the Right Holder; and
 - (ii) the basis for calculating the Price.
- (c) Schedule 1 may be varied by the agreement in writing of all of the Operators and each applicable Right Holder.

2.3 Proposal to share

For a Shared Right that is not listed in Schedule 1, the Operator of a JV that seeks to be a Sharing JV must submit a written proposal to the Operator of a Right Holder identifying the Shared Right and setting out the terms and conditions upon which it is proposed to share the Shared Right. This proposal must include the following terms:

- (a) the Price;
- (b) the period for which the Sharing JV proposes to share the Shared Right;
- (c) the obligations of the Operator of the Sharing JV:
 - (i) to notify the Operator of the Right Holder immediately of any significant event which occurs concerning the Shared Right;
 - (ii) to take any action that may be required to maintain and protect the Shared Right;
 - (iii) to keep adequate records of accounts and operations in respect of the Shared Right;
 - (iv) subject to the provision of reasonable notice, to give the Operator of the Right Holder's nominated personnel and any person who has that Operator's written authority:
 - (A) access to the site where the Shared Right is being or is to be used; and
 - (B) any information relating to the use of the Shared Right that the Operator of the Right Holder reasonably requires,and allow any of those persons to:
 - (C) observe and inspect the Shared Right; and

- (D) review and copy any documents relevant to the use of Shared Right; and
- (v) to indemnify the Right Holder and its employees and officers and the Operator of the Right Holder and its employees and officers (**those Indemnified**) against any loss, liability, damage, injury (including disease or illness), death, expense (including legal expense) or cost (together **Loss**) which those indemnified suffer, sustain or incur as a result of any wrongful or negligent act or omission, by the Sharing JV which arises out of the use of the Shared Right except to the extent that any wrongful or negligent act or omission of those indemnified caused the Loss.

2.4 Meeting

No later than 20 Business Days after the Operator of the Right Holder receives a written proposal from the Operator of the Sharing JV pursuant to clause 2.3, the Operator of the Right Holder and the Operator of the Sharing JV will meet to discuss the proposal and use reasonable endeavours to agree the terms and conditions of the shared use of the Shared Right.

3. RELATIONSHIP OF THE VENTURERS

3.1 Several liability

Each Venturer’s liability under this document is, and any agreement entered into pursuant to clause 2.1(a) will be, several in proportion to its Participating Interest under each JV and not joint nor joint and several.

3.2 Joint Ventures not affected

This document does not affect, and any agreement entered into pursuant to clause 2.1(a) will not affect, the status of each JV. During the term of this document the relationship of the Venturers does not constitute a partnership for any purpose each JV is an unincorporated joint venture constituted under each JV Agreement.

4. TERMINATION

4.1 Term

This document commences on the date that it is executed and continues until each JV expires or is terminated and the activities of each JV are properly wound up.

4.2 Survival of claims and obligations

The termination of this document does not affect any claim or obligation that a party may have at the date of termination.

5. ASSIGNMENT

A party must not may assign, transfer or novate its rights, interests or obligations under this document without the consent of the other parties.

6. GENERAL

6.1 Governing law

- (a) This document is governed by the laws of Papua New Guinea.
- (b) Each party submits to the jurisdiction of the courts of Papua New Guinea and of any court that may hear appeals from any of those courts, for any proceedings in connection with this document.

6.2 Giving effect to documents

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

6.3 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

6.4 Severance

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

6.6 Operation of Indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

6.6 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent, or not agree or consent in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

6.7 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

6.8 Counterparts

This document may be executed in counterparts.

6.9 Attorneys

Each person who executes this document on behalf of a Party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Schedule 1

SHARED RIGHTS, RIGHT HOLDERS AND PRICE

No.	Shared Right	Right Holder	Calculation of Price
1.	Employment contracts for PNG based staff.	MCG	The actual cost of wages incurred by the Right Holder, plus a 25% charge for overheads, multiplied by the Allocation Percentage for the relevant JV.
2.	Travel expenses (including aircraft charter).	MCG	Allocation per person of actual cost according to their primary position in a JV as identified in the organisational chart for all of the JVs.
3.	Drilling Services.	MCG and Wafi	Allocation of actual cost in accordance with ownership of the tenement at which the drilling services are used.
4.	PNG Central Services Business Unit, comprising the following services: <div>(a) expediting;</div> <div>(b) human resources;</div> <div>(c) training;</div> <div>(d) third party information technology;</div> <div>(e) licences;</div> <div>(f) government liaison;</div> <div>(g) proprietary software and database (including HAMS);and</div> <div>(h) accommodation at Lae.</div>	MCG	Allocation of actual cost to each JV according to the Allocation Percentage.
5.	Harmony Gold (PNG Services) Pty Limited in Brisbane, Australia, comprising the following services: <div>(a) human resources;</div> <div>(b) procurement; and</div>	HGL	Allocation of actual cost to each JV according to the Allocation Percentage.

