

19 September 2014

**MONGOLIA ENERGY CORPORATION LIMITED**  
(the “Company”)

and

**GOLDEN INFINITY CO., LTD.**

(the “Subscriber”)

**SUBSCRIPTION AGREEMENT**  
in respect of the issue of  
3% coupon convertible notes due 2019 by  
**MONGOLIA ENERGY CORPORATION LIMITED**

## CONDITIONS

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**THIS AGREEMENT** is made on this 19 September 2014.

**BETWEEN:-**

- (1) **MONGOLIA ENERGY CORPORATION LIMITED**, a company incorporated in Bermuda whose head office and principal place of business in Hong Kong is at 41<sup>st</sup> Floor, New World Tower I, 16-18 Queen's Road Central, Hong Kong (the "**Company**"); and
- (2) **GOLDEN INFINITY CO., LTD.**, a company incorporated in the British Virgin Islands whose registered office is at Tropic Isle Building, P.O. Box 438, Road Town, Tortola, British Virgin Islands (the "**Subscriber**").

**WHEREAS:-**

- (A) The Company is a company incorporated in Bermuda with limited liability and having an authorised share capital of HK\$300,000,000 divided into 15,000,000,000 Shares. As at the date hereof, 6,756,547,828 Shares have been issued and are fully paid up. The entire issued Shares are listed on the main board of the Stock Exchange. The particulars of the Company are set out in Schedule 1.
- (B) As at the date hereof, the Company has:-
  - (i) outstanding Options which entitle the holders thereof to subscribe for 86,800,000 Shares;
  - (ii) the 3.5% GI Convertible Note; .
  - (iii) the SF Convertible Notes;
  - (iv) the 3% CTF Convertible Note;
  - (v) the 5% CTF Convertible Note; and
  - (vi) the 5% GI Convertible Note.
- (C) The Subscriber is the holder of the 3.5% GI Convertible Note, which was due and payable on 6 September 2013, and the 5% GI Convertible Note, which will be due and payable on 8 January 2016. The Subscriber has subject to the terms and conditions of this Agreement agreed to extend the date of repayment of the aggregate outstanding amount owing under the 3.5% GI Convertible Note to the Completion Date.
- (D) The Company agrees to issue, and the Subscriber agrees to subscribe for, the Note at the Subscription Price, which will be used by the Company to fully repay the entire outstanding amount owing under the Convertible Notes, on terms and conditions set out in this Agreement.
- (E) The Company will, upon the signing of this Agreement, simultaneously sign the CTF Subscription Agreement and the SF Subscription Agreement.

**NOW IT IS HEREBY AGREED** as follows:-

## 1. INTERPRETATION

1.1 In this Agreement, including the Recitals hereto, the words and expressions set out below shall have the meanings attributed to them below unless the context otherwise requires:-

- "3% CTF Convertible Note"** 3% convertible note in the principal amount of HK\$2,000,000,000 issued by the Company to CTF which was due and payable on 15 June 2014, and CTF has agreed to extend the date of repayment of the outstanding principal and interest accrued thereon to the Completion Date, and the total amount (comprising principal and interest accrued thereon) outstanding as at the date hereof is HK\$2,196,109,589;
- "3.5% GI Convertible Note"** 3.5% convertible note in the principal amount of HK\$300,000,000 issued by the Company to the Subscriber which was due and payable on 6 September 2013, and the Subscriber has agreed to extend the date of repayment of the outstanding principal and interest accrued thereon to the Completion Date, and the total amount (comprising principal and interest accrued thereon) outstanding as at the date hereof is HK\$321,784,336;
- "5% CTF Convertible Note"** 5% convertible note due 8 January 2016 in the principal amount of HK\$200,000,000 issued by the Company to CTF and the total amount (comprising principal and interest accrued thereon) outstanding as at the date hereof is HK\$216,986,301;
- "5% GI Convertible Note"** 5% convertible note due 8 January 2016 in the principal amount of HK\$200,000,000 issued by the Company to the Subscriber, and the total amount (comprising principal and interest accrued thereon) outstanding as at the date hereof is HK\$216,986,301;
- "Accounts"** the published audited consolidated financial statements of the Company as set out in its annual report for the year ended on the Accounts Date and all notes, reports and other documents annexed thereto;
- "Accounts Date"** 31 March 2014;
- "Affiliate"** any other person that, directly or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such person, including any investment funds managed by such person or such other person that, directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is

under common Control with, such person;

<b>“Agreement”</b>	this subscription agreement entered into between the Company and the Subscriber for the subscription of the Note, as from time to time amended;
<b>“Announcement”</b>	the announcement to be made by the Company concerning, inter alia, the Subscription, the CTF Subscription, the SF Subscription and the Capital Restructuring;
<b>"Business Day"</b>	a day (excluding Saturday, Sunday, any public holiday and any day on which a tropical cyclone warning no.8 or above is hoisted or remains hoisted between 9:00 a.m. and 12:00 noon and is not lowered at or before 12:00 noon or on which a "black" rainstorm warning is hoisted or remains in effect between 9:00 a.m. and 12:00 noon and is not discontinued at or before 12:00 noon) on which licensed banks in Hong Kong, New York and Ireland are generally open for business;
<b>“Capital Restructuring”</b>	the proposed consolidation of 4 Shares into 1 consolidated share of HK\$0.08 and reduction of the nominal value of each consolidated share of HK\$0.08 to HK\$0.02 as more particularly set out in the Announcement;
<b>"Certificate(s)"</b>	the certificate to be issued in respect of the Note substantially in the form set out in Schedule 2;
<b>“Circular”</b>	the circular to be issued by the Company to its shareholders in relation to, inter alia, the Subscription, the CTF Subscription, the SF Subscription and the Capital Restructuring;
<b>"Companies Ordinance"</b>	the Companies Ordinance, Chapter 622 of the Laws of Hong Kong;
<b>"Completion"</b>	the performance by the Parties of their respective obligations in connection with the issue and subscription of the Note under Clause 4 and Schedule 3 on the Completion Date;
<b>"Completion Date"</b>	the third Business Day after fulfilment of the last outstanding Condition Precedent set out in Clause 3.1(a), (b), (c), (d) or (i), and in any event no later than the Long Stop Date;
<b>"Conditions"</b>	the terms and conditions to be attached to or form part of the Note (with such amendments thereto as the Parties may agree), and "Condition" refers to the relative

