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## Implementation Agreement

Firestone Diamonds Plc

and

Kopane Diamond Developments Plc

21 July 2010

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**THIS AGREEMENT** is made on 21 July 2010

**BETWEEN**

- (1) **FIRESTONE DIAMONDS PLC** (No. 03589905) whose registered office is 1 Park Row, Leeds LS1 5AB ("**Firestone**"); and
- (2) **KOPANE DIAMOND DEVELOPMENTS PLC** (No. 04108629) whose registered office is at Carlyle House, 235-237 Vauxhall Bridge Road, London SW1V 1ES ("**Kopane**").

**RECITALS:**

- (A) Firestone proposes to announce a firm intention to acquire the entire issued and to be issued share capital of Kopane on the terms and subject to the Conditions referred to in the Press Announcement.
- (B) The parties have agreed that the Acquisition will be implemented by means of a Scheme although Firestone reserves the right, as set out in this agreement, to elect to implement the Acquisition by means of a Takeover Offer instead.
- (C) Kopane and Firestone have agreed to take certain steps to effect implementation of the Acquisition and wish to enter into this agreement to record their respective obligations relating to such matters.

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this agreement, the headings shall not affect interpretation and, unless the context otherwise requires, the following expressions shall have the following meanings:

**"Acquisition"** means the proposed recommended acquisition by Firestone of the entire issued and to be issued share capital of Kopane (whether by way of Scheme or Takeover Offer) on the terms and subject to the Conditions set out in the Press Announcement or any subsequent announcement made in accordance with the Code;

**"Act"** means the Companies Act 2006;

**"Admission"** means the admission of the New Firestone Shares and, if the context requires, the Existing Firestone Shares;

**"AIM"** means AIM, a market of the London Stock Exchange;

**"AIM Rules"** means the AIM rules for companies published by the London Stock Exchange governing admission to AIM and the regulation of companies whose securities are admitted to AIM (including any guidance notes), as each may be amended or reissued from time to time;

**"Authority"** means any government, governmental, quasi governmental, supranational, statutory or regulatory body, agency or authority within the Kingdom of Lesotho;

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks in the City of London are generally open for business;

**"Clearances"** means all consents, clearances, permissions and waivers that are required or are desirable to be obtained from or under the laws, regulations or practices applied by any relevant Authority in connection with the implementation of the Acquisition and which are material in the context of the Acquisition;

**"Code"** means The City Code on Takeovers and Mergers;

**"Competing Proposal"** means a proposed offer, tender offer, merger, acquisition, scheme of arrangement, recapitalisation or other combination whether or not subject to any pre-conditions and howsoever to be implemented relating to any direct or indirect acquisition or purchase of 50 per cent. or more of the Kopane Shares or (as the case may be) the Firestone Shares or all or substantially all of the business and assets of Kopane or (as the case may be) Firestone and its respective subsidiaries proposed by any third party;

**"Conditions"** means the conditions to the implementation of the Acquisition set out in Appendix I to the Press Announcement and any other conditions which are agreed in writing by the parties, and **Condition** shall be construed accordingly;

**"Confidentiality Agreement"** means the confidentiality agreement entered into between the parties on 16 February 2010;

**"Court"** means the High Court of Justice in England and Wales;

**"Court Documents"** means all necessary evidence and pleadings required by the Court in relation to the Scheme and the Reduction of Capital;

**"Court Meeting"** means the meeting of the Scheme Shareholders (and any adjournment thereof) to be convened by an order of the Court pursuant to section 896 of the Act to consider and, if thought fit, approve the Scheme (with or without amendment), together with any meeting held as a result of an adjournment or reconvention by the Court thereof in accordance with this agreement;

**"Court Orders"** means the Scheme Court Order and the Reduction Court Order;

**"Deferred Shares"** means the deferred shares of 4 pence each in the share capital of Kopane;

**"Effective Date"** means the date on which the Scheme becomes effective in accordance with its terms (or, if the Acquisition is implemented as a Takeover Offer, the date upon which the Takeover Offer becomes or is declared unconditional in all respects);

**"Exclusivity Agreement"** means the exclusivity agreement entered into between the parties on 27 April 2010;

**"Existing Firestone Shares"** means the ordinary shares of 20 pence each in the capital of Firestone issued prior to the Effective Date;

**"Finncap Warrant Letter"** means the letter from Finncap in relation to the Warrants in substantially the form set out in Schedule 4;

**"Firestone Circular"** means the shareholder circular to be published by Firestone in connection with the Acquisition [(and also comprising an admission document for the purposes of the AIM Rules)] and containing notice of the Firestone General Meeting and, where the context so requires, includes any form of proxy or other document to be despatched to Firestone Shareholders in connection therewith;

**"Firestone Data Room"** means the on-line data room made available by Firestone to Kopane and its Representatives and professional advisers, a copy of the index to which has been initialled for the purposes of identification on behalf of Firestone and Kopane;

**"Firestone Directors"** means all of the directors of Firestone from time to time;

**"Firestone General Meeting"** means the general meeting of Firestone to be convened in connection with the Acquisition, to consider and, if thought fit, approve the Acquisition (for the purposes of the AIM Rules) and to authorise the Firestone Directors to issue and allot the New Firestone Shares in accordance with the terms of the Acquisition, together with any meeting held as a result of any adjournment or reconvention thereof in accordance with this agreement;

**"Firestone Inducement Fee"** means £● [*one per cent. of the lower of Kopane's Market Capitalisation and Firestone's Market Capitalisation*];

**"Firestone Resolutions"** means the resolutions to be proposed at the Firestone General Meeting, together with such other resolutions as may be agreed between the parties as necessary or desirable for the purposes of implementing the Acquisition and the Placing;

**"Firestone Shareholders"** means holders of Firestone Shares;

**"Firestone Shares"** means all of the issued ordinary shares of 20 pence each in the capital of Firestone;

**"FSA"** means the Financial Services Authority;

**"Group"** means, in relation to any person, its subsidiaries and subsidiary undertakings and holding companies and the subsidiaries and subsidiary undertakings of any such holding company;

**"Hearings"** means, together, the Scheme Court Hearing and the Reduction Court Hearing;

**"Inducement Fee"** means either the Kopane Inducement Fee or the Firestone Inducement Fee as the context shall so require;

**"Kopane Data Room"** means the on-line data room made available by Kopane to Firestone and its Representatives and professional advisers, a copy of the index to which has been initialled for the purposes of identification on behalf of Firestone and Kopane;

**"Kopane Directors"** means all of the directors of Kopane from time to time;

**"Kopane General Meeting"** means the general meeting of Kopane to be convened in connection with the Scheme, expected to be held as soon as the Court Meeting has been concluded or been adjourned, to consider and, if thought fit, approve the Reduction of Capital and certain amendments to the articles of association of Kopane to be made in connection with the Scheme, together with any meeting held as a result of an adjournment or reconvention thereof in accordance with this agreement;

**"Kopane Group"** means Kopane, its subsidiaries and subsidiary undertakings and holding companies and the subsidiaries and subsidiary undertakings of such holding companies;

**"Kopane Inducement Fee"** means £● [*one per cent. of the lower of Kopane's Market Capitalisation and Firestone's Market Capitalisation*];

**"Kopane Resolutions"** means the resolutions to be proposed at the Kopane Court Meeting and at the Kopane General Meeting respectively, together with such other resolutions as may be agreed between the parties as necessary or desirable to be proposed at the Kopane General Meeting for the purposes of implementing the Acquisition;

**"Kopane Share Scheme"** means the European Diamonds PLC 2000 Company Share Option Scheme;

**"Kopane Shareholders"** means holders of Kopane Shares;

**"Kopane Shareholder Meetings"** means the Court Meeting and the Kopane General Meeting;

**"Kopane Shares"** means all of the issued and to be issued ordinary shares of 1 pence each in the capital of Kopane;

**"London Stock Exchange"** means the London Stock Exchange plc;

**"New Firestone Shares"** means [up to] ● new ordinary shares of 20 pence each in the capital of Firestone to be issued to Kopane Shareholders in connection with the Acquisition as more fully described in the Press Announcement;

**"Offer Document"** means the document which will be despatched to Kopane Shareholders in the event that Firestone elects, in accordance with clause 2.4 of this agreement, to make a Takeover Offer;

**"Panel"** means the Panel on Takeovers and Mergers;

**"Payee"** means a party being paid an Inducement Fee;

**"Payee Representative Member"** means the representative member of any group for VAT purposes of which the Payee is a member;

