



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM156Dec21

In the matter between:

Impala Platinum Holdings Limited

**Primary Acquiring Firm**

And

Royal Bafokeng Platinum Limited

**Primary Target Firm**

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Panel: Y Carrim (Presiding Member)  
A Ndoni (Tribunal Member)  
I Valodia (Tribunal Member)

Heard on: 04 August, 31 October, 01, 02 and 04 November  
2022

Last submission date: 9 November 2022

Order Issued on: 16 November 2022

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### ORDER

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b) of the Competition Act, 1998 ("the Act") the Competition Tribunal orders that–

1. the merger between the abovementioned parties be approved in terms of section 16(2)(b) of the Act; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal Rule 35(5)(a).

Signed by Yasmin Tayob Carrim  
Signed at 2022-11-16 12:33:20 +02:00  
Reason: Witnessing Yasmin Tayob Carrim

From: Royal Commission

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**Presiding Member  
Ms Yasmin Carrim**

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**16 November 2022**

**Date**

**Concurring: Ms Andiswa Ndoni and Prof Imraan I. Valodia**



**competitiontribunal**  
SOUTH AFRICA

## Notice CT 10

### About this Notice

This notice is issued in terms of section 16 of the Competition Act.

You may appeal against this decision to the Competition Appeal Court within 20 business days.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X24  
Sunnyside  
Pretoria 0132  
Republic of South Africa  
tel: 27 12 394 3300  
fax: 27 12 394 0169  
e-mail: [ctsa@comptrib.co.za](mailto:ctsa@comptrib.co.za)

# Merger Clearance Certificate

**Date** : 16 November 2022

**To** : Nortons Inc

Case Number: LM156Dec21

Impala Platinum Holdings Limited And Royal Bafokeng Platinum Limited

You applied to the Competition Commission on **17 December 2021** for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act, or was the subject of a Request for consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

- no conditions.
- the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- a) it was granted on the basis of incorrect information for which a party to the merger was responsible.
- b) the approval was obtained by deceit.
- c) a firm concerned has breached an obligation attached to this approval.

### The Registrar, Competition Tribunal

*Tebogo H. Mphahlele*

**ANNEXURE A**  
**IN THE LARGE MERGER BETWEEN**  
**IMPALA PLATINUM HOLDINGS LIMITED**  
**and**  
**ROYAL BAFOKENG PLATINUM LIMITED**  
**Case Number: LM156Dec21**

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**CONDITIONS**

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**1. DEFINITIONS**

- 1.1. The following expressions shall bear the meanings assigned to them below, and cognate expressions bear corresponding meanings:
- 1.1.1. “**Acquiring Firm**” means Impala Platinum Holdings Limited (“**Implats**”), a public company incorporated in accordance with the laws of South Africa;
- 1.1.2. “**Approval Date**” means the date the Tribunal issues a Merger Clearance Certificate (Notice CT10) in terms of the Competition Act;
- 1.1.3. “**Business Days**” means any day which is not a Saturday, Sunday or an official public holiday in South Africa;
- 1.1.4. “**Commercial Terms**” mean terms that are commercially reasonable and non-discriminatory, entered into in the normal course of business, which have regard to the specific characteristics of the Concentrate, including but without limitation PGM Concentrate grades, impurity profiles (including chrome oxide grade) and metal distributions and the impact of the Concentrate on the capacity utilisation of the Implats processing facilities;
- 1.1.5. “**Commission**” means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;