No.	Shared Right	Right Holder	Calculation of Price
	(c) accounts.		
6.	Harmony Gold (PNG Services) Pty Limited employment contracts for Australian based staff.	HGL	The actual cost of wages incurred by the Right Holder, plus a 25% charge for overheads, multiplied by the Allocation Percentage for the relevant JV.
7.	Freight and logistics.	MCG	Allocation of actual cost to each Joint Venturer in proportion to the number of consignments placed for each Joint Venture.
8.	Procurement of property, plant and equipment.	MCG	Allocation of landed cost under defined cost codes according to which Joint Venture will use the relevant property, plant and equipment
9.	Insurance.	MCG and Wafi	Allocation of actual cost of premium and any excess incurred to each Joint Venturer according to the Allocation Percentage.
10.	Electricity, fuel and other utilities.	MCG	Allocation of actual cost to each Joint Venture according to actual usage.
11.	Spares and maintenance.	MCG	Allocation of actual cost to each Joint Venture according to actual usage.
12.	Information technology licences.	MCG	Allocation of actual cost to each Joint Venture according to the Allocation Percentage.

EXECUTED as an agreement.

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<TEXT>

Master Co-operation Agreement

Hidden Valley Services Limited

Wafi-Golpu Services Limited

Morobe Exploration Services Limited

Harmony Gold (PNG Services) Pty Limited

Newcrest Mining Limited

Blake Dawson

Level 36, Riverside Centre
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Reference

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Master Co-operation Agreement

DATE 2008

PARTIES

Hidden Valley Services Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby, as agent for the Hidden Valley JV **(HVSL)**

Wafi-Golpu Services Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby, as agent for the Wafi-Golpu JV **(WGSL)**

Morobe Exploration Services Limited, a company incorporated in PNG, the registered office of which is Level 4, Mogoru Moto Building, Champion Parade, Port Moresby, as agent for the Exploration Portfolio JV **(MESL)**

Harmony Gold (PNG Services) Pty Limited ACN 083 828 853, a company registered in Queensland, the registered office of which is Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia **(HGPL)**

Newcrest Mining Limited ABN 20 005 683 625 a company registered in Victoria, the registered office of which is Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia **(NML)**

RECITALS

- A. Under the terms of a joint venture agreement, MCG and Newcrest PNG 1 Limited have agreed to establish a joint venture to be known as the Hidden Valley JV for the exploration for, and the development, mining and production of, Mineral Products in certain Tenements. HVSL has been established to operate the Hidden Valley JV.
- B. Under the terms of a joint venture agreement, Wafi and Newcrest PNG 2 Limited have agreed to establish a joint venture to be known as the Wafi-Golpu JV for the exploration for, and the development, mining and production of, Mineral Products in certain Tenements. WGSL has been established to operate the Wafi-Golpu JV.
- C. Under the terms of a joint venture agreement MCG, Wafi, Morobe Exploration Limited and Newcrest PNG 3 Limited have agreed to establish a joint venture to be known as the Exploration Portfolio JV for the exploration for, and development, mining and production of, Mineral Products in certain Tenements. MESL has been established to operate the Exploration Portfolio JV.
- D. To facilitate the establishment and operation of each JV, it may be necessary, from time to time, for any asset held, service provided or personnel employed or engaged by a JV, HGPL or NML **(Right Holder)** to be used by or shared with another JV **(Sharing JV)**.
- E. This document records the procedure and principles under which the Operators may agree that any asset held, service provided or personnel employed or engaged by the Right Holder can be shared with another JV.
- F. The parties intend that separate services agreements will be entered into between HGPL and each JV and between NML and each JV to provide with more detail the terms on

which HGPL and NML will provide services to each JV. It is proposed that these documents will supplement this document.

1. **INTERPRETATION**

1.1 **Definitions**

Allocation Percentage means, in any calendar month, the total employee wages for a JV as a proportion of the total employee wages for all JVs determined retrospectively on the total employee wages for the previous month.