**"Payer"** means a party paying an Inducement Fee;

**"Payer Representative Member"** means the representative member of any group for VAT purposes of which the Payer is a member;

**"Press Announcement"** means the press announcement pursuant to Rule 2.5 of the Code to be released by Firestone and Kopane in the form appended to this agreement at schedule 1;

**"Reduction Court Hearing"** means the hearing of the Court to confirm the Reduction of Capital;

**"Reduction Court Order"** means the order of the Court confirming the Reduction of Capital;

**"Reduction of Capital"** means the proposed reduction of Kopane's share capital under sections 645 to 651 of the Act, as provided for by the Scheme;

**"Registrar"** means the Registrar of Companies of England and Wales;

**"Regulatory Information Service"** means a service approved by the London Stock Exchange for the distribution to the public of any announcements made by Firestone or Kopane and included within the list maintained on the London Stock Exchange's website;

**"Representatives"** means, in relation to a party, the directors, officers, employees and consultants of, and individuals seconded to work for, it or other companies within its group;

**"Scheme"** means the proposed scheme of arrangement under Part 26 of the Act to effect the Acquisition, as described in the Press Announcement, with or subject to any modification, addition or condition approved or imposed by the Court or the Panel or agreed by Kopane and Firestone;

**"Scheme Conditions"** means Conditions [1.1, 1.2 and 1.3] [*i.e. Kopane Shareholder approval and Court sanction of the Scheme*];

**"Scheme Court Hearing"** means the hearing of the Court to sanction the Scheme;

**"Scheme Court Order"** means the order of the Court sanctioning the Scheme under section 899 of the Act;

**"Scheme Document"** means the document to be despatched by Kopane to Kopane Shareholders setting out *inter alia* the full terms and Conditions of the Acquisition, the Scheme and the explanatory statement required by section 897 of the Act, and containing notices of the Kopane Shareholder Meetings, and, where the context so admits, includes any form of proxy or election or other document required to be despatched to Kopane Shareholders in connection with the Scheme;

**"Scheme Shareholders"** means the holders of Scheme Shares, as defined in the Press Announcement;

**"Takeover Offer"** means a contractual takeover offer governed by the Code to implement the Acquisition on the terms and subject to the Conditions (incorporating any changes necessary to reflect the fact that the Acquisition is being implemented as a Takeover Offer and not a Scheme) set out in the Press Announcement;

**"Timetable"** means the indicative timetable for implementation of the Scheme as set out in schedule 2;

**"VAT"** means value added tax as provided for in the Sixth Directive of the European Community (77/388/EEC), as charged by the provisions of the Value Added Tax Act of 1994 or any regulation promulgated thereunder or tax of a similar nature; and

**"Warrants"** means the 1,500,000 warrants over Kopane Shares granted pursuant to a warrant instrument dated 28 October 2009.

1.2 In this agreement unless otherwise specified, reference to:

- (a) a "subsidiary undertaking" is to be construed in accordance with section 1162 of the Act and a "subsidiary" or "holding company" is to be construed in accordance with section 1159 of the Act;
- (b) "includes" and "including" mean including without limitation;
- (c) a "party" means a party to this agreement and includes its assignees (if any) and/or the successors in title to substantially the whole of its undertaking and "parties" means all parties to this agreement;
- (d) a "person" includes any person, individual, company, firm, corporation, government, state or agency of a state of any undertaking (whether or not having separate legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
- (e) a "statute" or "statutory instrument" or "accounting standard" or any of their provisions is to be construed as a reference to that statute or statutory instrument or accounting standard or such provision as the same may have been amended or re-enacted before the date of this agreement;
- (f) "clauses", "paragraphs" or "schedules" are to clauses and paragraphs of and schedules to this agreement;

- (g) "writing" includes any methods of representing words in a legible form or other writing in non-transitory form;
- (h) words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders; and
- (i) "£" and "pence" are to the lawful currency of the United Kingdom.
- 1.3 Terms used but not expressly defined in this agreement shall, unless the context otherwise requires, have the meaning(s) given to them in the Press Announcement. In case of inconsistency, the definitions set out in this agreement shall take precedence.
- 1.4 The schedules form part of the operative provisions of this agreement and references to this agreement shall, unless the context otherwise requires, include references to the schedules.
2. **IMPLEMENTATION OF THE ACQUISITION**
- 2.1 The parties shall procure the release of the Press Announcement at or before 7.00 a.m. on ● 2010 [***N.B. this will be the same date as this agreement. In practice, this agreement (together with any letters of intent/irrevocable undertakings etc.) will be signed the night before and held in escrow until 7.00 a.m. on "Impact Day"***], or such other time and date as may be agreed by the parties. The obligations of the parties under this agreement, other than this clause 2.1 and clauses 1, 11, 12 and 14 of this agreement shall be conditional on such release.
- 2.2 The terms of the Acquisition shall be as set forth in the Press Announcement together with such other terms as may be agreed by the parties in writing and, where required, approved by the Panel. The only conditions to the implementation of the Acquisition shall be the Conditions. The parties agree that the Deferred Shares shall fall outside the Scheme and shall remain as part of Kopane's share capital at the Effective Date.
- 2.3 Unless and until this agreement is terminated in accordance with its terms, each of the parties shall use all reasonable endeavours to implement the Acquisition on the terms and subject to the Conditions and to act in accordance with the Press Announcement (including, without limitation, making any appropriate consultation with employees or employee representatives in accordance with the Code and other applicable laws) and, so far as reasonably practicable, the Timetable, so that Effective Date occurs by no later than ● 2010 [***expected Effective Date***], and in any event by no later than ● 2010 [***final longstop date to be discussed***] (or such later date as the parties may, with the consent of the Panel, agree) and the Conditions are satisfied as soon as reasonably practicable following the release of the Press Announcement and in any event in accordance with the Timetable.
- 2.4 Subject to the prior written consent of Kopane (such consent not to be unreasonably withheld) Firestone may, with the consent of the Panel, elect at any time to implement the Acquisition by way of a Takeover Offer (whether or not the Scheme Document has been posted), provided that the Takeover Offer is made in accordance with the terms and Conditions (incorporating any changes necessary to reflect the fact that the Acquisition is being implemented as a Takeover Offer and not a Scheme) set out in the Press Announcement and with the consideration being, in the reasonable opinion of Kopane's financial adviser, not less than that specified in the Press Announcement. If Firestone elects to implement the Acquisition by way of a Takeover Offer, clauses 3.1, 3.2, 3.10, 3.11, 4.1, 4.3, 4.7 and 5.1 shall cease to have any effect. To the extent this agreement imposes any other obligations on either party in relation to the Scheme, such obligations shall apply *mutatis mutandis* in the context of any Takeover Offer to the extent applicable and subject to the terms thereof.

### 3. OBLIGATIONS OF KOPANE AND FIRESTONE

3.1 Kopane undertakes that it will take or cause to be taken all such reasonable steps as are within its power and necessary to implement the Scheme in accordance with the Timetable. In particular, but without prejudice to the generality of the foregoing, Kopane shall:

- (a) instruct Counsel and provide Firestone and its advisers with the opportunity to attend any conferences with Counsel to discuss the Scheme and any issues arising in connection with it;
- (b) by not later than ● 2010, issue a Part 8 claim form in order to seek the Court's permission to convene the Court Meeting and file such documents as may be necessary in connection therewith;
- (c) subject to clause 4.1 settle the Scheme Document, the Court Documents, all necessary advertisements and forms of proxy with the Court and seek the approval of the Panel and the London Stock Exchange in relation to those documents (in so far as required);
- (d) as soon as reasonably practicable following the Court making the order necessary for the purpose of convening the Court Meeting (or by such later time as the parties may agree) publish all the requisite documents including posting the Scheme Document and forms of proxy to persons on the register of members of Kopane on a record date to be agreed with the Court and other persons entitled to receive the same, (and if required, shall make available to Firestone sufficient copies of the Scheme Document to enable Firestone to send the Scheme Documents to Firestone Shareholders) and thereafter publish and/or post such other documents and information as the Court and the Panel may approve or direct from time to time in connection with the due implementation of the Scheme;
- (e) convene the Kopane Shareholder Meetings to consider and, if thought fit, approve the Kopane Resolutions, and hold the Kopane Shareholder Meetings at the agreed time and date for which they have been respectively convened (such date in any event to be no later than 28 days after the date of posting of the Scheme Document) and not, without Firestone's prior written consent (not to be unreasonably withheld) adjourn either meeting;
- (f) prior to the Kopane Shareholder Meetings, following a request from Firestone, inform Firestone by 3.00 p.m. on the next Business Day of the number of proxy votes received in respect of the Kopane Resolutions and the identity of the relevant Kopane Shareholders (if known to Kopane);
- (g) as soon as reasonably practicable following the Kopane Shareholder Meetings, assuming the necessary resolutions are passed by the requisite majorities, seek the sanction of the Court to the Scheme and confirmation of the Reduction of Capital respectively at the Court Hearings and take any other action reasonably necessary to make the Scheme and the Reduction of Capital effective (including, for the avoidance of doubt, reconvening the Court Meeting and any other necessary shareholder meetings if so required by the Court);
- (h) as soon as possible following sanction of the Scheme and confirmation of the Reduction of Capital by the Court (and in any event within two Business Days of such sanction and confirmation), cause office copies of the Court Orders to be filed with the Registrar and in the case of the Reduction of Capital Court Order, registered by him;