	numbered paragraph of the Conditions;
<b>"Conditions Precedent"</b>	the conditions precedent set out in Clause 3.1;
<b>"Control"</b>	means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and <b>"Controller"</b> , <b>"Controlled"</b> and <b>"Controls"</b> shall be construed accordingly;
<b>"Conversion Rights"</b>	the rights attached to the Note to convert the principal amount and any accrued but unpaid interest thereon or any part thereof into Shares;
<b>"Conversion Shares"</b>	the Shares which fall to be issued by the Company upon exercise by the Noteholder of the Conversion Rights under the Note or otherwise pursuant to the Conditions;
<b>"Convertible Notes"</b>	collectively the 3.5% GI Convertible Note and the 5% GI Convertible Note;
<b>"CTF"</b>	Chow Tai Fook Nominee Limited;
<b>"CTF Subscription"</b>	the subscription of the New CTF Convertible Note by CTF under the CTF Subscription Agreement;
<b>"CTF Subscription Agreement"</b>	the subscription agreement to be signed between the Company as issuer and CTF as subscriber relating to the subscription of the New CTF Convertible Note;
<b>"Disclosed"</b>	(i) as disclosed in the announcements, circulars and annual reports published by the Company on or prior to the date of this Agreement; and/or (ii) as disclosed in the Announcement; and/or (iii) as disclosed in this Agreement;
<b>"Executive"</b>	the Executive Director for the time being of the Corporate Finance Division of the SFC or any delegate for the time being of the Executive Director;
<b>"Group"</b>	the Company and its subsidiaries, and <b>"member(s) of the Group"</b> or <b>"Group Company(ies)"</b> shall be construed accordingly;
<b>"HKFRS"</b>	the Hong Kong Financial Reporting Standards;
<b>"Hong Kong"</b>	the Hong Kong Special Administrative Region of the People's Republic of China;
<b>"Listing Rules"</b>	the Rules Governing the Listing of Securities on the

Stock Exchange;

- "Long Stop Date"** 30 November 2014 or such other date as the Parties, CTF and SF may agree in writing;
- "New CTF Convertible Note"** 3% convertible note due 2019 in the principal amount equivalent to the aggregate outstanding amount owing to CTF under the 3% CTF Convertible Note and the 5% CTF Convertible Note up to the date of completion of the CTF Subscription, to be issued by the Company to CTF pursuant to the terms of the CTF Subscription Agreement;
- "New SF Convertible Notes"** 3% convertible notes due 2019 in the aggregate principal amount equivalent to the aggregate outstanding amount owing to SF under the SF Convertible Notes up to the date of completion of the SF Subscription, to be issued by the Company to SF pursuant to the terms of the SF Subscription Agreement;
- "Note"** 3% convertible note due 2019 in the principal amount equivalent to the aggregate outstanding amount (including both the principal amount and any outstanding accrued interest) owing to the Subscriber under the Convertible Notes up to the Completion Date, to be issued by the Company to the Subscriber, convertible into Shares at an initial conversion price of HK\$0.23 per Conversion Share (subject to adjustments in accordance with Condition 6.1(a) if the Capital Restructuring takes effect on or before Completion) pursuant to the terms of this Agreement and the Conditions;
- "Noteholder"** a person who is for the time being a holder of the Note and whose name is recorded on the register of noteholders kept by the Company;
- "Options"** the share options granted or to be granted by the Company pursuant to the share option schemes of the Company adopted in accordance with Chapter 17 of the Listing Rules;
- "Parties"** the parties to this Agreement and a **"Party"** shall mean any one of them;
- "SF"** collectively Sculptor Finance (MD) Ireland Limited, Sculptor Finance (AS) Ireland Limited and Sculptor Finance (SI) Ireland Limited;
- "SF Convertible Notes"** 3.5% convertible notes in the aggregate principal amount of HK\$466,800,000 issued by the Company to SF which were due and payable on 12 November 2013, and SF

have agreed to extend the date of repayment of the aggregate outstanding principal and interest accrued thereon to the Completion Date, and the total amount (comprising principal and interest accrued thereon) outstanding as at the date hereof is HK\$497,103,633;

- “SF Subscription”** the subscription of the New SF Convertible Notes by SF under the SF Subscription Agreement;
- “SF Subscription Agreement”** the subscription agreement to be signed between the Company as issuer and SF as subscribers relating to the subscription of the New SF Convertible Notes;
- “SFC”** the Securities and Futures Commission of Hong Kong;
- "Share(s)"** ordinary share(s) of HK\$0.02 each in the share capital of the Company existing on the date of this Agreement and all other (if any) stock or shares from time to time and for the time being ranking *pari passu* therewith and all other (if any) shares or stock resulting from any sub-division, consolidation or re-classification thereof;
- "Stock Exchange"** The Stock Exchange of Hong Kong Limited;
- “Subscription”** the subscription of the Note by the Subscriber under this Agreement;
- “Subscription Price”** the price equivalent to 100% of the principal amount of the Note to be paid by the Subscriber to the Company for the Subscription in accordance with the terms of this Agreement;
- "subsidiary"** as defined in section 15 of the Companies Ordinance;
- “Takeovers Code”** The Hong Kong Code on Takeovers and Mergers;
- "Warranties"** the representations, warranties and undertakings given by the Company contained in Clause 5;
- “Whitewash Waiver”** the waiver of the obligation of the Subscriber, CTF and the parties acting in concert with any of them to make a mandatory general offer for all the issued securities of the Company other than those already owned and/or agreed to be acquired by the Subscriber, CTF and the parties acting in concert with any of them pursuant to Note 1 of the Notes on dispensations from Rule 26 of the Takeovers Code as a result of the respective transactions contemplated under this Agreement and the CTF Subscription Agreement; and
- "HK\$", "HK Dollars" and** Hong Kong dollars and cents, respectively.

**"cents"**

- 1.2 The expressions "**Company**", "**Subscriber**" and "**Party(ies)**" shall where the context permits include their respective successors and permitted assigns and any persons deriving title under them.
- 1.3 Save where the context otherwise requires, words and phrases the definitions of which are contained or referred to in the Companies Ordinance shall be construed as having the meaning thereby attributed to them.
- 1.4 The headings to the Clauses of this Agreement are for ease of reference only and shall be ignored in interpreting this Agreement.
- 1.5 References to Recitals, Clauses and Schedules are references to Recitals, Clauses and Schedules of or to this Agreement which shall form part of this Agreement.
- 1.6 Unless the context otherwise requires, words and expressions in the singular include the plural and vice versa.
- 1.7 Unless the context otherwise requires, references to persons include any public body and any body of persons, corporate or unincorporate.
- 1.8 Unless the context otherwise requires, references to Ordinances, statutes, legislations or enactments shall be construed as a reference to such Ordinances, statutes, legislations or enactments as may be amended or re-enacted from time to time and for the time being in force.
- 1.9 Unless otherwise stated, all times and dates herein refer to Hong Kong local times and dates.