Confidential Information means information that:

- (a) relates to the business, asset or affairs of the disclosing party (or any of its related corporations); and
- (b) is made available by or on behalf of the disclosing party to the receiving party, or is otherwise obtained by or on behalf of the receiving party in connection with the operation of this document.

Confidential Information may be made available or obtained directly or indirectly, and before, on or after the date of this document.

Exploration Portfolio JV means the joint venture established under the Exploration Portfolio Joint Venture Agreement dated 22 May 2008 between MCG, Wafi, Morobe Exploration Limited, Newcrest PNG 3 Limited and MESL.

Government Agency means:

- (c) a government or government department or other body;
- (d) a governmental, semi-governmental or judicial person including a statutory corporation; or
- (e) a person (whether autonomous or not) who is charged with the administration of a law.

Hidden Valley JV means the joint venture established under the Hidden Valley Joint Venture Agreement dated 22 May 2008 between MCG, Newcrest PNG 1 Limited and HVSL.

JV means each of the Hidden Valley JV, the Wafi Golpu JV and the Exploration Portfolio JV.

Operator means each of:

- (a) HVSL, WGSL and MESL (acting on behalf of their respective JVs); and
- (b) HGPL and NML (both acting as principal).

PNG means the Independent State of Papua New Guinea.

Price means the price calculated for use of a Shared Right by the Sharing JV.

Right Holder has the meaning given to it in Recital D of this document.

Shared Right means any assets held, services provided or personnel employed or engaged by a Venturer or HGPL or NML that may be shared with another JV, being the

Shared Rights listed in Schedule 1 and any additional shared rights agreed by the parties under clause 2.

Sharing JV has the meaning given to it in Recital D of this document.

Venturer means a Venturer under any of the JVs.

Wafi-Golpu JV means the joint venture established by the Wafi-Golpu Joint Venture Agreement dated 22 May 2008 between Wafi, Newcrest PNG 2 Limited and WGS�.

1.2 Joint Venture Agreement definitions apply

Any other term used in this document that is capitalised has the meaning given to it in the agreements constituting the JVs.

1.3 Rules for interpreting this document

- (a) The rules set out in clauses 1.2 and 1.3 of the agreements constituting the JVs as amended, apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (b) A reference to a **clause** in this document is a references to a clause in this document unless specifically stated otherwise in this document.
- (c) A reference to a **party** in this document is a reference to a party to this document unless specifically stated otherwise in this document.

2. CO-OPERATION

2.1 General

- (a) If a JV requires the use of a Shared Right, the Operator of that JV and the Operator of the Right Holder must use reasonable endeavours to agree the terms and conditions on which the Shared Right can be shared.
- (b) Each Operator agrees with each other Operator that it must act in good faith, honestly and reasonably in complying with its obligations under this document.

2.2 Shared Rights

- (a) The Price is to be paid by the Operator of the Sharing JV to the Operator of the Right Holder and must not be grossed up to account for any deductions or withholdings in respect of Taxes.
- (b) Schedule 1 identifies the basis for calculating the price in respect of each Shared Right.
- (c) If at any time an applicable law obliges a party to this document (the **Payor**) to make a deduction or withholding in respect of Taxes from a payment to another party to this document (the **Payee**) in respect of any Shared Right, the Payor must pay to the relevant Government Agency on time the full amount of deduction or withholding and promptly deliver to the Payee a copy of any receipt, certificate or other proof of payment.
- (d) Schedule 1 may be varied by the agreement in writing of all of the Operators and each applicable Right Holder and the parties to this document shall use all reasonable endeavours to agree within 30 days of the date of this document, the applicable rates for the services provided for the period on and from 1 August 2008

to (and including) 30 June 2009 by Harmony Gold (PNG Services) Pty Ltd or Newcrest Mining Limited which are set out in item 5 of Schedule 1.

