

# Warrant Instrument

Kopane Diamond Developments plc

relating to the issue of Warrants entitling the Warrantholder to subscribe for Ordinary Shares of 1 pence (Sterling) each in Kopane Diamond Developments plc

2009

**THIS WARRANT INSTRUMENT** is entered into by way of deed poll this 28<sup>th</sup> day of October 2009

**BY:**

**KOPANE DIAMOND DEVELOPMENTS PLC, company number 04108629** whose registered office is at Carlyle House, 235/237 Vauxhall Bridge Road, London SW1V 1EJ (the "**Company**").

**RECITALS**

- (A) The Company has determined by its board of directors to issue subject to shareholder approval up to 1,500,000 warrants each entitling the holder thereof to subscribe for one ordinary share of 1 pence (Sterling) each in the capital of the Company at a fixed price of 25 pence (Sterling) per share (subject to the provisions of Schedule 1 hereto) and has determined to constitute the same in the manner hereinafter appearing.
- (B) The warrants have been created in connection with a proposed placing by the Company of 25,692,857 ordinary shares of 1 pence (Sterling) each in the capital of the Company.
- (C) The particulars subject to which the warrants are created are set out in Schedule 1 hereto.

**NOW THIS WARRANT INSTRUMENT WITNESSES AND THE COMPANY HEREBY AGREES AND DECLARES AS FOLLOWS:**

1. **INTERPRETATION**

In this warrant instrument, unless the context otherwise requires, the expressions defined in schedule 1 hereto shall have the meanings thereby given.

2. **WARRANTS**


- 2.1 The maximum number of warrants to be issued hereunder is 1,500,000.
- 2.2 The warrants shall rank pari passu in all respects and without discrimination or preference.


3. **CERTIFICATES**

- 3.1 Every warrant holder shall be entitled to receive one certificate for the warrant(s) held by him but joint holders shall be entitled to only one certificate in respect of the warrants held jointly by them which certificates shall be delivered to the joint holder whose name stands first in the Register of Warranholders. The certificate shall be substantially in the form set out in Schedule 2. The Company shall comply with the terms and conditions of Schedule 1 hereto and the warrants shall be held subject to such terms and conditions all of which terms shall be deemed to be incorporated in this warrant instrument and shall be binding on the Company and the warrant holders and all persons claiming through or under them respectively.

**IN WITNESS** whereof the Company has executed this warrant instrument as a deed the day and year first above written.

Executed as a deed by )  
**KOPANE DIAMOND DEVELOPMENTS PLC** )  
acting by two of its directors/one of its )  
directors and its secretary )

Director 

Director/Secretary 

## SCHEDULE 1

### 1. Subscription Rights

- 1.1 Subject to paragraph 3.3 below a registered holder (a "**holder**") of a warrant shall have the right, exercisable in accordance with paragraph 1.3 below, to subscribe (the "**subscription rights**") in cash on any business day up to and including 5.00 p.m. on 16 November 2014 (each date a "**subscription date**"), on the following terms: for each warrant specified in the warrant certificate one ordinary share of 1p each in the capital of the Company ("ordinary share") at a subscription price of 25 pence (Sterling) (the "**subscription price**") payable in accordance with this Schedule 1. The number and/or the nominal value of ordinary shares to be subscribed and the subscription price are subject to adjustment pursuant to paragraph 2 below. The subscription rights will not be exercisable in respect of a fraction of an ordinary share.
- 1.2 The number of warrants to which each warrant holder shall be entitled shall be evidenced by a warrant certificate issued by the Company.
- 1.3 In order to exercise the subscription rights in respect of any warrants on any subscription date, the warrant holder must, having completed the Exercise Notice on his warrant certificate in the form set out in Schedule 2 and lodge it with the Company Secretary at the registered office of the Company. Once lodged, an Exercise Notice shall be irrevocable save with the consent of the Directors. Remittance for the total subscription price of the ordinary shares in respect of which the subscription rights are being exercised shall be paid within 3 business days of the date of lodging of the Exercise Notice.
- 1.4 Ordinary shares issued pursuant to the exercise of subscription rights will be allotted not later than 7 business days after, and with effect from, the relevant subscription date and, ordinary share certificates in respect of such ordinary shares will be issued free of charge and despatched (at the risk of the persons entitled thereto) not later than 7 business days after the relevant subscription date to the first named person in whose name the warrants are registered at the relevant subscription date or (subject as provided by law) to such other persons as may be named in the Exercise Notice upon the reverse of the warrant certificate. In the event that not all of the warrants evidenced by a warrant certificate are exercised, the Company shall at the same time issue for no payment a fresh warrant certificate in the name of the warrant holder for any balance of the subscription rights remaining exercisable. To the extent not then exercised or lapsed, all subscription rights shall lapse at 5.00 p.m. on 16 November 2014.
- 1.5 Ordinary shares allotted pursuant to the exercise of subscription rights will not rank for any dividends or other distributions declared, made or paid on a date (or by reference to a record date) prior to the relevant date of the Exercise Notice but, subject thereto, will rank *pari passu* in all other respects with the ordinary shares in issue at the date of the Exercise Notice including ranking in full for all dividends and other distributions in respect of the financial year in which the relevant Exercise Notice occurs. For the avoidance of doubt the warrant holders in respect of which a valid Exercise Notice has been served and in respect of which ordinary shares have not been allotted and issued, shall be entitled to receive payment equal to such dividend declared by reference to a record date on or after the date of the Exercise Notice as the warrant holders would have received if the relevant ordinary shares been issued on the date of the Exercise Notice.
- 1.6 So long as the Company's ordinary share capital is listed on the AIM Market of the London Stock Exchange Plc ("**AIM**") or any other recognised exchange the Company shall as soon as reasonably practicable after their issue and allotment, apply to AIM or the relevant recognised exchange for the Ordinary Shares issued and allotted pursuant to any exercise of the subscription rights to be admitted to AIM or the relevant recognised exchange.