**2. ISSUE OF THE NOTE AND AGREEMENT TO SUBSCRIBE**

- 2.1 The Company agrees to issue the Note to the Subscriber in the principal amount as specified against its name in column 2 of Schedule 4 on the terms and subject to the conditions of this Agreement on the Completion Date, and in any event no later than the Long Stop Date. The Note will be subscribed at a price equal to 100 per cent. of the principal amount of the Note, being the Subscription Price.
- 2.2 The Subscriber agrees to subscribe and pay for the principal amount of the Note at the Subscription Price as specified against its name in column 2 of Schedule 4 on the Completion Date on the terms and subject to the conditions of this Agreement.
- 2.3 The Parties hereby agree, confirm and acknowledge that :-
  - (a) the Subscription Price payable will be set off against the aggregate outstanding amount owing by the Company to the Subscriber under the Convertible Notes (including the aggregate outstanding principal amount and any outstanding accrued interest up to the Completion Date);
  - (b) upon issue of the Note to the Subscriber on Completion, the aggregate outstanding amount owing by the Company to the Subscriber under the Convertible

Notes is, or is deemed to have been, fully repaid and settled and all obligations and liabilities of the Company under the Convertible Notes are, or are deemed to have been, fully discharged, extinguished and waived (as applicable);

- (c) upon delivery of the written confirmation as described in paragraph 2(a) of Schedule 3 by the Subscriber to the Company on Completion, the obligation to pay the Subscription Price shall be deemed to have been satisfied in full;
  - (d) completion of the Subscription, the CTF Subscription and the SF Subscription shall take place simultaneously; and
  - (e) subject to the fulfilment of the conditions as specified in the Announcement, the Capital Restructuring will take effect on or before Completion.
- 2.4 According to the terms of the Convertible Notes, the aggregate outstanding amount owing by the Company to the Subscriber thereunder up to the Long Stop Date is HK\$542,886,966. The Parties will agree and confirm the actual aggregate outstanding amount owing under the Convertible Notes up to the Completion Date at least three (3) Business Days before the Completion Date.
- 2.5 The Company hereby agrees and undertakes that the pari passu ranking tenor, interest rate, the conversion price, the adjustment provisions to the conversion price, the conversion right, the negative pledge and the events of default provision under the Note will be the same or no less favourable to the Subscriber than the terms of the New CTF Convertible Note and the New SF Convertible Notes.
- 2.6 The Subscriber hereby irrevocably and unconditionally agrees, confirms and acknowledges with the Company that:-
- (a) it will not exercise the conversion rights under the 5% GI Convertible Note until the Completion Date;
  - (b) it will forbear from taking any action to enforce the Company's obligations to repay the amounts due under the 3.5% GI Convertible Note, including all accrued and unpaid interest, until the Completion Date; and
  - (c) all obligations and liabilities of the Company under the Convertible Notes shall be fully discharged, extinguished or waived (as applicable) upon Completion.

### **3. CONDITIONS PRECEDENT**

- 3.1 The obligations of the Parties to effect Completion shall be conditional upon:-
- (a) the Listing Committee of the Stock Exchange granting or agreeing to grant the listing of, and permission to deal in, the Conversion Shares issuable under the Note and such grant remaining in full force and effect;
  - (b) all necessary consents, approvals (or waivers), authorisation, permission or exemption from any third parties, including but not limited to government or regulatory authorities, having been obtained by the Company in connection with the Subscription and the issue of the Note and the Conversion Shares upon exercise of

the Conversion Rights thereunder and such consents, approvals (or waivers), authorisation, permission or exemption remaining in full force and effect;

- (c) the compliance by the Company with all legal and other requirements under the Listing Rules, the Takeovers Code and the laws of Bermuda applicable to the transactions contemplated hereunder;
- (d) the passing of the requisite respective resolutions by the board of directors of the Company and the shareholders of the Company at a general meeting (other than those persons who are precluded from voting under the Listing Rules and the Takeovers Code) approving the transactions contemplated under this Agreement, the CTF Subscription and the SF Subscription (including but not limited to the issue of the Note, the New CTF Convertible Note and the New SF Convertible Notes and the allotment and issue of new Shares upon exercise of the conversion rights thereunder) and the Whitewash Waiver;
- (e) at the Completion Date:
  - (i) the Warranties being true, accurate and correct in all respects and not misleading in any respect as set forth herein at, and as if made on, such date with reference to the facts and circumstances subsisting at such date;
  - (ii) the Company having performed all of its obligations under this Agreement to be performed on or before such date; and
  - (iii) there having been delivered to the Subscriber a certificate in the form attached as Schedule 5, dated as of such date, signed by a duly authorised officer of the Company to such effect;
- (f) up to the Completion Date, there shall not have occurred any change (nor any development or event involving a prospective change), which is materially adverse to the financial condition or results of operations of the Company and the Group taken as a whole;
- (g) on the Completion Date, there having been delivered to the Subscriber a certificate of no default in the form attached as Schedule 6 dated as of such date, signed by a duly authorised officer of the Company;
- (h) on or before the Completion Date, there having been delivered to the Subscriber an opinion in form and substance reasonably satisfactory to the Subscriber dated the Completion Date of the legal advisers to the Company as to Bermudan law (such legal advisers to be selected by the Company and approved by the Subscriber) as to the capacity and power of the Company to enter into this Agreement and to perform its obligations hereunder;
- (i) the granting of the Whitewash Waiver by the Executive and all conditions (if any) attaching thereto having been fulfilled; and
- (j) the CTF Subscription Agreement and the SF Subscription Agreement having become unconditional in all respects except for the condition therein relating to this Agreement having become unconditional.

- 3.2 The Company shall use its best endeavours to procure the holding of a general meeting of its shareholders for the purpose as set out in Clause 3.1(d) on or before 15 November 2014 and the satisfaction of the Conditions Precedent (to the extent within its power to do so) as soon as reasonably practicable.
- 3.3 The Subscriber may, at its discretion and upon such terms as it thinks fit, waive fulfilment of the whole or any part of the Conditions Precedent (except Clauses 3.1(a), (b), (c), (d) and (i)).

#### **4. COMPLETION**

- 4.1 Subject to the terms of this Agreement, Completion shall take place simultaneously with completion of the CTF Subscription and the SF Subscription, at the offices of Iu, Lai & Li at Rooms 2201, 2201A and 2202, 22<sup>nd</sup> Floor, Tower 1, Admiralty Centre, No.18 Harcourt Road, Hong Kong at or before 10 a.m. on the Completion Date or at such other time and place as the Parties may agree in writing at which time each Party shall perform its obligations set out in Schedule 3 (provided that the Company has, on or before 5 p.m. on the Business Day immediately prior to Completion, delivered all documents referred to in the Conditions Precedent set out in Clauses 3.1(e)(iii), 3.1(g) and 3.1(h) and paragraph 1 of Schedule 3, duly completed and executed, to its counsel, Iu, Lai & Li Solicitors, to be held in escrow and unconditionally released immediately upon Completion).
- 4.2 If any Party fails to comply with any of its obligations set out in Schedule 3, the Company (in the case of non-compliance by the Subscriber) or the Subscriber (in the case of non-compliance by the Company) may:
- (a) defer Completion to a Business Day which is not later than (i) the Long Stop Date and (ii) 28 days after the original date fixed for Completion;
  - (b) proceed to Completion so far as practicable; or
  - (c) terminate this Agreement (other than with respect to Clause 10.10) forthwith and Clause 7.2 shall apply accordingly.