2.3 Proposal to share

For a Shared Right that is not listed in Schedule 1, the Operator of a JV that seeks to be a Sharing JV must submit a written proposal to the Operator of a Right Holder identifying the Shared Right and setting out the terms and conditions upon which it is proposed to share the Shared Right. This proposal must include the following terms:

- (a) the Price;
- (b) the period for which the Sharing JV proposes to share the Shared Right;
- (c) the obligations of the Operator of the Sharing JV:
 - (i) to notify the Operator of the Right Holder immediately of any significant event which occurs concerning the Shared Right;
 - (ii) to take any action that may be required to maintain and protect the Shared Right;
 - (iii) to keep adequate records of accounts and operations in respect of the Shared Right;
 - (iv) subject to the provision of reasonable notice, to give the Operator of the Right Holder's nominated personnel and any person who has that Operator's written authority:
 - (A) access to the site where the Shared Right is being or is to be used; and
 - (B) any information relating to the use of the Shared Right that the Operator of the Right Holder reasonably requires,
 and allow any of those persons to:
 - (C) observe and inspect the Shared Right and the Sharing JV's use of the Shared Right; and
 - (D) review and copy any documents relevant to the use of Shared Right; and
 - (v) to indemnify the Right Holder and its employees and officers and the Operator of the Right Holder and its employees and officers (**those indemnified**) against any Liability (including legal expense), damage, injury (including disease or illness), death (together **Loss**) which those indemnified suffer, sustain or incur as a result of any wrongful or negligent act or omission, by the Sharing JV which arises out of the use of the Shared Right except to the extent that any wrongful or negligent act or omission of those indemnified caused the Loss.

2.4 Meeting

No later than 20 Business Days after the Operator of the Right Holder receives a written proposal from the Operator of the Sharing JV pursuant to clause 2.3, the Operator of the Right Holder and the Operator of the Sharing JV will meet to discuss the proposal and use reasonable endeavours to agree the terms and conditions of the shared use of the Shared Right.

2.5 Services provided by HGPL or NML

Where HGPL or NML provides services to a JV, the aggregate fees will be increased by 7.5% or any other amount agreed by the parties from time to time.

3. RELATIONSHIP OF THE VENTURERS

3.1 Several liability

Each Venturer’s liability under this document is, and any agreement entered into pursuant to clause 2.1(a) is several in proportion to its Participating Interest under each JV and not joint nor joint and several.

3.2 Joint Ventures not affected

This document does not affect, and any agreement entered into pursuant to clause 2.1(a) will not affect, the status of each JV. During the term of this document, the relationship of the Venturers does not constitute a partnership for any purpose and each JV is an unincorporated joint venture constituted under each JV agreement.

4. CONFIDENTIALITY

4.1 Use and disclosure of Confidential Information

A party (**Recipient**) which acquires Confidential Information of another party (**Discloser**) must not:

- (a) use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this document; or
- (b) disclose any of the Confidential Information except in accordance with clause 4.2 or 4.3.

4.2 Disclosures to personnel and advisers

- (a) The Recipient may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:
 - (i) the disclosure is necessary to enable the Recipient to perform its obligations or to exercise its rights under this document; and
 - (ii) prior to disclosure, the Recipient informs the person of the Recipient’s obligations in relation to the Confidential Information under this document and obtains an undertaking from the person to comply with those obligations.
- (b) The Recipient must ensure that any person to whom Confidential Information is disclosed under clause 4.2(a) keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under clause 4.2(a).

4.3 Disclosures required by law

- (a) Subject to clause 4.3(b), the Recipient may disclose Confidential Information that the Recipient is required to disclose:
 - (i) by law or by order of any court or tribunal of competent jurisdiction; or

- (ii) by any Government Agency, stock exchange or other regulatory body.
- (b) If the Recipient is required to make a disclosure under clause 4.3(a), the Recipient must:
 - (i) to the extent possible, notify the Discloser immediately it anticipates that it may be required to disclose any of the Confidential Information;
 - (ii) consult with and follow any reasonable directions from the Discloser to minimise disclosure; and
 - (iii) if disclosure cannot be avoided:
 - (A) only disclose Confidential Information to the extent necessary to comply; and
 - (B) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.

4.4 Recipient’s return or destruction of documents

On written request by the Discloser, the Recipient must immediately:

- (a) deliver to the Discloser all documents and other materials containing, recording or referring to Confidential Information; and
 - (b) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information,
- which are in the possession, power or control of the Recipient or of any person to whom the Recipient has given access.

4.5 Security and control

The Recipient must:

- (a) keep effective control of the Confidential Information; and
- (b) ensure that the Confidential Information is secure from theft, loss, damage or unauthorised access or alteration.

4.6 Survival of obligations

The obligations in this clause 4 survive any termination or expiry of this document.

5. TERMINATION

5.1 Term

This document commences on the date that it is executed and continues until, the first of the following to occur of:

- (a) the parties by agreement in writing, terminate this document with effect from the date agreed by those parties; and
- (b) the first day on which there is only one, or no, JV in existence and the activities of all terminating JVs are properly wound up.