- (i) use its reasonable endeavours to procure delivery by Finn Cap Limited of the Finncap Warrant Letter;
  - (j) request that the London Stock Exchange cancels the admission to AIM of, and trading in, Kopane Shares with effect from 8.00 a.m. on the Effective Date; and
  - (k) save as may otherwise be agreed with Firestone, use all reasonable endeavours to ensure that the time period between the release of the Press Announcement and the Effective Date is as short as reasonably possible.
- 3.2 Kopane undertakes that once the Scheme Document has been posted it will not (save as required by law or regulation, the Panel, or the Court) amend or withdraw the Scheme without the prior written consent of Firestone, such consent not to be unreasonably withheld or delayed.
- 3.3 Firestone undertakes that it shall take or cause to be taken all such reasonable steps as are within its power and necessary to implement the Scheme in accordance with the Timetable. In particular, and without prejudice to the generality of the foregoing, Firestone shall:
- (a) simultaneously with the posting of the Scheme Document to Kopane Shareholders, post the Firestone Circular and form of proxy to Firestone Shareholders (and shall also procure that a copy is sent to Kopane Shareholders with the Scheme Document);
  - (b) convene the Firestone General Meeting to consider and, if thought fit, approve the Firestone Resolutions, and hold the Firestone General Meeting at the time and date for which it has been convened and not, without Kopane's prior written consent (not to be unreasonably withheld) adjourn the Firestone General Meeting;
  - (c) prior to the Firestone General Meeting, following a request from Kopane, inform Kopane by 3.00 p.m. on the next Business Day of the number of proxy votes received in respect of the Firestone Resolutions and the identity of the relevant Firestone Shareholder (if known to Firestone);
  - (d) subject to the Court confirming the Reduction of Capital, allot the New Firestone Shares to all Scheme Shareholders pursuant to a resolution of the board of Directors of Firestone (or a duly authorised and constituted committee thereof);
  - (e) take all reasonable steps within its power to ensure that Admission becomes effective by no later than 8.00 a.m. on the Effective Date; and
  - (f) save as may otherwise be agreed with Kopane, use all reasonable endeavours to ensure that the time period between the release of the Press Announcement and the Effective Date is as short as reasonably possible.
- 3.4 Firestone shall procure that, in respect of all directors and officers of Kopane at the date of this agreement who in consequence of the Acquisition, following the Effective Date, cease to be a director or officer of Kopane (the "**Retired Directors**"), Kopane or Firestone maintains directors and officers insurance ("**D&O Insurance**") for their benefit for a period of six years from the retirement date of each Retired Director (the "**Run Off Cover**"), such Run Off Cover to be with reputable insurers, for an aggregate limit, and on such terms, as is reasonable taking into account policies maintained by comparable companies and that level of cover provided under Kopane's D&O Insurance as at the date of this agreement. Firestone's undertaking set out in this paragraph 3.4 shall survive termination of this agreement but shall be conditional on the Scheme becoming effective.
- 3.5 The parties shall keep each other informed and consult with each other as to progress towards implementation of the Acquisition on a regular basis and shall provide each other

with such other assistance as may reasonably be required to enable each of them to comply with their respective obligations under this agreement.

- 3.6 The parties shall each work diligently with a view to finalising the Scheme Document (or, where applicable, the Offer Document) and the Firestone Circular as soon as reasonably practicable following the date of release of the Press Announcement (and in any event, within 28 days thereof or such later date as the parties and the Panel shall agree). The parties acknowledge that the Scheme Document (or, where applicable, the Offer Document) will contain provisions in accordance with the terms set out in the Press Announcement and Conditions and as further agreed between the parties.
- 3.7 The parties agree to the proposals to be made in accordance with Rule 15 of the Code to the holders of the Warrants and holders of options granted under the Kopane Share Scheme in connection with the Acquisition, as set out in schedule 3 to this agreement.
- 3.8 Firestone agrees that it will only seek to invoke any unsatisfied Conditions (other than any Scheme Conditions or Condition [2.1] [**Firestone Shareholder approval**]) if the Panel permits Firestone to invoke that Condition with the effect that Firestone would not be required to proceed with the Acquisition.
- 3.9 Firestone agrees that, if it intends to seek the permission of the Panel to invoke any of the Conditions (other than any Scheme Condition or Condition 2.1) in accordance with clause 3.8, it shall notify the directors of Kopane of its intention not less than two Business Days prior to approaching the Panel and shall, to the extent practicable, provide Kopane with reasonable details of the grounds on which it intends to invoke the relevant Condition.
- 3.10 Kopane agrees that it shall only (i) seek the sanction of the Scheme by the Court at the Scheme Court Hearing and (ii) file the Court Orders with the Registrar if Firestone provides written confirmation that all Conditions (other than Condition 1.3) [**Court sanction of the scheme**]), where capable of satisfaction, have been satisfied or, where applicable, waived. For the avoidance of doubt, Firestone will deliver such confirmation to Kopane by not later than 6.00 p.m. on the Business Day prior to the date scheduled for the Scheme Court Hearing, unless the Panel has allowed Firestone to invoke any unsatisfied Condition in accordance with clause 3.8 of this agreement. Subject to any requirement imposed by the Panel, if Firestone does not serve such notice, Kopane will procure that the postponed Scheme Court Hearing is rearranged for an available Court date agreed between the parties.
- 3.11 Firestone agrees, save as otherwise expressly provided herein, to undertake to appear by Counsel at the Scheme Court Hearing, to consent to the Scheme and to undertake to the Court to be bound thereby, and to execute and do, or procure to be executed and done, all such documents, acts or things as may be necessary or desirable to be executed or done by it, or on its behalf, for the purposes of giving effect to the Scheme.
- 3.12 Firestone acknowledges that it has had disclosed to it all matters made available to it in the Kopane Data Room, and further acknowledges that it shall not be entitled to assert that a Condition has not been satisfied by virtue of any matter fairly disclosed in the Kopane Data Room or otherwise fairly disclosed to it in writing before the release of the Press Announcement and Kopane (or its advisers) shall consult with the Panel from time to time as necessary in order to keep the Panel informed, and where appropriate seek the consent of the Panel, as to issues relating to the implementation of the Acquisition and the Timetable.
- 3.13 Each party confirms to the other that, as at the date hereof, it is not aware of any matter or circumstance that would or could reasonably be expected to result in the Panel permitting Firestone to invoke any Condition with the effect that Firestone would not be required to proceed with the Acquisition and each party undertakes to the other that it will keep each other informed of any discussions it has with the Panel in relation to the

Acquisition and the Timetable and shall provide copies of any submissions it is required to make to the Panel in respect of the matters referred to in clause [3.12] above.

- 3.14 Kopane undertakes to assist Firestone in communicating with any Authority for the purposes of obtaining any Clearances, including amongst other things, by, as soon as reasonably practicable, providing Firestone with any information or documents reasonably requested and necessary for the purposes of making a submission, filing or notification to any relevant Authority in relation to the Clearances provided that Firestone shall not, and shall procure that no Firestone Representative or adviser to Firestone shall communicate with any Authority in relation to any Clearances without the prior written consent of Kopane (such consents not to be unreasonably withheld) and then only on such terms as are agreed between Firestone and Kopane.
- 3.15 Nothing in this agreement shall in any way limit the parties' obligations under the Code and any uncontested rulings of the Panel as to the application of the Code in conflict with the terms of this agreement shall take precedence over any such terms.
- 3.16 Subject to applicable law or the requirements of any governmental or regulatory authority, and subject to the proviso below, Kopane will co-operate with and provide Firestone with such information relating to the Kopane Group and such access to the executive directors and senior management of Kopane as Firestone reasonably requires during normal business hours in order to facilitate and assist with planning for the integration of Kopane and Firestone, provided always that nothing in this clause 3.16 shall:
- (a) require Kopane and/or any member of the Kopane Group and/or any of their respective directors or employees to incur any personal liability other than any liability which such person expressly assumes on a voluntary basis or which is imposed by any applicable law or regulation;
  - (b) require Kopane's executive directors and/or senior management to attend third party presentations or roadshows; or
  - (c) impose any restriction or fetter on the ability of the directors, senior management or employees of any member of the Kopane Group to devote their time and attention to their duties to the Kopane Group in the ordinary course,

and provided additionally that Kopane's obligations under this clause 3.16 shall at all times be subject to applicable confidentiality, legal or regulatory requirements.