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- 1.1.6. “**Commission Rules**” mean the Rules for the Conduct of Proceedings in the Commission;
- 1.1.7. “**Competition Act**” means the Competition Act No 89 of 1998, (as amended);
- 1.1.8. “**Concentrate**” also known as smelter feed concentrate, means the output of the mining and/or concentrating stages to produce a PGM-containing concentrate;
- 1.1.9. “**Conditions**” mean these conditions;
- 1.1.10. “**dtic**” means the Department of Trade, Industry and Competition of South Africa;
- 1.1.11. “**EBITDA**” means earnings before interest, taxes, depreciation and amortization;
- 1.1.12. “**ESOP**” means Employee Share Ownership Scheme;
- 1.1.13. “**Fixed-Term Contract**” means a contract of employment that terminates on: (a) the occurrence of a specific event; (b) the completion of a specific task or project; or (c) a fixed date, other than an employee’s agreed or normal retirement age;
- 1.1.14. “**HDP**” means historically disadvantaged person within the meaning of the Competition Act;
- 1.1.15. “**IDC**” means the Industrial Development Corporation of South Africa Limited;
- 1.1.16. “**Implats**” means the Acquiring Firm;
- 1.1.17. “**Impala Rustenburg**” means Implats’ Rustenburg mining complex;
- 1.1.18. “**Implementation Date**” means the date, occurring after the Approval Date, on which the Merger is implemented by the Merger Parties;
- 1.1.19. “**Labour Relations Act**” means Labour Relations Act No. 66 of 1995 (as amended);
- 1.1.20. “**LoM**” means life of mine;
- 1.1.21. “**Market Conditions**” mean the state of the PGM sector and the prevailing economic conditions in the PGM sector at the Approval Date having regard to factors such as, but not limited to, the prevailing PGM basket prices, the level of downstream demand for PGMs and operating costs incurred in the production and sale of PGMs, which alone or on a combined basis, have a material influence on the cashflow generation and/or EBITDA of the Merger Parties;
- 1.1.22. “**Merged Entity**” means the Target Firm, subject to the control of the Acquiring Firm following the Implementation Date;

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- 1.1.23. “**Merger**” means the acquisition of control over the Target Firm by the Acquiring Firm;
- 1.1.24. “**Merger Parties**” mean the Acquiring Firm and Target Firm and their respective subsidiaries;
- 1.1.25. “**Minister**” means the Minister of the dtic;
- 1.1.26. “**Moratorium Period**” means a period of 5 (five) years from the Implementation Date, and includes the period between the Approval Date and the Implementation Date;
- 1.1.27. “**NUM**” means the National Union of Mineworkers;
- 1.1.28. “**POC**” means an agreement with a junior miner to process its Concentrate, including a purchase of concentrate agreement and a toll processing agreement;
- 1.1.29. “**PGM/s**” means platinum group metal/s;
- 1.1.30. “**Proposed Transaction**” means the merger between the Acquiring Firm and the Target Firm;
- 1.1.31. “**RBPlat**” means the Target Firm;
- 1.1.32. “**SMME**” means Small Medium Micro Enterprises as defined in terms of section 1 of the Competition Act;
- 1.1.33. “**South Africa**” means the Republic of South Africa;
- 1.1.34. “**Target Firm**” means Royal Bafokeng Platinum Limited (“**RBPlat**”), a public company incorporated in accordance with the laws of South Africa;
- 1.1.35. “**Tribunal**” means the Competition Tribunal of South Africa, established in terms of section 26 of the Competition Act; and
- 1.1.36. “**Tribunal Rules**” means Rules for the Conduct of Proceedings in the Tribunal;

**2. POC CONDITION**

2.1. The Acquiring Firm shall continue to honour the following POCs on their existing terms as at the Approval Date:

2.1.1. [REDACTED]

2.1.2. [REDACTED]

[REDACTED]

2.1.3. [REDACTED] and [REDACTED]

2.1.4. [REDACTED]

2.2. The Acquiring Firm shall offer Commercial Terms for the renewal of the existing POCs with [REDACTED] referred to in clause 2.1 for a 5 (five) year period, with the option to renew the extended POC on Commercial Terms for a further period up to no later than December 2032 (or such lesser period as requested by the relevant counterparty). This commitment is subject to the proviso that at all times Impala Rustenburg is able to accommodate such Concentrate without exceeding the allowable average chrome grade in its furnaces at Impala Rustenburg and provided that the Concentrate specification remains materially similar to that specified in the original POC (unless otherwise agreed by the Acquiring Firm).

2.3. Unless specifically required by any of the parties set out in clause 2.2, the annual Concentrate volumes for an extended POC referred to in clause 2.2 shall be no less than the average annual volumes of Concentrate that the Acquiring Firm processed over the contract period before the extended POC.