5.2 **Survival of claims and obligations**

The termination of this document does not affect any claim or obligation that a party may have at the date of termination.

6. **ASSIGNMENT**

A party must not may assign, transfer or novate its rights, interests or obligations under this document without the consent of the other parties.

7. **NOTICES**

7.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person’s address; or
 - (ii) sent by fax to that person’s fax number and the machine from which it is sent produces a report that states that it was sent in full.

7.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day — on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day — on the next Business Day; and
- (b) if it is sent by mail:
 - (i) within Papua New Guinea — 3 Business Days after posting; or
 - (ii) to or from a place outside Papua New Guinea — 7 Business Days after posting.

7.3 **Address for notices**

A person’s address and fax number are those set out below, or as the person notifies the sender:

HVSL
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
AND TO:
Address: Level 4, Mogoru Moto Building, Champion Parade, Port Moresby

Fax number: + 675 309 2099
Attention: Company Secretary

WGSL
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
AND TO:
Address: Level 4, Mogoru Moto Building, Champion Parade, Port Moresby
Fax number: + 675 309 2099
Attention: Company Secretary

MESL
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
AND TO:
Address: Level 4, Mogoru Moto Building, Champion Parade, Port Moresby
Fax number: + 675 309 2099
Attention: Company Secretary

HGPL
Address: Level 2, 189 Coronation Drive, Milton, Brisbane, Queensland, Australia
Fax number: +61 7 3320 3740
Attention: Company Secretary

NML
Address: Level 9, 600 St Kilda Road, Melbourne, Victoria, Australia
Fax number: +61 3 9521 3546
Attention: Company Secretary

8. GENERAL

8.1 Governing law

- (a) This document is governed by the laws of PNG.
- (b) Each party submits to the jurisdiction of the courts of PNG and of any court that may hear appeals from any of those courts, for any proceedings in connection with this document.

8.2 Giving effect to documents

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

8.3 Waiver of rights

- A right may only be waived in writing, signed by the party giving the waiver, and:
- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
 - (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
 - (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

8.4 Severance

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

8.5 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

8.6 Consents

Where this document contemplates that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

8.7 Exclusion of contrary legislation

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

8.8 Counterparts

This document may be executed in counterparts.

8.9 Attorneys

Each person who executes this document on behalf of a Party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Schedule 1

SHARED RIGHTS AND PRICE

No.	Shared Right	Calculation of Price
1.	Employment contracts for PNG based staff	The actual cost of wages incurred by the Right Holder, plus any agreed charge for overheads, multiplied by the Allocation Percentage for the relevant JV.
2.	Travel expenses (including aircraft charter)	Allocation per person of actual cost according to their primary position in a JV as identified in the organisational chart for all of the JVs plus any agreed charge for overheads.
3.	Drilling Services	Allocation of actual cost in accordance with ownership of the tenement at which the drilling services are used plus any agreed charge for overheads.
4.	Shared business services comprising the following: supply and logistics; human resources, safety and training; third party information technology (in PNG); licences; government liaison; proprietary software and database (including HAMS);and accommodation at Lae.	Allocation of actual cost to each JV according to the Allocation Percentage plus any agreed charge for overheads.
5.	Harmony Gold (PNG Services) Pty Limited in Brisbane, Australia or Newcrest Mining Limited in Australia comprising the following: business services: human resources and administration; consulting activities in P.N.G; supply and legal services; and	Allocation of actual cost to each JV according to the Allocation Percentage.

No.	Shared Right	Calculation of Price
	proprietary software and database (including HAMS) (outside PNG); technical services: mining and geology; environment services; safety; project services; Hidden Valley owners team; and Wafi owners team.	
6.	Harmony Gold (PNG Services) Pty Limited employment contracts for Australian based staff to provide services including mining, environment and technical services	The actual cost of wages incurred by the Right Holder, plus any agreed charge for overheads, multiplied by the Allocation Percentage for the relevant JV.
7.	Procurement of property, plant and equipment	Allocation of landed cost under defined cost codes according to which JV will use the relevant property, plant and equipment.
8.	Insurance	Allocation of actual cost of premium and any excess incurred to each JV according to the Allocation Percentage.
9.	Electricity, fuel and other utilities	Allocation of actual cost to each JV according to actual usage.
10.	Spares and maintenance	Allocation of actual cost to each JV according to actual usage.
11.	Information technology licences (other than those noted elsewhere in this schedule)	Allocation of actual cost to each JV according to the Allocation Percentage.
12.	Newcrest Mining Limited — employment contracts for Australian based staff to provide services including mining, environment and technical services	The actual cost of wages incurred by the Right Holder plus any agreed charge for overheads multiplied by the Allocation Percentage for the relevant JV.