#### 4. PUBLIC DOCUMENTS

- 4.1 Kopane agrees to consult with Firestone in the preparation of the form and content of the Scheme Document, the forms of proxy, the Court Documents and any necessary advertisements and to obtain the written approval (not to be unreasonably withheld or delayed) of Firestone of the content of the Scheme Document, the forms of proxy, the Court Documents and any necessary advertisements before they are (i) filed with the Court and/or (ii) published and/or (iii) posted.
- 4.2 If any supplemental circular or document is required to be published or submitted to the Court in connection with the Scheme or any variation or amendment is required to be made to the Scheme (the "**Scheme Supplemental Document**") the parties will, as soon as reasonably practicable, provide such co-operation and information as the other may reasonably request for finalising the Scheme Supplemental Document and shall publish any Scheme Supplemental Document promptly. Kopane shall not publish or post the Scheme Supplemental Document without the prior written approval of Firestone (such approval not to be unreasonably withheld or delayed).

- 4.3 Firestone undertakes to provide Kopane promptly with all such information about itself and the Firestone Group, its advisers and the Firestone Directors as Kopane may reasonably require for inclusion in (or in connection with the preparation of) the Scheme Document and to provide all such other assistance as may reasonably be required by Kopane in connection with the preparation of the Scheme Document, including access to, and ensuring the provision of reasonable assistance by, relevant professional advisers.
- 4.4 Firestone undertakes to consult with Kopane as to the form and content of the Firestone Circular and to obtain the approval (not to be unreasonably withheld or delayed) of Kopane of the contents of the Firestone Circular before it is published.
- 4.5 If any supplemental circular or document is required to be published or submitted in connection with the Firestone Circular (the "**Circular Supplemental Document**") the parties will, as soon as reasonably practicable, provide such co-operation and information as the other may reasonably request for finalising the Circular Supplemental Document and shall publish any Circular Supplemental Document promptly. Firestone shall not publish the Circular Supplemental Document without the prior written approval of Kopane (such approval not to be unreasonably withheld or delayed).
- 4.6 Kopane undertakes to provide Firestone promptly with all such information about itself and the Kopane Group; its advisers and the Kopane Directors as Firestone may reasonably require for inclusion in (or in connection with the preparation of) the Firestone Circular and to provide such other assistance as may reasonably be required by Firestone in connection with the preparation of the Firestone Circular, including access to, and ensuring the provision of reasonable assistance by, relevant professional advisers.
- 4.7 Kopane will procure that the Kopane Directors accept responsibility for all of the information in the Scheme Document other than that relating to Firestone and the Firestone Group (and its and their respective directors).
- 4.8 Firestone will procure that the Firestone Directors accept responsibility for all of the information in the Scheme Document relating to Firestone and the Firestone Group (and its and their respective directors).
- 4.9 If, in accordance with clause 2.4, Firestone has elected to implement the Acquisition as a Takeover Offer:
- (a) Firestone will consult with Kopane as to the form and content of the Offer Document and obtain the approval (not to be unreasonably withheld) of Kopane of the content of the Offer Document before it is posted;
  - (b) Kopane undertakes to provide Firestone promptly with all such information about itself and its Group, its advisers and the Kopane Directors as Firestone may reasonably require for inclusion in the Offer Document and to provide all such other assistance as may reasonably require for inclusion in (or in connection with the preparation of) the Offer Document, including access to, and ensuring the provision of reasonable assistance by, relevant professional advisers;
  - (c) Firestone will procure that the Firestone Directors accept responsibility for all of the information in the Offer Document other than that relating to Kopane and the Kopane Group (and its and their respective directors); and
  - (d) Kopane will procure that the Kopane Directors accept responsibility for all of the information in the Offer Document relating to Kopane and the Kopane Group (and its and their respective directors).
- 4.10 The parties shall co-operate and consult with each other in the preparation and publication of any other document, supplementary document, filing or application which is required or

which Firestone and Kopane (as the case may be) reasonably consider to be necessary or appropriate for purposes of implementing the Acquisition.

**5. RECOMMENDATIONS**

- 5.1 Kopane agrees that the Scheme Document shall incorporate a unanimous and unqualified recommendation by the Kopane Directors to Kopane Shareholders to vote in favour of the Kopane Resolutions at the Kopane Shareholder Meetings, and that such recommendation shall not be withdrawn, adversely modified or qualified unless the Kopane Directors determine, acting in good faith and having taken appropriate advice, that such recommendations should not be given or should be withdrawn, adversely modified or (as the case may be) qualified in order to comply with their fiduciary duties as directors of Kopane.
- 5.2 If, in accordance with clause 2.4, Firestone has elected to implement the Acquisition as a Takeover Offer, Kopane agrees that the Offer Document shall incorporate a unanimous and unqualified recommendation by the Kopane Directors to Kopane Shareholders to accept the Takeover Offer, and such recommendation shall not be withdrawn, adversely modified or qualified unless the Kopane Directors determine, acting in good faith and having taken appropriate advice, that such recommendation should not be given or should be withdrawn, adversely modified or (as the case may be) qualified in order to comply with their fiduciary duties as directors of Kopane.
- 5.3 Firestone agrees that the Firestone Circular shall incorporate a unanimous and unqualified recommendation by the Firestone Directors to Firestone Shareholders to vote in favour of the Firestone Resolutions at the Firestone General Meeting, and that such recommendation shall not be withdrawn, adversely modified or qualified unless the Firestone Directors determine, acting in good faith and having taken appropriate advice, that such recommendation should not be given or should be withdrawn, adversely modified or (as the case may be) qualified in order to comply with their fiduciary duties as directors of Firestone.

**6. CONDUCT PENDING COMPLETION OF THE ACQUISITION**

Without prejudice to Rule 21 of the Code, and save as contemplated by this agreement, until the earlier of the Effective Date and the date of termination of this agreement in accordance with its terms:

- (a) Kopane and Firestone shall (and shall procure that the members of their respective Groups shall) each carry on their respective businesses and that of their respective Groups in the ordinary course, and unless prior to the date hereof disclosed by Kopane or Firestone (as applicable) by an announcement made to a Regulatory Information Service shall not (and shall procure that no member of their respective Groups shall) undertake any material commitment or enter into or amend, or terminate or agree to amend or terminate any material contract, licence, permit or consent or acquire or dispose of any material assets, liabilities or businesses otherwise than, in each case, in the ordinary course of business save that Firestone shall be entitled to enter into any agreements relating to its Jwaneng Tailings Project notwithstanding that such agreements had not been announced by Firestone prior to the date hereof;
- (b) neither Kopane nor Firestone shall (and shall procure that no member of their respective Groups shall) take any action which may reasonably be expected to have the effect of preventing or delaying the successful outcome of the completion of the Acquisition or the satisfaction of any Condition in accordance with its terms;
- (c) neither Kopane nor Firestone shall take any action which would amount to an action requiring the approval of shareholders in general meeting under Rule 21 of

the Code (whether or not, in Firestone's case, the restrictions contained in Rule 21 of the Code would otherwise apply save that such restrictions shall not apply to Firestone where the action had previously been disclosed prior to the date hereof by an announcement made to a Regulatory Information Service or was in relation to Firestone entering into any agreements relating to the Jwaneng Tailings Project notwithstanding that such agreements had not been announced by Firestone prior to the date hereof), nor enter into or agree to enter into any transaction that would constitute a substantial transaction (or greater under the class tests) for the purposes of the AIM Rules;