#### **5. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS BY THE COMPANY**

- 5.1 In consideration of the Subscriber entering into this Agreement for the subscription of the Note hereunder, the Company hereby represents, warrants and undertakes to the Subscriber that as at the date hereof and as at Completion, each of the following statements is true, correct and accurate in all material respects as set forth hereunder:
- (a) each of the Company and its subsidiaries is duly incorporated and validly existing under the laws of its place of incorporation and has been in continuous existence since its incorporation, and has full power and authority to own its properties and to conduct its business and is lawfully qualified to do business in those jurisdictions in which business is conducted by it. The entire existing issued share capital of the Company is listed on the Main Board of the Stock Exchange;
  - (b) save as mentioned in this Agreement and subject to the fulfilment of the Conditions

Precedent, the Company has full power and authority to enter into and perform this Agreement and the directors of the Company are or will be authorised to issue the Note prior to Completion and that in entering into this Agreement, the Company does not do so in breach of any applicable legislation or rules and this Agreement constitutes and the Note, when issued, shall constitute legal, valid, binding and enforceable obligations of the Company in accordance with its terms;

- (c) subject to the fulfilment of the Conditions Precedent, the Company has full power and authority to issue the Note and perform its obligations thereunder, and in particular the Company shall at all material times have sufficient authorised but unissued share capital for the Company to perform its obligations under the Note;
- (d) the Note (when issued) will constitute direct, unsecured, unconditional and unsubordinated obligations of the Company and will at all times rank at least *pari passu* with all other present and future direct, unsecured, unconditional and unsubordinated obligations of the Company other than those preferred by statute or applicable law;
- (e) the issue of the Conversion Shares will not be subject to any pre-emptive or similar right, and the Conversion Shares, when issued, (i) shall be duly authorised and validly issued, fully-paid and non-assessable, (ii) shall rank *pari passu* and carry the same rights and privileges in all respects with all other existing Shares outstanding at the date of conversion and any other class of ordinary share capital of the Company, (iii) shall be entitled to all dividends and distributions the record date for which falls on a date on or after the date of the conversion notice, (iv) shall be freely transferable, free and clear of all liens, charges, encumbrances, security interests or claims of third parties and shall not be subject to calls for further funds, and (v) shall be duly listed, and admitted to trading, on the Main Board of the Stock Exchange;
- (f) subject to the fulfilment of the Conditions Precedent, all necessary consents, authorisations and approvals of any governmental agency or body required by the Company in Hong Kong or any other relevant jurisdiction for or in connection with this Agreement and the Note and the performance of the terms hereof and thereof have been obtained or made or shall have been obtained or made by Completion;
- (g) subject to the fulfilment of the Conditions Precedent, the execution, delivery and performance of this Agreement and the issue of the Note by the Company (i) do not infringe and are not contrary to any laws, rules or regulations of Hong Kong or any other applicable jurisdiction or any judgment, order, authorisation or decree of any government, governmental or regulatory body or court, domestic or foreign, having jurisdiction over the Company or any other member of the Group or any of their respective assets, (ii) do not infringe the rules of any stock exchange on which securities of the Company are listed, (iii) do not conflict with or result in any breach of the terms of the memorandum of association and the bye-laws of the Company, and (iv) do not conflict with or result in a breach of any of the terms of or constitute a default (nor has any event occurred which, with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement would result in a default) under any agreement or other instrument or any obligation to which the Company or any other member of the Group is a party or by which any of their respective properties or assets are bound;

- (h) the obligations of the Company under this Agreement and each document to be executed by the Company pursuant to this Agreement at or before Completion are, or when the relevant document is executed, will be, binding on the Company and enforceable in accordance with their terms;
- (i) save for the Capital Restructuring and as provided for in this Agreement and the Conditions, from the date hereof until the issue of the Note, no act will be done and no circumstances will arise which will, had the Note been issued as at the date hereof, give rise to an adjustment of the Conversion Price (as defined in the Conditions) without the prior written consent of the Subscriber;
- (j) upon completion of the Subscription, the CTF Subscription and the SF Subscription, no event exists or has occurred and no condition is in existence which would be (after the issue of the Note) an event of default under the Conditions and no event or act has occurred which, with the giving of notices, or the lapse of time, or both, would (after the issue of the Note) constitute such an event of default;
- (k) subject to the fulfilment of the Conditions Precedent, no consent of, or filing or registration with, any third party (including any regulatory body) is required by the Company or any other Group Company for the issue of the Note, the issue of the Conversion Shares on conversion of the Note and the performance of this Agreement and the Note;
- (l) except for the 5% CTF Convertible Note, the 5% GI Convertible Note and the Options and the Note, the New CTF Convertible Note and the New SF Convertible Notes to be issued, (i) there are no outstanding securities issued by the Company or any other member of the Group convertible into or exchangeable for, or warrants, rights or options, or agreements to grant warrants, rights or options, to purchase or to subscribe for, shares of the Company or any other member of the Group, (ii) there are no other or similar arrangements approved by the board of directors of the Company or a general meeting of shareholders of the Company providing for the issue or purchase of Shares or the subscription for Shares (other than the general mandate to issue Shares granted by the shareholders of the Company at the last annual general meeting of the Company), and (iii) no unissued share capital of the Company is under option or agreed conditionally or unconditionally to be put under option;
- (m) save as required by the Listing Rules and any applicable laws or regulations, there are no restrictions on transfers of the Note or the voting or transfer of any of the Conversion Shares or payments of dividends with respect to the Conversion Shares under applicable laws or regulations, or pursuant to the Company's constitutional documents, or pursuant to any agreement or other instrument to which the Company is a party or by which it may be bound;
- (n) all the outstanding shares of capital stock or other equity interests of each Group Company (other than the Company) have been duly and validly authorised and issued, are fully paid and non-assessable, and all such equity interests are owned directly or indirectly by the Company, free and clear of all liens, charges, encumbrances, security interests, restrictions on voting or transfer or claims of any third party;