**3. EMPLOYMENT**

3.1. Subject to the provisions of clause 3.2 below, Impala Rustenburg and RBPlat shall not retrench any permanent or fixed-term contract employees of the Merger Parties as a result of the Merger (“**Merger specific retrenchments**”) during the Moratorium Period. Subject to any reductions in the aggregate number of employees in terms of the provisions of clause 3.2 below, in order to assist in monitoring this provision, for a period of 5 (five) years from the Implementation Date, the aggregate number of employees employed by Impala Rustenburg and by RBPlat as at the Implementation Date will be maintained by the Merger Parties.

3.2. For the sake of clarity, Merger specific retrenchments do not include: (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements (for the purposes of the Labour

Relations Act) unrelated to the Merger; (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance; and (vii) any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.

- 3.3. In addition, where a management position within RBPlat becomes vacant, RBPlat will consider applicants from among RBPlat employees in seeking to fill a vacancy as part of succession planning.

#### 4. PROMOTING A GREATER SPREAD OF OWNERSHIP

- 4.1. RBPlat has advised that it has entered into a collective agreement with NUM (“the **Collective Agreement**”), which makes provision for the establishment of an employee share ownership scheme (“the **current RBPlat ESOP**”) for the benefit of certain qualifying RBPlat employees and contractors (being those full-time employees who fall into bargaining unit Paterson bands B1 to D1 and those full-time employees of volume contractors who fall into bargaining unit Paterson bands A1 to C5) (“the **Qualifying Employees**”). Approximately █% of employees and contractors of RBPlat currently fall within the definition of Qualifying Employees. █

█  
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█  
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█

- 4.2. Implats supports the introduction of the ESOP and has committed to the NUM that “*the █% of NPAT employee share scheme will continue to be honoured following the implementation of the [Proposed Transaction]. No changes will be made to the structure as part of the [Proposed Transaction]. Any future changes or updates on the structure will be done following engagement with the union and its representatives*”.

- 4.3. Accordingly, Implats does not intend to terminate the Collective Agreement concluded between RBPlat and NUM. Any amendment to the current RBPlat ESOP will take place following consultation with NUM and will be on terms better or equal to the current RBPlat ESOP contained in the Collective Agreement. In the event that the current RBPlat ESOP were to be terminated, the Acquiring Firm will seek to ensure, following consultation with the relevant employee representation, that the current RBPlat ESOP will be replaced by either the new Implats employee share trust, as referred to in clause 4.4 below, or an employee share

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ownership scheme of a similar nature to the current RBPlat ESOP, referred to in clause 4.1 above.

- 4.4. Subject to Implats acquiring more than 50% of the issued share capital of RBPlat, it will provide RBPlat employees with the option to continue with the current RBPlat ESOP (contemplated in the existing collective agreement between RBPlat and NUM) referred to in clause 4.1 and 4.2 above, or to replace the current structure with an increased ownership evergreen employee share ownership trust which is in keeping with the structure and terms of the employee share trust currently in place at Impala Platinum Limited (“the **new Implats ESOT**”). The new Implats ESOT would be provided funding to acquire a ■% shareholding in a newly formed subsidiary of RBPlat or Royal Bafokeng Resources Proprietary Limited (an existing subsidiary of RBPlat “**Royal Bafokeng Resources**”) (which holds the operating assets of RBPlat or is the direct or indirect holding company of such entity).
- 4.5. Implats will within ■ of acquiring a shareholding of more than 50% in RBPlat commence engagement with employees and NUM in relation to the option reflected in clause 4.3. Implats will provide the employees and NUM with relevant non-price sensitive financial information to assist them in comparing the two options.
- 4.6. If the employees were to choose the establishment of the new Implats ESOT, any shares which have been acquired pursuant to the current RBPlat ESOP as at 31 December 2021, or any shares which are to be acquired in terms of the current RBPlat ESOP for which money has been allocated as at 31 December 2021, will be sold and the resulting cash will be distributed to Qualifying Employees in terms of the current RBPlat ESOP.
- 4.7. The new Implats ESOT would entail the establishment of an independent trust to which an interest free, vendor financed loan will be provided to acquire a ■% stake in the newly formed or existing subsidiary of RBPlat. Dividends declared from RBPlat’s new or existing subsidiary to the new Implats ESOT as a ■ shareholder would partly be used to settle the loan (■) and the remaining amount (■) will be allocated to qualifying employees on an annual basis.
- 4.8. Subject to it acquiring more than 50% of the issued share capital of RBPlat and being in a controlling position, Implats will within a period of ■ establish a Community Trust which will acquire a ■% shareholding directly in Impala Platinum Limited and Implats will propose to RBPlat (and as the majority shareholder support the proposal) that the Community Trust also acquires a ■% shareholding in a newly formed subsidiary of RBPlat or Royal Bafokeng Resources (which holds the operating assets of RBPlat or is the direct or indirect holding company of such entity). The Trust beneficiaries will include the common communities of Impala Rustenburg and RBPlat Rustenburg operations. The relevant communities are those