- (d) save in connection with the Scheme, Kopane shall not and shall procure that no member of its Group shall alter its share capital, issue or allot any new shares, or grant any options, warrants or other rights to subscribe for any shares or securities convertible into shares, without the prior written consent of Firestone (other than issues of new Kopane Shares in respect of warrants issued by Kopane or options granted under the Kopane Share Scheme prior to the date of this agreement);
- (e) Kopane shall not amend or vary the terms of the Kopane Share Scheme (other than in accordance with schedule 3 of this agreement) or establish any new bonus, share incentives or profit share scheme without the prior written consent of Firestone (not to be unreasonably withheld);
- (f) save for the issue of the New Firestone Shares to Scheme Shareholders in connection with the Scheme or in accordance with schedule 3 to this agreement, Firestone shall not and shall procure that no member of its Group shall alter its share capital, issue or allot any new shares, or grant any options, warrants or other rights to subscribe for any shares or securities convertible into shares, without the prior written consent of Kopane (other than issues of new shares in respect of options granted under the Firestone Share Schemes prior to the date of this agreement);
- (g) Firestone shall not amend or vary the terms of the Firestone Share Schemes (other than in accordance with schedule 3 of this agreement) or establish any new bonus, share incentive or profit share scheme without the prior written consent of Kopane (not to be unreasonably withheld);
- (h) neither Kopane nor Firestone shall enter into, materially amend, materially vary or terminate any arrangements in respect of any pension scheme in which it or any member of the Kopane Group or Firestone Group (respectively) participates, save as required by law or regulation or the rules of any such scheme;
- (i) save as may be necessary in connection with the Scheme or the Acquisition, neither Kopane nor Firestone shall propose any amendments to their respective memorandum or articles of association or amend the memorandum and articles of association of any member of the Kopane Group or the Firestone Group respectively;
- (j) other than as disclosed by Firestone prior to the date hereof by an announcement made to a Regulatory Information Service, neither Kopane nor Firestone shall (and shall procure that no member of their respective Groups shall) issue, authorise or propose the issue of any debentures, or incur or increase any indebtedness in respect of borrowed money in an amount exceeding £50,000 in the aggregate in relation to any borrowings incurred by Kopane and exceeding £5,000,000 in the aggregate in relation to any borrowings incurred by Firestone;
- (k) neither Kopane nor Firestone shall (and shall procure that no member of their respective Groups shall) repay, accelerate or otherwise amend the terms of any indebtedness of the Kopane Group or the Firestone Group respectively otherwise

than in the usual course of carrying on their respective business, or cancel any facilities available to them;

- (l) neither Kopane nor Firestone shall (and shall procure that no member of their respective Groups shall) recommend, declare, set aside or pay any dividends or make any other distributions (whether in cash, shares or of assets) in respect of its share capital, or split, combine or reclassify any share capital or issue or authorise the issuance of any other securities in respect of, in lieu of, or in substitution for any share capital;
- (m) neither Kopane nor Firestone shall (and shall procure that no member of their respective Groups shall) compromise, settle, release, discharge or compromise any litigation or arbitration proceedings that are material in the context of its respective Group (taken as a whole) or any liability, claim, action, demand or dispute that is material in the context of its respective Group (taken as a whole) or waive any right in relation to any of the foregoing;
- (n) other than as disclosed prior to the date hereof by Kopane or Firestone (as applicable) by way of a Regulatory Information Service, neither Kopane nor Firestone shall (and shall procure that no member of their respective Groups shall) enter into, or exercise an option in relation to, any agreement or incur any commitment invoking any capital expenditure in excess of £50,000 in the aggregate in respect of Kopane and £500,000 in the aggregate in respect of Firestone unless such capital expenditure is provided for in the working capital reports of Firestone and Kopane; and
- (o) neither Kopane nor Firestone shall (and shall procure that no member of their respective Groups shall) agree to do any of the foregoing,

provided that, subject always to Rule 21 of the Code and to applicable law, either Kopane or (as the case may be) Firestone may take or omit to take any action where to do so would otherwise amount to a breach of this clause 6 of this agreement if it first obtains the written consent (not to be unreasonably withheld or delayed) of the other party.

## **7. NON-SOLICITATION**

7.1 Each of Kopane and Firestone undertakes that it shall and shall procure that each member of their respective Groups (and their respective directors, officers, employees advisers and agents) shall:

- (a) not make any approach to any third party with a view to a Competing Proposal being made in relation to Kopane or (as the case may be) Firestone; and
- (b) subject to clause 7.3 not solicit, initiate, encourage or engage in any discussions with any third party with a view to a Competing Proposal being made in relation to Kopane or (as the case may be) Firestone.

7.2 Each of Kopane and Firestone undertakes that it shall notify the other party in the event that it or any member of its Group (or any of their respective directors, officers, employees advisers and agents) is approached by a third party with a view to a Competing Proposal being made in relation to Kopane or (as the case may be) Firestone, provided that the notifying party shall not be obliged to name the third party that has made the approach, nor to provide any further details regarding the approach to the extent it is a conditional of such approach that these details remain confidential. The parties further agree that the fact and contents of any notification pursuant to this clause 7.2 will constitute "Confidential Information" as such term is defined in the Confidentiality Agreement.

7.3 In the event that Kopane or Firestone receives an unsolicited approach from any third party with a view to a Competing Proposal being made in relation to Kopane or (as the case may be) Firestone it shall not and shall procure that each member of their respective Groups (and their respective directors, officers, employees advisers and agents) shall not directly or indirectly entertain such approach or enter into any discussions or negotiations with the third party in question with a view to a Competing Proposal being made unless the Kopane Directors or (as the case may be) the Firestone Directors determine, acting in good faith and having taken appropriate advice, that they are obliged to take such action in order to comply with their fiduciary duties as directors of Kopane or (as the case may be) Firestone. In such case, the party in question shall immediately notify the other of its directors' determination, unless such notification has already been made in conjunction with any notification pursuant to clause 7.2.

## 8. INDUCEMENT FEES

8.1 As an inducement to Firestone to commit time and personnel to the Acquisition, Kopane agrees that it shall (to the extent permitted by law) pay the Kopane Inducement Fee (inclusive of VAT except to the extent that such VAT is recoverable by the Payer or the Payer Representative Member) to Firestone if a firm intention to make the Acquisition is announced by Firestone in accordance with the Press Announcement and, following such announcement:

- (a) a Competing Proposal in relation to Kopane (or any amendment, variation or revision of such proposal) is announced pursuant to Rule 2.5 of the Code prior to the Acquisition lapsing or being withdrawn and such Competing Proposal subsequently becomes or is declared wholly unconditional or is otherwise completed; or
- (b) the Kopane Directors at any time either fail to recommend or withdraw or adversely modify, or qualify, their recommendation to Kopane Shareholders to vote in favour of the Kopane Resolutions at the Kopane Shareholder Meetings or (as the case may be) accept a Takeover Offer, or withdraw or adversely modify or qualify their recommendation of the Acquisition generally in any statement contained in an announcement issued by Kopane through a Regulatory Information Service after the date of the Kopane Shareholder Meetings, and subsequently the Acquisition lapses or is withdrawn, provided that the Kopane Inducement Fee shall not be payable in these circumstances if, prior to the Kopane Directors failing to recommend or withdrawing or adversely modifying, or qualifying, such recommendation:
  - (i) the Firestone Directors have failed to recommend or have withdrawn or adversely modified or qualified their recommendation to Firestone Shareholders to vote in favour of the Firestone Resolutions at the Firestone General Meeting or have withdrawn or adversely modified or qualified their recommendation of the Acquisition generally in any statement contained in an announcement issued by Firestone through a Regulatory Information Service after the date of the Firestone General Meeting;
  - (ii) the Firestone Directors have recommended any Competing Proposal in relation to Firestone; or
  - (iii) Firestone is in material breach of any provision of this agreement (including, without limitation, any of its undertakings in clause 6 or any of the warranties in clause 11) such that the Kopane Directors determine, acting in good faith and having taken appropriate advice, that such recommendation should not be given or should be withdrawn or modified or qualified in order to comply with their fiduciary duties as directors of Kopane; or