- (o) there is no mortgage, charge, pledge, lien or other form of security or encumbrance on, over or affecting the Note or the Conversion Shares or any part of the unissued share capital of the Company and there is no agreement or commitment to give or create any of the foregoing and no claim has been made by any person to be entitled to any of the foregoing which has not been waived in its entirety or satisfied in full;
- (p) no order has been made or petition presented or resolution passed for the winding up of any Group Company (save for any members' voluntary solvent winding-up of a Group Company (other than the Company)), nor has any distress, execution or other process been levied against any Group Company or execution levied against the goods in the possession of any Group Company;
- (q) save as Disclosed in relation to the Convertible Notes, the 3% CTF Convertible Note, the 5% CTF Convertible Note and the SF Convertible Notes, no steps have been taken for the appointment of an administrator or receiver of any part of any Group Company's property and no Group Company has made or proposed any arrangement or composition with its creditors or any class of its creditors;
- (r) no Group Company is a party to any transaction which could be avoided in a winding up;
- (s) each of the Company and other Group Companies and their respective directors and officers are in compliance with and will comply with all applicable laws and the applicable requirements of the Listing Rules and the Code on Corporate Governance Practices set out in Appendix 14 to the Listing Rules (the "**Corporate Governance Code**") except where such non-compliance would not individually or in the aggregate (x) have a material adverse effect on the financial condition or results of operations of the Company and the Group taken as a whole, or (y) adversely affect the ability of the Company to perform any of its material obligations under this Agreement or its obligations to pay any amount under the Note or to issue the Conversion Shares thereunder (a "**Material Adverse Effect**") and the Company will comply with all applicable laws and the applicable requirements of the Listing Rules in connection with the issue of the Note and the Conversion Shares;
- (t) the consolidated audited financial statements of the Company and other Group Companies taken as a whole as at and for the three years ended 31 March 2014 publicly available on the date hereof were prepared in accordance with HKFRS and pursuant to the relevant laws of Hong Kong and such financial statements present fairly and accurately in all material respects the results of operation and the financial position of the Group;
- (u) since the Accounts Date, there has been no change (nor any development or event involving a prospective change) which has not been publicly disclosed and which is materially adverse to the financial condition or results of operations of the Company and the Group taken as a whole;
- (v) the Company and each of the other Group Companies maintain a system of internal control and accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorisations and in compliance with applicable laws, rules and regulations

(including without limitation the Listing Rules and the Corporate Governance Code), (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with HKFRS and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorisation, (iv) the recorded accountability for material assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences, (v) each of the Company and the other Group Companies has made and kept books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of such entity and provide a sufficient basis for the preparation of the Company's consolidated financial statements in accordance with HKFRS, and (vi) the Company's current management information and accounting control system has been in operation for at least 12 months during which time none of the Company nor any of the other Group Companies has experienced any material difficulties with regard to (i) through (v) above;

- (w) there are no outstanding guarantees or contingent payment obligations of the Group in respect of indebtedness of third parties except as disclosed in the Company's publicly available financial statements and announcements; each member of the Group is in compliance with all of its obligations under any outstanding guarantees or contingent payment obligations as disclosed in the Accounts except for such outstanding guarantees or contingent payment obligations that are being contested in good faith;
- (x) except as disclosed in the Company's publicly available financial statements, no member of the Group has any off-balance sheet transactions and neither the Company nor any member of the Group has any relationships with unconsolidated entities that are contractually limited to narrow activities that facilitate the transfer of or access to assets by the Company, or any member of the Group, such as structured finance entities and special purpose entities that could have a material adverse effect on the liquidity of the Company or any other member of the Group or the availability thereof or the requirements of the Company or any other member of the Group for capital resources;
- (y) the auditors who audited the financial statements of the Company and the notes thereto and delivered an audit report thereon are independent reporting accountants with respect to the Company as described in the audit report;
- (z) other than as disclosed in the Accounts, the Company and each of the other members of the Group has good and marketable title to all real property, and good title to personal property and any other assets, owned by it or any rights or interests thereto, in each case as is necessary to conduct the business now operated by it ("**Assets**"); and there are no charges, liens, encumbrances or other security interests or third party rights or interests, conditions, planning consents, orders, regulations, defects or other restrictions affecting any of such Assets which could have a material adverse effect on the value of such Assets, or limit, restrict or otherwise have a material adverse effect on the ability of the relevant member of the Group to utilise or develop any such Assets and, where any such Assets are held under lease, each lease is a legal, valid, subsisting and enforceable lease;
- (aa) (i) the Company and each of the other members of the Group possess or have

applied for all necessary certificates, authorisations, licences, orders, consents, approvals and permits (“**Approvals**”) and has made all necessary declarations and filings to own or lease, as the case may be, and to operate its assets and to conduct the business now operated by them, (ii) the Company and each of the other members of the Group are in compliance with the terms and conditions of all such Approvals, (iii) all of such Approvals are valid and in full force and effect, and (iv) neither the Company nor any other member of the Group has received any notice of proceedings relating to the revocation or modification of any such Approvals or is otherwise aware that any such revocation or modification is contemplated or threatened, except for any non-possession, non-compliance, invalidity, revocation, modification or proceedings (that if determined adversely against the Company or any other member of the Group) would not individually or in the aggregate have a Material Adverse Effect;

- (bb) all returns, reports and filings which, to the Company’s best of knowledge (after reasonable enquiry), ought to have been made by or in respect of the Company and each of the other members of the Group for taxation purposes have been made and all such returns, reports and filings are, to the Company’s best of knowledge (after reasonable enquiry), correct and on a proper basis and are not the subject of any dispute with the relevant revenue or other appropriate authorities and to the knowledge of the Company (after reasonable enquiry) do not reveal any circumstances likely to give rise to any such dispute and to the knowledge of the Company (after reasonable enquiry) the provisions, charges, accruals and reserves included in the financial statements are sufficient to cover all taxation of the Company and each of the other members of the Group existing in all accounting periods ended on or before the accounting reference date to which the financial statements relate whether payable then or at any time thereafter. No liability for tax which has not been provided for in the financial statements of the Company or any other member of the Group has arisen or has been asserted by the tax authorities against the Company or any other member of the Group except for any such taxes that are being contested in good faith and by appropriate proceedings or where the failure to file or make payment would not, individually or in the aggregate, have a Material Adverse Effect;
- (cc) the Company and each of the other members of the Group have duly paid all taxes that have become due on or before the relevant due dates for such taxes, including, without limitation, all taxes reflected in the tax returns referred to in Clause 5.1(bb) above, or any assessment, proposed assessment, or notice, either formal or informal, received by the relevant member of the Group except for any such taxes that are being contested in good faith and by appropriate proceedings or where the failure to file or make payment would not, individually or in the aggregate, have a Material Adverse Effect;
- (dd) no tax or duty (including any stamp or issuance or transfer tax or duty, any service tax and any tax or duty on capital gains or income, whether chargeable on a withholding basis or otherwise) is assessable or payable in, and no withholding or deduction for any taxes, duties, assessments or governmental charges of whatever nature is imposed or made for or on account of any income, registration, transfer, service or turnover taxes, customs or other duties or taxes of any kind, levied, collected, withheld or assessed by or within, Hong Kong or any other relevant jurisdiction or by any sub-division of or authority therein or thereof having power

to tax, in connection with the creation, issue or offering of the Note or the execution or delivery of this Agreement or the performance of the obligations hereunder or thereunder (including, without limitation, issuance of the Conversion Shares on conversion of the Note by the Company;