## 2. **Adjustment of Subscription Price**

- 2.1 If, on a date (or by reference to a record date) on or before 16 November 2014 (or the date of expiry of the 30 day exercise period referred to in paragraph 3.3, if earlier) (the "**final subscription date**"), the Company shall allot any ordinary shares fully paid by way of capitalisation of profits or reserves to holders of ordinary shares on the register on a date (or by reference to a record date) before the final subscription date or upon any consolidation or sub-division of the ordinary shares before such date, the number and/or nominal value of ordinary shares to be subscribed on any subsequent exercise of the subscription rights will be increased or, as the case may be, reduced in due proportion and the subscription price per ordinary share will be adjusted accordingly. On any such capitalisation, consolidation or sub-division the Company will procure that the auditors for the time being of the Company will certify the correctness of the appropriate adjustments and, within 28 days of such adjustments, notice will be sent to each warrant holder (together with a copy of the auditors certification) of the adjusted number of ordinary shares to which the warrant holder is entitled to subscribe in consequence thereof, fractional entitlements being ignored. Upon receipt by the Company of a warrant holder's warrant certificate, the Company will issue a new warrant certificate in respect of such adjusted number of ordinary shares.
- 2.2 If the Company makes any offer or invitation (whether by rights issue, rights offer, open offer or otherwise or an offer of shares in lieu of a cash dividend payment) to all the holders of ordinary shares in their capacity as such (other than those to whom the offer or issue may not be made due to the laws of any foreign jurisdiction) or any offer or invitation is made to such holders otherwise than by the Company, then the Company shall, as far as it is able, procure that at the same time the same offer or invitation is made to the then warrant holders as if their subscription rights had been exercised on the day immediately preceding the date (or record date) of such offer or invitation on the terms (subject to any adjustment pursuant to paragraph 2.1 above) on which the same could have been exercised on the basis then applicable provided that, if the Directors shall so resolve, in the case of any offer or invitation made by the Company, the Company shall not be required to procure that the same offer or invitation is made to the warrant holders but the subscription price and/or the number of ordinary shares to be subscribed on any subsequent exercise of the subscription rights shall be adjusted accordingly. The Company will procure that the auditors for the time being of the Company will certify in writing the appropriateness of the adjustments and, within 28 days, notice will be sent to each warrant holder (together with the auditors certification) of the adjusted number of ordinary shares to which that warrant holder is entitled to subscribe in consequence thereof, fractional entitlements being ignored. Upon receipt by the Company of a warrant holder's warrant certificate, the Company will issue a new warrant certificate in respect of such adjusted number of ordinary shares.
- 2.3 No adjustment shall be made to the subscription price pursuant to paragraphs 2.1 and 2.2 if such adjustment would (taken together with the amount of any adjustment carried forward under the provisions of this paragraph 2.3) be less than five per cent. of the subscription price then in force and on any adjustment the adjusted subscription price will be rounded up or down to the nearest 1 pence (sterling). Any adjustment not so made and any amount by which the subscription price is rounded down will be carried forward and taken into account in any subsequent adjustment.