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which are identified in the current social and labour plans of the two companies. The structure and funding of such a Trust will be subject to Implats board approval.

**5. PROMOTING SMALL AND MEDIUM SIZED BUSINESSES**

- 5.1. The Merger Parties undertake that the proposed merger will not give rise to any negative merger specific impact on any of the current contracts in place between RBPlat and its SMME suppliers or those in place between Impala Rustenburg and its current SMME suppliers.
- 5.2. Subject to Implats acquiring a shareholding of more than 50% in RBPlat, Implats and RBPlat confirm that they will not terminate any existing contracts that are currently in place with SMME suppliers as a consequence of the merger, other than where the SMME supplier is unable to perform against the contract specification, and/or is in breach of the contract and/or for any commercially justifiable, non-merger specific reason or as a result of the effluxion of time in respect of the contract concerned. It is intended that following the implementation of the Proposed Transaction, RBPlat will become a subsidiary of Implats, but for present purposes it will operate as a separate legal entity and, therefore, all operational decisions will be made by the management of RBPlat or its subsidiaries.
- 5.3. Subject to the provisions of clause 11.1 and Implats acquiring a shareholding of more than 50% of the issued share capital in RBPlat, Impala Rustenburg and RBPlat commit to the combined expenditure of at least [REDACTED] per annum in relation to current and future SMMEs for a 3 (three) year period following the Implementation Date.
- 5.4. Of the [REDACTED] approximately [REDACTED]% will be spent on SMMEs that are owned or controlled by HDPs.
- 5.5. The Merger Parties will increase the amount in clause 5.3 above by a total percentage of [REDACTED]% annually for the duration of the relevant condition.
- 5.6. Subject to the provisions of clause 11.1, for each of the two subsequent years following the expiry of the initial three-year period set out in clause 5.3, Impala Rustenburg and RBPlat commit to a combined annual expenditure in respect of SMMEs, which will be calculated as follows: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] This commitment is subject to the fact that the annual amount expended for the purpose

<sup>1</sup> As calculated for the purposes of the Mining Charter.

<sup>2</sup> As calculated for the purposes of the Mining Charter.

of this clause will not exceed the amount spent on SMMEs in the third year as envisaged in clause 5.3 as read with clause 5.5.

5.7. Subject to Implats acquiring a shareholding of more than 50% in RBPlat, within a period of [REDACTED] year from the Implementation Date, Implats (or a subsidiary within the Implats' Group) will establish a regional enterprise supplier development empowerment fund for the benefit of women and youth, which will provide beneficiaries with financial assistance and facilitate their participation in the Rustenburg economy. Implats will provide seed funding of [REDACTED] for such a fund, which will be provided over a period of less than [REDACTED] the terms and structure of which will be subject to Implats board approval. The beneficiaries of this fund will be identified through the existing framework which Implats has created to assist identified members of the host communities (being those identified in the current social and labour plans of Impala Rustenburg and RBPlat). At present, Implats has walk-in centres in Rustenburg to assist in this regard. The fund will ultimately be supervised by the Social and Ethics Committee of Implats (or its successor-in-title) to ensure that the funds are appropriately spent in the development of youth and women in these host communities.