- (ee) save as Disclosed in relation to the litigation of the Group, the Company is not aware (after reasonable enquiry) of any police, legal, governmental or regulatory investigations nor any pending actions, suits or proceedings against or affecting the Company or any of the other members of the Group or any of their respective directors or officers (including, without limitation, the respective chief executive officer, the chief financial officer and the company secretary) which, if determined adversely against the Company or any of the other members of the Group or any of their respective directors or officers, would individually or in the aggregate have a Material Adverse Effect, or which are otherwise material in the context of the issue of the Note and, to the knowledge of the Company (after reasonable enquiry), no such investigations, actions, suits or proceedings which would individually or in the aggregate have a Material Adverse Effect are threatened or contemplated;
- (ff) the Company and each of the other members of the Group have in place, to the Company's best of knowledge (after reasonable enquiry), all insurance policies necessary and customary for the conduct of their principal businesses as currently operated and for compliance with all applicable law, such policies are in full force and effect, and all premiums with respect thereto have been paid, and no notice of cancellation or termination has been received with respect to any such policy, and the Company and each of the other members of the Group have complied in all material respects with the terms and conditions of such policies, except where breach of this provision would not, individually or in the aggregate, have a Material Adverse Effect;
- (gg) the Company and each of the other members of the Group own or possess, or can acquire on reasonable terms, adequate patents, patent rights, licences, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, "**Intellectual Property**") necessary to carry on the business now operated by them in each country in which they operate, and neither the Company nor any other member of the Group has received any notice or is otherwise aware of any infringement of or conflict in any jurisdiction with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interest of the Company or any member of the Group therein, and which infringement or conflict (if the subject of any unfavourable decision, ruling or finding) or invalidity or inadequacy would, individually or in the aggregate, have a Material Adverse Effect;
- (hh) neither the Company nor any member of the Group is engaged in any transactions with any related party on terms that are less favourable to the Company or the relevant member of the Group than those available from other parties on an arm's-length basis and such transactions as described in the audited consolidated financial statements of the Company are true, complete and accurate and not misleading;

- (ii) no event has occurred or circumstance arisen which, had the Note already been issued, could reasonably be expected to (whether or not with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement): (i) constitute an event described under “Events of Default” in the Conditions; or (ii) save as provided for in this Agreement and the Conditions, require an adjustment of the initial conversion price of the Note;
- (jj) save as Disclosed in relation to the Convertible Notes, the 3% CTF Convertible Note, the 5% CTF Convertible Note and the SF Convertible Notes, neither the Company nor any other member of the Group is in breach of or in default (nor has any event occurred which, with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement would result in a default) under any law, regulation, agreement or Approval which would, individually or in the aggregate, have a Material Adverse Effect;
- (kk) no material labour dispute with the employees of the Group exists or, to the knowledge of the Company (after reasonable enquiry), is imminent which could, individually or in the aggregate have a Material Adverse Effect. The Company is not aware of any existing or imminent labour disturbance by the employees of any of its principal suppliers, manufacturers or contractors which could, individually or in the aggregate result in a Material Adverse Effect;
- (ll) (i) all information supplied or disclosed in writing by the Company or its representatives to the Subscriber, its agents or professional advisers is in every material respect true and accurate and not misleading; (ii) all forecasts, opinions and estimates relating to the Company and each of the other members of the Group so supplied or disclosed have been made after careful and proper consideration, are based on reasonable assumptions and represent reasonable and fair expectations honestly held based on facts known to such persons (or any of them); (iii) there has been no development or occurrence relating to the financial or business condition of the Company or any of the other members of the Group (including, without limitation, with respect to any corporate event, acquisition, disposal or related matter) which is not in the public domain and which would reasonably be expected to be material to the investors of convertible securities generally; and (iv) the Company has disclosed all information regarding the financial or business condition or prospects of the Company and the Group in accordance with applicable laws and the Listing Rules, which is relevant and material in relation to the Company and the Group, in the context of the issue of the Note;
- (mm) with respect to all the announcements issued by the Company in the 18 months immediately preceding the date of this Agreement, the Announcement and the Circular (collectively, the “**Published Documents**”), as at the time the Published Documents were or to be made, (i) all statements contained therein were or will be in every material respect true and accurate and not misleading; (ii) all opinions and intentions expressed in them were or will be honestly held, were and will be reached after considering all relevant circumstances and were and will be based on reasonable assumptions; and (iii) there were and will be no other facts omitted so as to make any such statement or expression in any of the Published Documents misleading in any material respect or which would have been material in the context in which the Published Documents were made;

- (nn) neither the Company nor any of its affiliates (after reasonable enquiry by the Company) is in possession of information relating to, or to the securities of, the Company which has not been made public and which if it were made public would be likely to have a significant effect on the price (including the value) of such securities or information which is otherwise relevant information (as defined in section 245 of the Securities and Futures Ordinance (Cap.571)) in relation to the Company; and neither the Company nor any of its affiliates (after reasonable enquiry by the Company) is or will be at any time up until immediately after the termination of this Agreement or the Completion Date (whichever is the later), engaged in insider dealing for the purposes of sections 270 and 291, or other market misconduct offences under the provisions of Division 3 of Part XIV of the Securities and Futures Ordinance (Cap.571);
- (oo) the operations of the Company and each of the other members of the Group are and have been conducted at all times in compliance with all applicable anti-money laundering laws, regulations, rules and guidelines in its jurisdiction of incorporation and in each other jurisdiction in which such entity, as the case may be, conducts business (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental or regulatory agency, authority or body or any arbitrator involving the Company or any other member of the Group with respect to any of the Money Laundering Laws is pending or, to the knowledge of the Company (after reasonable enquiry), threatened or contemplated;
- (pp) neither the Company nor any member of the Group nor, to the Company’s knowledge (after reasonable enquiry), any director, officer, or employee, or any agent of any member of the Group, has taken any action in furtherance of an unlawful offer, payment, promise to pay, or authorisation or approval of the payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any “government official” (including any officer or employee of a government or government-owned or controlled entity or of a public international organisation, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage; and each member of the Group has conducted its businesses in compliance with applicable anti-corruption laws;
- (qq) neither the Company nor any member of the Group nor, to the knowledge of the Company (after reasonable enquiry), any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any member of the Group, is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”);
- (rr) the use by the Company of the proceeds from the issue of the Note will not violate any existing laws or regulations of any relevant jurisdiction in which the Group operates its business and any sanctions administered by OFAC, the United Nations or the European Union;
- (ss) neither the Company, nor any of its affiliates (as defined in Rule 501(b) of Regulation D under the U.S. Securities Act of 1933 (the “**Securities Act**”)), nor any person acting on its or their behalf has taken or will take, directly or indirectly, any action designed to cause or to result in, or that has constituted or which might

reasonably be expected to cause or result in, the stabilisation in violation of applicable laws or manipulation of the price of any security to facilitate the sale or resale of the Note;