## 3. **Other provisions**

So long as any subscription rights remain exercisable:

- 3.1 the Company shall keep available for issue sufficient authorised but unissued share capital to satisfy in full (without the need for the passing of any resolution by shareholders) all subscription rights remaining exercisable;

- 3.2 the Company shall not (except with the sanction of an extraordinary resolution of the warrant holders) issue any ordinary shares credited as fully paid by way of capitalisation of profits or reserves if as a result the Company would on any subsequent exercise of the subscription rights be obliged to issue ordinary shares at a discount to nominal value;
- 3.3 if at any time an offer is made to all holders of ordinary shares (or all holders of ordinary shares other than the offeror and/or any company controlled by the offeror and/or persons acting in concert with the offeror) to acquire the whole or any part of the issued share capital of the Company and the Company becomes aware that as a result of such offer the right to cast a majority of the votes which may ordinarily be cast on a poll at a general meeting of the Company has or will become vested in the offeror and/or such persons or companies as aforesaid ("**Takeover Offer**"), the Company shall give notice to the warrant holders of such vesting within 14 days of its becoming so aware, and the Company shall ensure that each such warrant holder shall be entitled, to exercise his subscription rights and participate in the Takeover Offer, within the period of 30 days immediately following the date upon which the Takeover Offer becomes or is declared unconditional ("**the Takeover Offer Period**"). Upon the expiry of the Takeover Offer Period provided the Company has complied with its obligations to enable the warrant holders to exercise their subscription rights and participate in the Takeover Offer during the Takeover Offer Period, all the warrants then outstanding shall automatically lapse. Publication of a scheme of arrangement providing for the acquisition by any person of the whole or any part of the issued share capital of the Company shall be deemed to be the making of a Takeover Offer for the purposes of this paragraph 3.3;
- 3.4 if the Company commences liquidation, whether voluntary or compulsory (except for the purpose of reconstruction, amalgamation or unitisation on terms sanctioned by an extraordinary resolution of the holders of the warrants), it shall forthwith give notice thereof to all holders of warrants; thereupon each warrant holder will (if in such winding-up there shall be a surplus available for distribution amongst the holders of the ordinary shares (including for this purpose the ordinary shares which would arise on the exercise of all the outstanding subscription rights) which, taking into account the amounts payable on the exercise of the subscription rights, exceeds in respect of each ordinary share a sum equal to the subscription price) be treated as if immediately before the date of such order or resolution his subscription rights had been exercisable and had been exercised in full and shall accordingly be entitled to receive out of the assets available on liquidation pari passu with the holders of the ordinary shares such a sum as he would have received had he been the holder of the ordinary shares to which he would have become entitled by virtue of such subscription after deducting a sum per share equal to the subscription price; subject to the foregoing, all subscription rights shall lapse on liquidation of the Company; and
- 3.5 If at any time an offer or invitation is made by the Company to the shareholders for the purchase by the Company of any of its ordinary shares, the Company shall simultaneously give notice thereof to the warrant holders and the warrant holders shall be entitled, at any time whilst such offer or invitation is open for acceptance, to exercise their subscription rights so as to take effect as if they had exercised their rights immediately prior to the record date of such offer or invitation.

#### 4. **Modification of Rights and Warrant Instrument**

All or any of the rights for the time being attached to the warrants may from time to time (whether or not the Company is being wound up) be altered or abrogated with the sanction of an extraordinary resolution of the warrant holders. Such alteration or abrogation approved as aforesaid shall be effected by deed poll executed by the Company and expressed to be supplemental to this warrant instrument. Modifications to this warrant instrument which are of a typographical nature may be effected by deed poll executed by the Company and expressed to be supplemental to this warrant instrument

and notice of such alteration or abrogation shall be given by the Company to the warrant holders.

## 5. **Transfer**

Each warrant will be registered and transferable, subject to applicable securities legislation, by instrument of transfer in any usual or ordinary form or in any other form which may be approved by the Directors provided that transfers shall only be in respect of a warrant holder's entire holding of warrants or in respect of not less than 25,000 warrants. No transfer of a right to subscribe for a fraction of an ordinary share shall be effected. Save insofar as the same would be inconsistent with this warrant instrument, the provisions of the Articles of Association of the Company relating to the registration, transfer and transmission of shares shall apply mutatis mutandis to the warrants.

## 6. **General**

6.1 The Company will concurrently with the issue of the same to holders of ordinary shares send to each holder of a warrant (or, in the case of joint holders, to the first named) a copy of each published annual report and accounts of the Company and unaudited interim report of the Company together with all documents required by law to be annexed thereto, and copies of every statement, notice or circular issued to holders of ordinary shares.