## 6. CAPITAL EXPENDITURE

6.1. The Merger Parties intend to achieve economies of scale, efficiencies from the contiguous operations and other benefits that may arise from this merger. Subject to Implats acquiring a shareholding of more than 50% in RBPlat, Implats commits that for a period of [REDACTED] years, it will (subject to operating conditions and/or Market Conditions remaining in line with the forecasts in the business plans) ensure a minimum level of capital expenditure. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6.2. It should be noted that, should there be any material changes to current operating conditions and/or Market Conditions as contemplated in clause 6.1, then Implats may reduce the annual capital expenditure commitment subject to the following:

6.2.1. Where Implats determines in its sole discretion that it will have to reduce the annual capital expenditure commitment, it shall explain the changes in Market Conditions or operating conditions in writing to the Commission and the Minister, as well as the impact that this has on its ability to maintain the annual and total capital expenditure commitment as well as the

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revised annual capital expenditure commitment. It will also provide such documentation as it believes is necessary to explain its views in this regard.

- 6.2.2. Should either the Commission or the Minister so request, the Merger Parties shall provide additional documentary material in respect of the variation of the annual capital expenditure commitment.

### **7. BENEFICIATION AND LOCAL INVESTMENT INITIATIVES (Competition Act sections 12A(3)(a) and (d))**

- 7.1. In order to address the public interest matters in section 12A(3) of the Competition Act, and in particular, the provisions of sections 12A(3)(a) and (d) of the Competition Act, the parties have agreed upon the provisions set out in clauses 8 to 9 below.

### **8. LOCAL INVESTMENT INITIATIVES**

- 8.1. Subject to Implats acquiring a shareholding of more than 50% in RBPlat, Implats commits over a period of [REDACTED] to co-fund up to [REDACTED] in projects which will be identified in conjunction with the IDC in relation to hydrogen technology or its commercialisation in South Africa. The selection of individual projects will be subject to these investments benefitting the local communities around Implats' operations and subject to the projects being aligned with Implats investment policies and its board approval.
- 8.2. In addition, subject to Implats acquiring a shareholding of more than 50% in RBPlat, Implats commits over a period of [REDACTED] to provide a further [REDACTED] for the funding of proof-of-concept activities to be jointly managed by Implats and the IDC subject to the provisions of clause 8.4.
- 8.3. In furtherance of this commitment, Implats will form a joint committee with the IDC for the approval and management of the envisaged projects.
- 8.4. Without derogation from the commitment to contribute the amounts set out in clause 8.1 and 8.2, it should be noted that the commitments in this clause will not require Implats or the IDC to agree to participate in any specific project. Implats has the discretion to select which project and the terms and conditions on which it wishes to participate in the project concerned. So too, the IDC has a discretion to follow its own investment and credit processes and any other relevant process to ensure that they are compliant with the required processes.

## 9. LOCALISATION

- 9.1. Subject to Implats acquiring a shareholding of more than 50% in RBPlat, and subject to the provisions of clause 11.1, the Merged Entity commits for a period of [REDACTED] years to maintaining and improving the level of localisation post-merger insofar as where local suppliers of capital machinery which is required by the Merged Entity are available, the Merged Entity will procure from such local suppliers subject to the economic feasibility of such procurement (taking account of cost, quality, cost-effectiveness, security of supply and other operational metrics). The Merged Entity also commits to work with local business to support them to enhance the quality of their products to meet the specifications and the required quality of the Merged Entity. Some products identified for localisation by the dtic are grinding media, refractory bricks and capital equipment.
- 9.2. Subject to Implats acquiring a shareholding of more than 50% in RBPlat, and subject to the provisions of clause 11.1, with effect from the Implementation Date, for a period of [REDACTED] years, as to procurement in the ordinary course of business, the Merged Entity shall not decrease the current level (as a proportion) of expenditure on the local procurement of goods and services in South Africa, provided that the inputs can be procured on commercially reasonable and practical terms (particularly as regards appropriate quality standards, availability (including security of supply) and reasonably competitive commercial terms and that demand for such goods remains at the same levels as is currently the case).
- 9.3. Where reasonably possible, in cases where third parties supply goods and services into the Merged Entity's value chain, the Merged Entity undertakes to procure that it shall use its influence over such third-party suppliers to encourage them to commit to sourcing their inputs from South African based suppliers of goods and services, where it is reasonable to do so.
- 9.4. For purposes of calculating the local procurement level for the purposes of clause 9.2, the relevant ratio of local procurement, shall be determined by having regard to the relevant procurement level in the 2021 financial year.