- (tt) neither the Company nor any of its affiliates (as defined in Rule 405 under the Securities Act) nor any persons acting on its or their behalf has engaged or will engage in any “directed selling efforts” (as defined in Regulation S under the Securities Act (“**Regulation S**”)) with respect to the Note or the Conversion Shares to be issued upon conversion of the Note;
  - (uu) the Company does not believe it will be a "passive foreign investment company" within the meaning of Section 1297 of the United States Internal Revenue Code for its current fiscal year, and the Company does not expect to become a "passive foreign investment company" at any time in the future;
  - (vv) the Company is a “foreign issuer” (as such term is defined in Regulation S) which reasonably believes that there is no “substantial U.S. market interest” (as defined in Regulation S) in the Company’s debt securities or in the Conversion Shares or any securities of the same class or series as the Conversion Shares;
  - (ww) in connection with the conversion of the Note into the Conversion Shares, neither the Company nor any person acting on its behalf will take any action which would result in the Conversion Shares being exchanged by the Company other than with the Company’s existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange;
  - (xx) the content of the Circular in relation to the Subscription, the CTF Subscription, the SF Subscription and the Capital Restructuring shall not contain any material omission and, save for the purpose of complying with the Listing Rules and the Takeovers Code or the requests of the Stock Exchange and the SFC, be materially different from those of the Announcement and any additional information contained in the Circular not related to the Subscription, the CTF Subscription, the SF Subscription and the Capital Restructuring shall not be materially prejudicial to the interests of the Subscriber; and
  - (yy) as at completion of the Subscription, the CTF Subscription and the SF Subscription, the Company will be solvent and able to pay its debts when they fall due.
- 5.2 The Company undertakes to notify the Subscriber as soon as practicable of any matter or event coming to its attention prior to Completion which shows any of the Warranties to be or to have been untrue or inaccurate which would have a Material Adverse Effect.
- 5.3 The Company hereby agrees and acknowledges that the Subscriber is entering into this Agreement in reliance on the Warranties.
- 5.4 If the Company fails to perform any of its obligations at any time on or prior to Completion under this Agreement or breaches any terms of the Warranties at any time on or prior to Completion and in each case such failure or breach is known to the Subscriber, then the sole remedy which the Subscriber has is to rescind this Agreement in accordance with Clause 7.1 and Clause 7.2 shall apply accordingly (and if such failure or breach is waived by the Subscriber and the Subscriber proceed to Completion, the

Subscriber will have no further right to claim against the Company for, and only to the extent of, such failure or breach). Subject to the above, if the Company fails to otherwise perform any of its obligations (including its obligation at Completion) under this Agreement or breaches any terms of the Warranties prior to Completion, then without prejudice to all and any other rights and remedies available at any time to the Subscriber (including but not limited to the right to damages for any loss suffered) but subject to the limitations on liability as set out in Clause 5.12, the Subscriber may by notice in writing, either require the Company to perform such obligations or, insofar as the same is practicable, remedy such breach.

- 5.5 The Company (i) is deemed to have repeated all the Warranties on the basis that such Warranties will, at all times from the date of this Agreement up to and including the date of Completion, be true, complete and accurate in all respects (with respect to facts and circumstances at such time except as specifically provided otherwise) and such Warranties shall have effect as if given at each of such time as well as the date of this Agreement and (ii) undertakes to comply with all of the Warranties as undertakings at all such times.
- 5.6 The Company undertakes with the Subscriber that it shall pay (i) any stamp, issue, registration, documentary or other taxes and duties, including interest and penalties in Hong Kong and all other relevant jurisdictions payable on or in connection with the issue of the Note, and the Conversion Shares or the execution or delivery of this Agreement, and (ii) in addition to any amount payable by it under this Agreement, any value added, service, turnover or similar tax payable in respect thereof (and references in this Agreement to such amount shall be deemed to include any such taxes so payable in addition to it).
- 5.7 The Company undertakes with the Subscriber that neither the Company nor any person acting on its behalf will (a) issue, offer, sell, pledge, contract to sell or otherwise dispose of or grant options, issue warrants or offer rights entitling persons to subscribe or purchase any interest in any Shares or securities of the same class as the Note or the Shares or any securities convertible into, exchangeable for or which carry rights to subscribe or purchase the Note, the Shares or securities of the same class as the Note, the Shares or other instruments representing interests in the Note, the Shares or other securities of the same class as them, (b) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of the ownership of the Shares, (c) enter into any transaction with the same economic effect as, or which is designed to, or which may reasonably be expected to result in, or agree to do, any of the foregoing, whether any such transaction of the kind described in (a), (b) or (c) is to be settled by delivery of Shares or other securities, in cash or otherwise, or (d) announce or otherwise make public an intention to do any of the foregoing, in any such case without the prior written consent of the Subscriber (such consent not to be unreasonably withheld or delayed) between the date hereof and the date which is 90 days after the Completion Date; except for (i) the Note and the Conversion Shares issued on conversion of the Note; (ii) Options and any Shares issued pursuant to the Options; and (iii) the New CTF Convertible Note and the New SF Convertible Notes and the Shares issued pursuant to the conversion provisions thereof.
- 5.8 The Company undertakes with the Subscriber that the Company will issue, in accordance with the Conditions, Conversion Shares (which rank *pari passu* with the other Shares then outstanding) free and clear of all liens, claims, charges, security, encumbrances or

like interests upon conversion of the Note pursuant to the Conditions.