- (c) the Kopane Directors recommend any Competing Proposal in relation to Kopane and subsequently the Acquisition lapses or is withdrawn.
- 8.2 Kopane shall pay the Inducement Fee due under clause 8.1(a) (if it becomes payable) in immediately available funds by not later than five Business Days after the date on which the relevant Competing Proposal becomes or is declared wholly unconditional or is otherwise completed.
- 8.3 Kopane shall pay the Inducement Fee due under clause 8.1(b) or 8.1(c) (if it becomes payable) in immediately available funds by not later than five Business Days after the date on which the Acquisition lapses or is withdrawn.
- 8.4 Nothing in this agreement shall oblige Kopane to pay an amount (whether in the form of the Kopane Inducement Fee or in damages in respect of any breach of any other provision of this agreement) which the Panel would determine would not be permitted by Rule 21.2 of the Code.
- 8.5 As an inducement to Kopane to commit time and personnel to the Acquisition, Firestone agrees that it shall (to the extent permitted by law) pay the Firestone Inducement Fee (inclusive of VAT except to the extent that such VAT is recoverable by the Payer or the Payer Representative Member) to Kopane if a firm intention to make the Acquisition is announced by Firestone in accordance with the Press Announcement and, following such announcement:
- (a) a Competing Proposal in relation to Firestone (or any amendment, variation or revision of such proposal) is announced pursuant to Rule 2.5 of the Code prior to the Acquisition lapsing or being withdrawn and such Competing Proposal subsequently becomes or is declared wholly unconditional or is otherwise completed; or
  - (b) the Firestone Directors at any time either fail to recommend or withdraw or adversely modify, or qualify, their recommendation to Firestone Shareholders to vote in favour of the Firestone Resolutions at the Firestone General Meeting, or withdraw or adversely modify or qualify their recommendation of the Acquisition generally in any statement contained in an announcement issued by Firestone through a Regulatory Information Service after the date of the Firestone General Meeting, and subsequently the Acquisition lapses, provided that the Firestone Inducement Fee shall not be payable in these circumstances if, prior to the Firestone Directors failing to recommend or withdrawing or adversely modifying, or qualifying, such recommendation:
    - (i) the Kopane Directors have failed to recommend or have withdrawn or adversely modified or qualified their recommendation to Kopane Shareholders to vote in favour of the Kopane Resolutions at the Kopane Shareholder Meetings or (as the case may be) accept a Takeover Offer, or have withdrawn or adversely modified or qualified their recommendation of the Acquisition generally in any statement contained in an announcement issued by Kopane through a Regulatory Information Service after the date of the Kopane Shareholder Meetings;
    - (ii) the Kopane Directors have recommended any Competing Proposal in relation to Kopane; or
    - (iii) Kopane is in material breach of any provision of this agreement (including, without limitation, any of its undertakings in clause 6 or any of the warranties in clause 11) such that the Firestone Directors determine, acting in good faith and having taken appropriate advice, that such recommendation should not be given or should be withdrawn or modified or

qualified in order to comply with their fiduciary duties as directors of Firestone; or

- (c) the Firestone Directors recommend any Competing Proposal in relation to Firestone and subsequently the Acquisition lapses or is withdrawn.
- 8.6 Firestone shall pay the Inducement Fee due under clause 8.5(a)(if it becomes payable) in immediately available funds by not later than five Business Days after the date on which the relevant Competing Proposal becomes or is declared wholly unconditional or is otherwise completed.
- 8.7 Firestone shall pay the Inducement Fee under clause 8.5(b) or 8.5(c) (if it becomes payable) in immediately available funds by not later than five Business Days after the date on which the Acquisition lapses or is withdrawn.
- 8.8 Nothing in this agreement shall oblige Firestone to pay an amount (whether in the form of the Firestone Inducement Fee or in damages in respect of any breach of any other provisions of this agreement) which the Panel determines would not be permitted by Rule 21.2 of the Code (or, where Rule 21.2 of the Code does not apply, which the Panel would determine would not be permitted by Rule 21.2 to the extent that Rule 21.2 of the Code did apply).
- 8.9 If and to the extent that any tax authority determines that either Inducement Fee is consideration for a taxable supply, the applicable Inducement Fee shall be treated as inclusive of VAT and no amounts in respect of VAT shall be payable in addition to the Inducement Fee but:
- (a) if the Inducement Fee is the consideration for any supply deemed to be made by the Payer or the Payer Representative Member and on which VAT is chargeable, then, to the extent that such VAT is irrecoverable by the Payer or the Payer Representative Member, the Payer and the Payer Representative Member having used their reasonable endeavours to recover such VAT, the Inducement Fee shall be reduced (or part of the Inducement Fee reimbursed) such that the aggregate of the reduced fee and the irrecoverable VAT thereon equals the Inducement Fee; and
  - (b) if the Inducement Fee is the consideration for a supply in respect of which the Payee or the Payee Representative Member is liable for VAT, then the Payer shall (or shall procure that the Payer Representative Member shall) use reasonable endeavours to obtain any available refund or credit in respect of such VAT. The Payee shall provide such assistance to the Payer (or the Payer Representative Member) as is reasonably necessary (including the making available of such invoices, information and assistance as may reasonably be required) to enable the Payer (or the Payer Representative Member) to obtain such a refund or credit. If and to the extent that the Payer (or the Payer Representative Member) receives such a refund or credit, the Payer shall (or shall procure that the Payer Representative Member shall) within five Business Days of receiving the refund or credit, pay an amount equal to such refund or credit to the Payee. Such amount so paid shall not form part of the Inducement Fee for the purposes of this agreement and shall be deemed to be inclusive of any VAT payable thereon.
- 8.10 All sums payable under this clause 8 of this agreement shall be paid in the form of an electronic funds transfer for same day value to such bank as may be notified by the Payee to the Payer, and shall be paid in full free from any deduction or withholding whatsoever (save as may be required by law) and without regard to any lien, right of set-off, counterclaim or otherwise.

9. **ENLARGED GROUP**

9.1 [On the Effective Date, Firestone and Kopane will use their respective endeavours to procure that:

- (a) James Cable and Andrew Birnie (together the "**Executives**") will cease to be employees of Kopane (and all Kopane Group companies), will enter into compromise agreements with Kopane, and will each be paid a sum (subject to statutory deductions) equal to twice his current salary of £● and £● respectively, in satisfaction of all claims under their respective service contracts ("**Payments**"). Firestone and Kopane shall have regard to the reasonable requests of the Executives to structure the Payments to them in as tax efficient a manner as is reasonably practicable;
- (b) the Executives will remain on the boards of those Kopane Group companies of which they are directors at the Effective Date but shall not receive any fees for their services in connection therewith and shall each enter into consultancy agreements with Kopane (or such other Kopane Group company as may be agreed) on terms to be agreed, but the parties envisage that the initial term of such consultancy agreements will be for a period of at least [three] months; and
- (c) the remaining directors of Kopane, all of whom are non-executive directors, being Francesco Scolaro, Michael Wittet and Buddy Doyle, will cease to be directors of Kopane and all other Kopane Group Companies. Such directors shall be entitled to receive all fees and expenses accrued up to the Effective Date, but shall otherwise not be entitled to any payment for loss of office, and such directors shall waive all and any claims against Kopane and all other Kopane Group companies.]

**[NB: Subject to comment by Kopane]**

10. **TERMINATION**

10.1 This agreement shall be terminated and, subject to clause 10.2, all obligations of the parties hereunder shall cease forthwith on the date of the first to occur of:

- (a) such termination being agreed in writing between Kopane and Firestone at any time before the Effective Date;
- (b) the Kopane Directors at any time either:
  - (i) failing to recommend; or
  - (ii) withdrawing or adversely modifying or qualifying their recommendation, to Kopane Shareholders to vote in favour of the Kopane Resolutions at the Kopane Shareholder Meetings or accept a Takeover Offer, or withdrawing or adversely modifying or qualifying their recommendation of the Acquisition generally in any statement contained in an announcement issued by Kopane through a Regulatory Information Service after the date of the Kopane Shareholder Meetings;
- (c) a Competing Proposal in relation to Kopane or Firestone (as the case may be) becoming or being declared unconditional in all respects, or completing;
- (d) the Firestone Directors either:
  - (i) failing to recommend; or
  - (ii) withdrawing or adversely modifying or qualifying their recommendation,

to Firestone Shareholders to vote in favour of the Firestone Resolutions at the Firestone General Meeting, or withdrawing or adversely modifying or qualifying their recommendation of the Acquisition generally in any statement contained in an announcement issued by Firestone through a Regulatory Information Service after the date of the Firestone General Meeting;

- (e) Kopane Shareholders failing to approve the Kopane Resolutions at the Kopane Shareholder Meetings;
- (f) Firestone Shareholders failing to approve the Firestone Resolutions at the Firestone General Meeting;
- (g) the Court failing to sanction the Scheme or confirm the Reduction of Capital respectively at the Hearings;
- (h) if Firestone elects, in accordance with clause 2.5 of this agreement, to implement the Acquisition by way of a Takeover Offer, such offer being withdrawn by Firestone or lapsing; and
- (i) the Effective Date not having occurred on or prior to ● **[final Long stop date to be agreed]** 2010 (or such later date as Firestone and Kopane may, with the consent of the Panel, agree).