EXECUTED in Papua New Guinea as an agreement.


THE COMMON SEAL of HIDDEN VALLEY SERVICES LIMITED, the fixing of which was witnessed by:





Signature of director

Johannes J Van Heerden
Name Director



Signature of director/secretary

PETER LARSEN
Name

THE COMMON SEAL of WAFI-GOLPU SERVICES LIMITED, the fixing of which was witnessed by:





Signature of director

Johannes J Van Heerden
Name Director



Signature of director/secretary

PETER LARSEN
Name

THE COMMON SEAL of MOROBE
EXPLORATION SERVICES LIMITED, the
fixing of which was witnessed by:



Signature of director

Johannes J Van Heerden
Director

Name




Signature of director/secretary

PETER LARSEN

Name

EXECUTED by HARMONY GOLD (PNG
SERVICES) PTY LIMITED



Signature of director

Johannes J Van Heerden
Director

Name




Signature of director/secretary

Gregory John Job

Name

SIGNED for NEWCREST MINING LIMITED
under power of attorney in the presence of:



Signature of witness

PETER LARSEN

Name



Signature of attorney

IAN SMITH

Name

5 AUGUST 2008

Date of power of attorney

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SIGNIFICANT SUBSIDIARIES OF HARMONY GOLD MINING COMPANY LIMITED

NAME OF SUBSIDIARY	PERCENTAGE HELD	COUNTRY OF INCORPORATION
ARMGold/Harmony Freegold Joint Venture Company (Proprietary) Limited	100%	South Africa
ARMgold/Harmony Joint Investment Company (Proprietary) Limited	100%	South Africa
Avgold Limited	100%	South Africa
Evander Gold Mines Limited	100%	South Africa
Harmony Gold Australia (Proprietary) Limited	100%	Australia
Kalahari Goldridge Mining Company Limited	100%	South Africa
Randfontein Estates Limited	100%	South Africa

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CERTIFICATION

I, Graham Briggs, certify that:

1. I have reviewed this annual report on Form 20-F of Harmony Gold Mining Company Limited;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosing controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluations; and
 - d. Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonable likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: October 29, 2008

By: /s/ Graham Briggs

Graham Briggs
Chief Executive Officer

<DOCUMENT>
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CERTIFICATION

I, Frank Abbott, certify that:

1. I have reviewed this annual report on Form 20-F of Harmony Gold Mining Company Limited;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company’s other certifying officer(s) and I are responsible for establishing and maintaining disclosing controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the company’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluations; and
 - d. Disclosed in this report any change in the company’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonable likely to materially affect, the company’s internal control over financial reporting; and
5. The company’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company’s auditors and the audit committee of the company’s board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company’s ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the company’s internal control over financial reporting.

Date: October 29, 2008

By: /s/ Frank Abbott

Frank Abbott
Interim Chief Financial Officer
Interim Financial Director

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CERTIFICATION

(pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002)

In connection with the Annual Report on Form 20-F for the fiscal year ended June 30, 2008 of Harmony Gold Mining Company Limited (the “**Company**”) as filed with the U.S. Securities and Exchange Commission (the “**Commission**”) on the date hereof (the “**Report**”) and pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, I, Graham Briggs, Chief Executive Officer of the Company, certify, that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: October 29, 2008

By: /s/ Graham Briggs
Graham Briggs
Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided and will be retained by the Company and furnished to the Commission or its staff upon request.

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CERTIFICATION

(pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002)

In connection with the Annual Report on Form 20-F for the fiscal year ended June 30, 2008 of Harmony Gold Mining Company Limited (the “**Company**”) as filed with the U.S. Securities and Exchange Commission (the “**Commission**”) on the date hereof (the “**Report**”) and pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, I, Frank Abbott, Interim Financial Director of the Company, certify, that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: October 29, 2008

By: /s/ Frank Abbott
Frank Abbott
Interim Chief Financial Officer
Interim Financial Director

A signed original of this written statement required by Section 906 has been provided and will be retained by the Company and furnished to the Commission or its staff upon request.