## 10. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 10.1. The Merger Parties shall notify the Commission in writing of the Implementation Date within 5 (five) Business Days of it becoming effective.
- 10.2. The Merger Parties shall circulate a copy of the employment conditions to their employees, the trade unions representatives and employee representatives within 5 (five) Business Days of the Approval Date.

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- 10.3. The Acquiring Firm shall within 5 (five) Business Days of the Approval Date circulate a non-confidential copy of the Conditions to [REDACTED]
- 10.4. The Acquiring Firm shall within 5 (five) Business Days of the Implementation Date inform the Commission in writing of the Implementation Date.
- 10.5. As proof of compliance with clauses 10.2 and 10.3, a senior executive of Implats shall within 10 (ten) Business Days of circulating the Conditions, submit to the Commission an affidavit attesting to the circulation of the Conditions and provide a copy of the notices that were circulated to the employees and their employee representatives.
- 10.6. Within 45 (forty-five) Business Days of each anniversary of the Approval Date up until the 5th anniversary (and 6th anniversary as it relates to the local investment initiatives set out in clause 8) and continue for the purposes of clause 10.8, of the Implementation Date, the Merged Firm shall provide the Commission and the Minister with an appropriately detailed report regarding the Merged Firm's compliance with the Conditions. The Minister shall treat and maintain information provided to Minister, which the Merger Parties claim as confidential, in terms hereof, as well as that which has been claimed as confidential in terms of the Competition Act, as strictly confidential and take all reasonable measures to protect such information from disclosure, provided that the Minister and the dtic may report on any non-confidential commitments to the South African public.
- 10.7. The report referred to in clause 10.6 shall be accompanied by an affidavit attested to by the chief executive officer or a senior employee of the Acquiring Firm confirming the accuracy of the annual report and full compliance with these Conditions in the year to which the reports relate.
- 10.8. The report referred to in clause 10.6 shall for a ten (10) year period from the Implementation Date include information confirming the following:
  - 10.8.1. That the Acquiring Firm's current POCs have been honoured in terms of clause 2.1;
  - 10.8.2. If the Acquiring Firm did not honour its current POCs in terms of clause 2.1, the report shall include a detailed explanation of the reason/s for not doing so;
  - 10.8.3. Details of any extended POCs referred to in clause 2.2; and
  - 10.8.4. If the Acquiring Firm could not process the Concentrate in terms of extended POCs in terms of clauses 2.2 during the preceding year, the report shall include a detailed explanation of the reason/s for not doing so.

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10.9. The Commission may request any additional information from the Merger Parties which the Commission from time to time may deem necessary for purposes of monitoring the extent of compliance with these Conditions.

### 11. VARIATION

11.1. In relation to the commitments in clauses 5.3, 5.6, 9.1 and/or 9.2 of these Conditions, should the Merged Entity wish to vary these commitments, it shall make a proposal to the Commission and the Minister to consent to a waiver, relaxation, modification and/or substitution of these commitments, which consent shall not be unreasonably withheld and, to the extent granted or refused, shall be provided within 30 (thirty) Business Days or such longer period agreed by the Merged Firm, acting reasonably.

11.2. In the event of the Commission, the Minister and the Merged Firm agreeing upon the waiver, relaxation, modification or substitution in terms of clause 11.1, the Merged Firm shall make application to the Tribunal for confirmation by it of such waiver, relaxation, modification or substitution of any one or more of the relevant Conditions. In the event of the Commission and/or the Minister withholding its consent to a waiver, relaxation, modification and/or substitution of any one or more of the relevant Conditions, the Merged Firm shall be entitled to apply to the Tribunal for an order waiving, relaxing, modifying or substituting any one or more of the relevant Conditions. For the avoidance of doubt, the Commission and/or the Minister shall be entitled to oppose such application.

11.3. The Commission and/or the Merger Parties may at any time, on good cause shown, apply to the Tribunal for the Conditions to be waived, relaxed, modified and/or substituted.

### 12. GENERAL

12.1. All correspondence in relation to the Conditions must be submitted to the following email address: [mergerconditions@compcom.co.za](mailto:mergerconditions@compcom.co.za) and [Ministry@thedtic.gov.za](mailto:Ministry@thedtic.gov.za)