10.2 Termination of this agreement shall be without prejudice to the rights of either of the parties which have arisen prior to the date of termination including (without limitation) any claim in respect of a breach of this agreement. Clauses 1, 3.4, 8, 10, 11, 12 and 14 of this agreement shall survive termination.

## 11. WARRANTIES AND PROCUREMENT

11.1 Kopane warrants to Firestone on the date of this agreement that all of the information disclosed in the Kopane Data Room or fairly disclosed by Kopane or any of its Representatives to Firestone or any of Firestone's Representatives prior to the date hereof is true and accurate in all material respects and not misleading, and that there is no material fact relating to its business which has not been fairly disclosed to Kopane in the manner aforesaid prior to the date of this agreement.

11.2 Firestone warrants to Kopane on the date of this agreement that all of the information disclosed in the Firestone Data Room or fairly disclosed by Firestone or any of its Representatives to Kopane or any of Kopane's Representatives prior to the date hereof is true and accurate in all material respects and not misleading, and that there is no material fact relating to its business which has not been fairly disclosed to Firestone in the manner aforesaid prior to the date of this agreement.

11.3 Each of the parties warrants to the other that it has obtained all necessary and appropriate board authorities for the purposes of entering into this agreement and releasing the Press Announcement.

11.4 Each of the parties warrants to the other on the date of this agreement that:

- (a) it has the requisite power and authority to enter into and perform its obligations under this agreement;
- (b) this agreement constitutes its binding obligations in accordance with its terms;
- (c) the execution and delivery of, and performance of its obligations under, this agreement will not:
  - (i) result in a breach of any provision of its constitutional documents;

- (ii) save as fairly disclosed to the other party or as publicly announced by or on behalf of Kopane or Firestone (as the case may be) before the date of this agreement, result in a breach of, or constitute a default under, any instrument creating or constituting financial indebtedness to which it is a party or by which it is bound; or
- (iii) save as fairly disclosed to the other party or as publicly announced by or on behalf of Kopane or Firestone (as the case may be) before the date of this agreement, result in a breach of any order, judgment or decree of any court or governmental agency to which it is a party or by which it is bound.

11.5 Each party to this agreement undertakes that it shall use all its reasonable endeavours to procure that its Representatives, auditors and advisers shall do all such acts as are reasonably necessary to give effect to the terms of this agreement and the Acquisition.

## 12. COSTS

Without prejudice to its other rights pursuant to this agreement (or in relation to a breach by either party of the terms of this agreement) each party shall pay its own costs and expenses incidental to the Acquisition.

## 13. ANNOUNCEMENTS

13.1 Subject to clause 13.2, prior to the earlier of the Effective Date and the date of termination of this agreement in accordance with its terms, no announcement or public statement shall be made by either party regarding the Acquisition except on a joint basis or on terms agreed in advance by the parties, acting in good faith.

13.2 The restriction in clause 13.1 shall not apply to any announcement or statement required by applicable law, regulation, court order, the Panel, the FSA, the London Stock Exchange, the AIM Rules or the rules of any other stock exchange provided that the party required to make such an announcement or statement will, if practicable, consult with the other party as to the content and timing of such announcement or statement and the extent of the required disclosure.

## 14. MISCELLANEOUS

14.1 Any notices or communications under this agreement shall be given in writing by personal delivery or recorded delivery mail or by facsimile transmission, with a confirmation copy despatched by personal delivery or recorded delivery mail, to the address and/or fax number set out below or such other address and/or fax number as such party may have notified the other in accordance with this clause 14.1 and shall be effective when received. Notices shall be given as follows:

(a) if to Firestone:

[Firestone]  
4<sup>th</sup> Floor  
26-28 Hammersmith Grove  
London  
W6 7BA

Fax: +44(0)20 8181 6894

marked for the attention of Philip Kenny, Chief Executive Officer.  
Email: pkenny@Firestoneiamonds.com

with a copy to:

Lawrence Graham LLP  
4 More London Riverside  
London  
SE1 2AV

Fax +44(0)20 7759 8788

marked for the attention of Geoffrey Gouriet.  
Email: Geoffrey.gouriet@lg-legal.com

(b) if to Kopane:

[Kopane]  
Carlyle House  
235-237 Vauxhall Bridge Road  
London  
SW1V 1EJ

Fax: +44(0)20 7233 5446

marked for the attention of James Cable, Finance Director.  
Email: jcable@kopanediamonds.com

with a copy to:

Ashurst LLP  
Broadwalk House  
5 Appold Street  
London EC2A 2HA

Fax +44(0)20 7638 1112

marked for the attention of Michael Robins.  
Email: michael.robins@ashurst.com

- 14.2 Clause 14.1 shall not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this agreement.
- 14.3 The provisions of this agreement may be modified or amended only by written agreement of the parties.
- 14.4 The parties acknowledge and agree that damages may not be an adequate remedy for any breach or threatened breach by it or its Representatives of this agreement and that the party who is not in breach (the "**Non-Breaching Party**") shall be entitled without proof of special damage to seek injunctive relief and other equitable remedy (including specific performance) and the party in breach will not oppose in such circumstances the granting of injunctive or equitable remedy in favour of the Non-Breaching Party.
- 14.5 A person who is not a party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms, save that:
- (a) each of the participants of the Kopane Share Scheme may take the benefit of and enforce the terms of schedule 3 to this agreement; and
  - (b) any director or officer of Kopane who in consequence of the Acquisition, following the Effective Date, ceases to be a director or officer of Kopane, may take the benefit and enforce the terms of clause 3.4 of this agreement,

and to this extent the Contracts (Right of Third Parties) Act 1999 shall apply, save that, prior to the Effective Date, the parties to this agreement may make amendments to or terminate this agreement without seeking the consent of any of the persons referred to in sub-paragraphs (a) or (b) above.

- 14.6 Nothing in this agreement and no action taken by the parties under this agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties.
- 14.7 If any provision of this agreement shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, but would be valid and enforceable if deleted in whole or in part or reduced in application, such provision shall apply with such deletion or modification as may be necessary to make it valid and enforceable but the enforceability of the remainder of this agreement shall not be affected.
- 14.8 No party shall assign all or part of any of its rights or benefits under this agreement.
- 14.9 Except as otherwise provided, time is of the essence of this agreement.
- 14.10 This agreement, together with the Confidentiality Agreement, constitutes the entire and only agreement entered into between the parties in relation to the subject matter of this agreement, and supersedes any previous agreement whether written or oral between the parties in relation to the subject matter of this agreement. The parties agree that, notwithstanding their entry into this agreement, or the termination of this agreement in accordance with clause 10, the Confidential Agreement shall continue in full force and effect in accordance with its terms until the Effective Date whereupon the Confidentiality Agreement shall terminate automatically.
- 14.11 The parties agree that the Exclusivity Agreement shall terminate forthwith upon their entry into this agreement.
- 14.12 Each party acknowledges that, in agreeing to enter into this agreement, it has not relied on any representation, warranty, collateral contract or other assurance (except those set out in this agreement) made by or on behalf of the other party at any time before the signature of this agreement. Each of the parties waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or assurance. Nothing in this clause limits or excludes any liability for fraud or fraudulent misrepresentation.
- 14.13 This agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.
- 14.14 This agreement and any non-contractual obligation arising out of or in connection with it, shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.

**SCHEDULE 1**

**Press Announcement**

## SCHEDULE 2

### Court Timetable (all calendar days)

<i>Date (2010)</i>	<i>Action/Event</i>
●	Press Announcement Released
●	Part 8 claim form issued at Court
●	Hearing for permission to convene the Court Meeting
●	Scheme Document and Firestone Circular posted
●	Firestone General Meeting held
●	Kopane Shareholder Meetings held
●	Court hearing of application for directions held
●	Advertisement notifying public of Scheme Court Hearing
●	Scheme Court Hearing
●	Reduction Court Hearing
●	Effective Date and Admission
●	Last date for posting share certificates/crediting CREST accounts in respect of New Firestone Shares

## **SCHEDULE 3**

### **Rule 15 Proposals**

#### **1. Introduction**

Kopane and Firestone agree that the options held by participants in the Kopane Share Scheme shall be subject to the terms of this Schedule.

#### **2. Appropriate Proposals**

2.1 Firestone undertakes to make appropriate proposals in accordance with Rule 15 of the Code ("**Proposals**") to participants in the Kopane Share Scheme ("**Optionholders**").