6.2 The Warrant holders shall have the right to receive notice of all general meetings of the Company and shall be entitled to attend and speak (but shall have no right to vote) at any such general meeting where the business of the meeting includes a resolution to do any of the following:

- (i) that the Company be wound up summarily or to approve a scheme of arrangement with creditors or to sanction the sale of the whole of the undertaking of the Company; or
- (ii) to alter or abrogate the rights or privileges or restrictions attached to ordinary shares; or
- (iii) to authorise, create or increase the amount of any shares or any class of shares convertible into any shares of any other class ranking in priority to the Ordinary Shares the subject of the Warrants provided always that this clause 6.2(iii) shall be without prejudice to restrictions contained in clause 5.

6.3 For the purposes of this warrant instrument, "**business day**" means a day (excluding Saturdays and public holidays) on which banks in England are open for business and "**extraordinary resolution**" means a resolution proposed at a meeting of the warrant holders duly convened and held and passed by a majority of more than fifty per cent. of the votes cast, whether on a show of hands or on a poll. All the provisions of the Articles of Association for the time being of the Company as to General Meetings shall apply mutatis mutandis as though the warrants were a class of ordinary shares forming part of the capital of the Company but so that (i) the period of notice shall be 21 days at least, (ii) the necessary quorum shall be warrant holders (present in person or by proxy) entitled to subscribe for one-quarter in nominal amount of the ordinary shares attributable to the then outstanding warrants, (iii) every warrant holder present in person at any such meeting shall be entitled on a show of hands to one vote and every warrant holder present in person or by proxy shall be entitled on a poll to one vote for every ordinary share for which he is entitled to subscribe, (iv) any warrant holder present in person or by proxy may demand or join in demanding a poll, and (v) if at any adjourned meeting a quorum as defined above is not present, a warrant holder who is then present in person or by proxy shall be a quorum.

6.4 Any determination or adjustment made pursuant to these terms and conditions by the auditors of the Company shall be made by them as experts and not arbitrators and shall be final and binding on the Company and all warrant holders.

7. **Governing law**

The above terms and conditions shall be construed in accordance with and be governed by the laws of England.

**SCHEDULE 2**  
**Form of Certificate**  
**KOPANE DIAMOND DEVELOPMENTS PLC**

**WARRANT CERTIFICATE**

**Warrant Certificate Number**

This is to certify that the person named below is the registered holder of the number of Warrants set out below which are constituted by an instrument made by the Company on 28 October 2009 (the "**Instrument**") and are issued with the benefit of and subject to the provisions contained in the Instrument. The Warrants are exercisable at a price of 25 pence (Sterling) per share (subject to adjustment in accordance with the provisions of the Instrument).

**Warrantholder**

Name:

Address:

Number of Warrants represented by this Certificate:

Date of issue:

Date of Expiry:

**Date of Issue:**

Executed as a deed by KOPANE DIAMOND DEVELOPMENTS PLC  
acting by

.....  
Director

.....  
Director/Secretary

Notes:

- (1) **The subscription rights are transferable prior to exercise in accordance with the provisions of the Warrant Instrument.**
- (2) **All transfers must be accompanied by this Certificate.**
- (3) **A copy of the Warrant Instrument may be obtained on request from the Company Secretary, Carlyle House, 235/237 Vauxhall Bridge Road, London SW1V 1EJ, United Kingdom.**
- (4) **The "Exercise Notice" printed on the next page forms part of this Certificate.**

**EXERCISE NOTICE**

(To be printed on the back of the Certificate)

To: The Directors  
Kopane Diamond Developments plc  
Carlyle House  
235/237 Vauxhall Bridge Road  
London  
SW1V 1EJ  
United Kingdom

I/We\* hereby exercise the subscription rights in respect of warrants represented by this Certificate and attach a banker's draft for £ \_\_\_\_\_ (Sterling) being, the aggregate subscription price payable in respect of the subscription rights [we are/I am] exercising.

1. I/We desire all such ordinary shares to be registered in the name(s) set out below and hereby authorise the entry of such name(s) in the Register of Members in respect thereof and the despatch of a certificate therefor by post at my/our risk to the person whose name and address is set out below or, if none is set out, to the registered address of the sole or first named holder.
2. This Exercise Notice accompanied by the bankers draft, must be sent to the Company Secretary, at the office of the Company, at Carlyle House, 235/237 Vauxhall Bridge Road, London, SW1V 1EJ.

We direct the Company to allot the ordinary shares to be issued pursuant to this exercise in the following numbers to the following proposed allottees:

No of Shares	Name of Proposed Allottee	Address of Proposed Allottee
1		
2		
3		
4		

Signed .....

Print Name .....

Address .....

.....

- Amend/delete as appropriate.