2.2 Subject to applicable confidentiality, legal and/or regulatory requirements, Kopane undertakes to Firestone to co-operate with and to provide such details to Firestone in relation to the Kopane Share Scheme as Firestone may reasonably require in order to plan and make such Proposals.

#### **3. Documentation and Communications**

3.1 Kopane shall, in conjunction with Firestone, prepare documentation to be sent to Optionholders outlining the anticipated effect of the Scheme on their contractual rights and incorporating the Proposals.

3.2 Kopane agrees to consult with Firestone as to the content of the documentation, to seek the approval of Firestone (not to be unreasonably withheld or delayed) to the content of such documentation, so far as it relates to the Proposals, and to afford Firestone sufficient time to consider the documentation.

#### **4. Conditional Exercise**

4.1 The Proposals communicated to Optionholders shall include an invitation, if the Optionholders so wish, irrevocably to exercise their options on or prior to the record date for the Scheme Court Hearing conditionally upon Court sanction of the Scheme.

4.2 Any Optionholder who chooses to exercise his options otherwise than pursuant to the invitation referred to in paragraph 4.1 shall be made aware that such exercise shall be subject to the proviso that no Kopane Share shall be issued in respect of any option under the Kopane Share Scheme between the record date for the Scheme Court Hearing and the Effective Date.

#### **5. Lapse of Options**

For the avoidance of doubt, all Kopane Options shall lapse at the end of the period of six months commencing on the date of Court sanction of the Scheme, if not before, to the extent that the Kopane Options have not been exercised.

#### **6. Articles of Association of Kopane**

The articles of association of Kopane shall be amended such that any Kopane Shares issued or transferred after the record date for the Reduction Court Hearing shall be automatically acquired by Firestone in consideration of the issue by Firestone of Firestone Shares in accordance with the terms of the Scheme.

#### **7. Finncap Warrants**

The parties agree that the Warrants shall be dealt with for the purposes of Rule 15 of the Code in accordance with the terms of the Finncap Warrant Letter.

**SCHEDULE 4**

**FinnCap Warrant Letter**

From:  
finnCap Limited  
4 Coleman Street  
London EC2R 5TA

Kopane Diamond Developments plc ("**Kopane**")  
235-237 Vauxhall Bridge Road  
London SW1V 1EJ

and

Firestone Diamonds plc ("**Firestone**")  
26-28 Hammersmith Grove  
London W6 7BA

Dear Sirs

**Proposed acquisition of Kopane by Firestone ("Acquisition") pursuant to a Scheme of Arrangement under Part 26 of the Companies Act 2006 ("Scheme")**

We refer to our 1,500,000 warrants over ordinary shares of 1p each in Kopane ("**Warrants**") pursuant to the warrant instrument dated 28 October 2009 a copy of which is annexed hereto marked "A" ("**Warrant Instrument**"). We also refer to the Acquisition and the Scheme and in particular to the terms of the Acquisition, being that the ordinary shareholders of Kopane will receive ● ordinary shares in Firestone for every ● ordinary shares held by them in Kopane (the "**Agreed Terms**").

We hereby agree with you that provided the Acquisition is on the Agreed Terms no offer pursuant to Rule 15 of the Takeover Code is required to be made for the Warrants by Firestone in relation to the Acquisition and the Scheme and that upon the Scheme becoming effective in accordance with the Agreed Terms (or in the event that Firestone elects to implement the Acquisition by way of a takeover offer in accordance with the terms of the implementation agreement between Firestone and Kopane and dated ● 2010, the takeover offer becoming unconditional in accordance with the Agreed Terms) the Warrants shall immediately lapse and shall no longer be exercisable. If the Scheme does not become effective on the Agreed Terms the Warrants will remain in full force and effect in accordance with their terms.

This letter constitutes a variation to the terms of the Warrant Instrument.

We should be grateful if you would countersign the duplicate copy of this letter to record your agreement to its terms.

Yours faithfully

.....  
For and on behalf of  
**finnCap Limited**

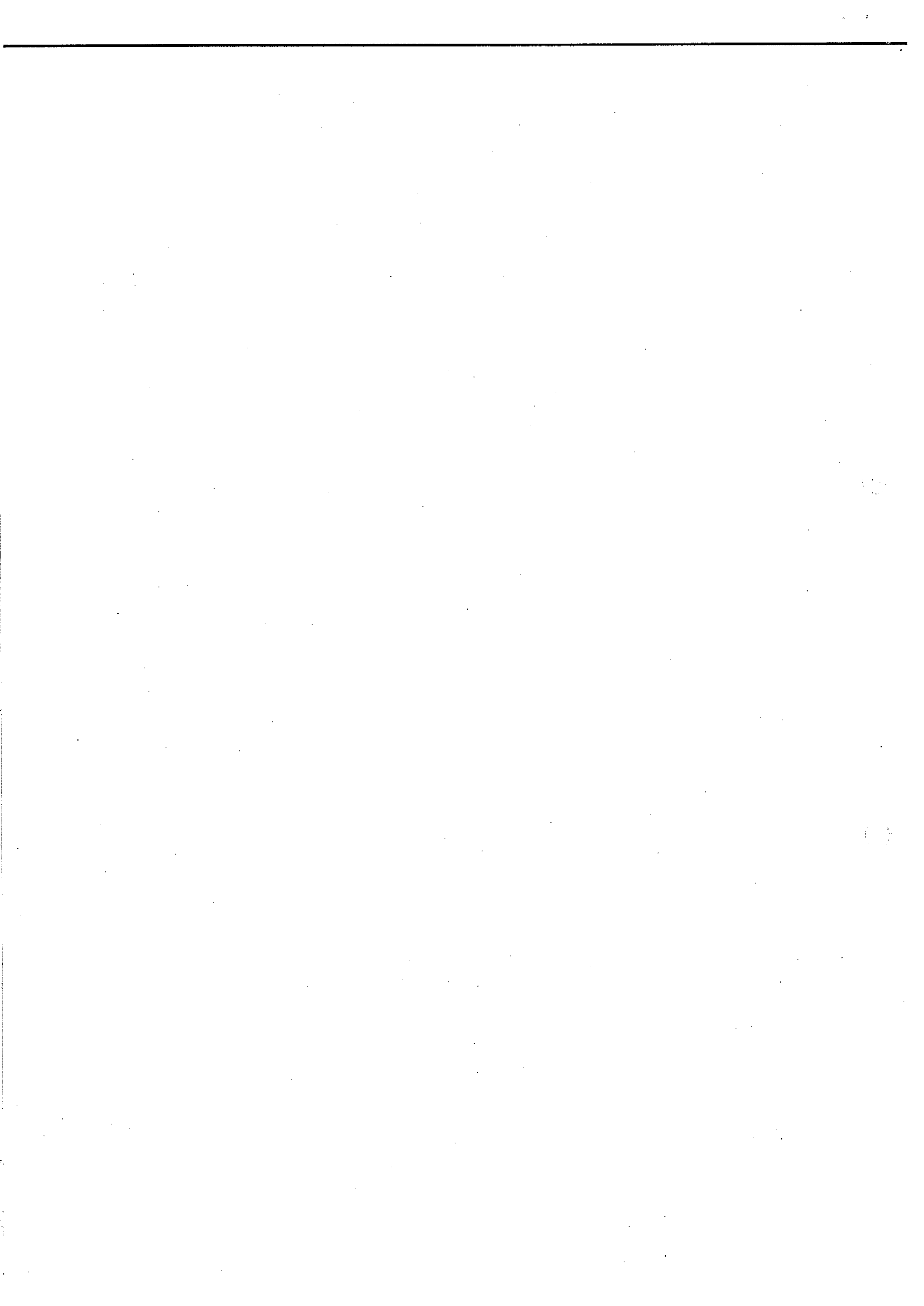
We refer to your letter dated ● 2010, of which this is a duplicate copy, and hereby agree to be bound by the terms of your letter.

.....

For and on behalf of  
**Kopane Diamond Developments plc**

.....

For and on behalf of  
**Firestone Diamonds plc**



**ashurst**

## **Implementation Agreement**

**Firestone Diamonds Plc**

**and**

**Kopane Diamond Developments Plc**

**2010**

Signed by **JAMES CABLE** )  
for and on behalf of **KOPANE** )  
**DIAMOND DEVELOPMENTS PLC**

A handwritten signature in black ink, appearing to read "J Cable", written in a cursive style.



Signed by )  
for and on behalf of **FIRESTONE** )  
**DIAMONDS PLC** )