- 5.9 The Company undertakes with the Subscriber that so long as the Note held by it remains outstanding, the Company will furnish to the Subscriber, copies of each document filed by it with the Stock Exchange for publication, and copies of financial statements and other periodic reports that the Company may furnish generally to holders of its debt securities.
- 5.10 If, notwithstanding the warranty contained in Section 5.1(u) above, the Company determines in any year during which the Subscriber or any Affiliate thereof holds any interests in the Company that it or any of its subsidiaries is a "passive foreign investment company" within the meaning of Section 1297 of the United States Internal Revenue Code (each, a "**PFIC Member**") for that year, the Company shall promptly notify the Subscriber or Affiliate of such determination and each PFIC Member shall make available to the Subscriber or any such Affiliates such information as may be requested by the Subscriber or Affiliate and which is required in order to permit a direct or indirect shareholder that is a United States person to make a valid "QEF" election under section 1291(d) of the Internal Revenue Code with respect to each PFIC Member.
- 5.11 Subject to the limitations on liability as set out in Clause 5.12, the Company undertakes to pay the Subscriber on demand an amount which on an after tax basis is equal to the Loss incurred by it and its subsidiaries, affiliates or any person who controls any of them or any of their respective directors, officers, employees or agents (each an "**Indemnified Person**") in respect of or in connection with:
- (i) any breach or alleged breach of any of the representations, warranties, undertakings or agreements contained in, or deemed to be made pursuant to, this Agreement or any certificate issued by the Company pursuant to this Agreement, including (without limitation) the failure by the Company to issue the Note;
  - (ii) the failure or alleged failure by the Company or any other member of the Group or any of their respective directors or officers to comply with any requirements of statute or regulation in relation to the issue of the Note.

For the purposes of this Agreement, a "**Loss**" means any liability, damages, cost, claim, loss or expense (including, without limitation, legal fees, costs and expenses) other than indirect, special or consequential loss or damage. Loss shall include (without limitation) all Losses which an Indemnified Person may incur in investigating, preparing, disputing or defending, or providing evidence in connection with, any litigation, claim, action, proceeding, investigation, demand, judgment or award (each a "**Claim**") (whether or not the Indemnified Person is an actual or potential party to such Claim) or in establishing any Claim or mitigating any Loss on its part or otherwise enforcing its rights under this Clause 5.11, which shall be additional and without prejudice to any rights which the Indemnified Person may have at common law or otherwise.

- 5.12 Notwithstanding any other provision herein, but without prejudice to all rights and remedies of the Subscriber in connection with the Note and under the Conditions or otherwise:
- (a) the indemnity in Clause 5.11 shall not apply to an Indemnified Person if it has been finally and judicially determined by a court of competent jurisdiction that

such Losses resulted solely from fraud or gross negligence or wilful default on the part of such Indemnified Person;

- (b) the Subscriber's right to claim for any breach of this Agreement (including but without limitation to the Warranties) shall be against the Company solely but not any of its directors, officers, employees, agents, representatives and advisers, provided that this limitation shall not operate to limit or exclude the liability of the Company for the acts or omissions of its directors, officers, employees, agents, representatives and advisers;
- (c) other than in connection with Clauses 2 to 4, 5.1(a) to 5.1(r) (except for Clause 5.1(o)), 5.1(ii), and 5.6 to 5.8 which shall not be subject to the limitations set out in this Clause 5.12(c):
  - (i) to the extent that the Note is issued, the aggregate liability of the Company to the Subscriber (in, and only to the extent of, its capacity as a holder of any Conversion Shares) (including under Clauses 5.4 and 5.11) in respect of all breaches of this Agreement shall not exceed the sum of the principal amount as specified against its name in column 2 of Schedule 4 and all interest payable (other than default interest) to the Subscriber under the Conditions less any amount which has been repaid by the Company to the Subscriber (in its capacity as a holder of the Note) pursuant to and in accordance with the Conditions; and
  - (ii) the Company shall have no liability under this Agreement to the Subscriber (in, and only to the extent of, its capacity as a holder of the Note);
- (d) the Company shall not be liable under this Agreement (whether under the indemnity in Clause 5.11 or otherwise) in respect of any claim unless the aggregate amount of all claims for which the Company would otherwise be liable under this Agreement (disregarding the provisions of this Clause 5.12(d)) exceeds US\$2,000,000 or its equivalent amount (as determined on the basis of the middle spot rate for the relevant currency against the US dollar as quoted by any leading bank on the day on which such liability arises), provided that where the liability agreed or determined in respect of all claims referred to in this Clause 5.12(d) exceeds US\$2,000,000 or such equivalent amount (subject as provided elsewhere in this Clause 5.12) the Company shall be liable for the aggregate amount of all claims as agreed or determined; and
- (e) other than in connection with Clauses 2 to 4, 5.1(a) to 5.1(r) (except for Clause 5.1(o)), 5.1(ii), and 5.6 to 5.8 which shall not be subject to the limitations set out in this Clause 5.12(e)), the Company shall not be liable to the Subscriber (in, and only to the extent of, its capacity as a holder of any Conversion Shares) for any claim under this Agreement (including Clauses 5.4 and 5.11) with respect to such Conversion Shares unless a notice of the claim is given by the Subscriber to the Company within 180 days from the date of delivery of such Conversion Shares pursuant to an exercise of the Conversion Rights by the Subscriber under the Note, provided that, for the avoidance of doubt, the Subscriber shall have the benefit of the period of 180 days with respect to the Conversion Shares delivered upon each exercise of the Conversion Rights by the Subscriber under the Note.

5.13 The Subscriber shall not have any duty or obligation, whether as fiduciary or trustee for any Indemnified Person or otherwise, to recover any such payment or to account to any other person for any amounts paid to it under Clause 5.11 and save to the extent notified in writing to an Indemnified Person by the Subscriber, the Subscriber (without obligation) will have the sole conduct of any action to enforce such rights on behalf of the Indemnified Person. This Agreement may be terminated, amended or varied in any way and at any time by the Parties without the consent of any other Indemnified Person.

## **6. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS BY THE SUBSCRIBER**

6.1 The Subscriber hereby represents warrants and undertakes to the Company that as at the date hereof and as at Completion:

- (a) it is duly incorporated and validly existing under the laws of the place of its incorporation and has the authority to enter into and perform its obligations under this Agreement and that in entering into this Agreement and in performing its obligations hereunder it does not and shall not do so in breach of any applicable legislation;
- (b) this Agreement constitutes valid, binding and enforceable obligations of the Subscriber in accordance with its terms;
- (c) the execution, delivery and performance of this Agreement and the subscription of the Note by the Subscriber (i) do not or will not infringe and are not or will not be contrary to any laws, rules or regulations of Hong Kong or any other applicable jurisdiction or any judgment, order, authorisation or decree of any government, governmental or regulatory body or court, domestic or foreign, having jurisdiction over the Subscriber or any of its assets, (ii) do not or will not conflict with or result in any breach of the terms of the constitutional documents of the Subscriber and do not or will not conflict with or result in a breach of any of the terms of or constitute a default (nor has any event occurred which, with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement would result in a default) under any agreement or other instrument or any obligation to which the Subscriber is a party or by which any of its properties or assets are bound;
- (d) it is acquiring the Note for investment purposes and is not a “distributor,” as defined in Regulation S, with respect to the Note;
- (e) it is acquiring the Note in an “offshore transaction” as defined in Regulation S;  
and
- (f) it understands that neither the Note nor the Shares into which the Note may be converted have been or will be registered under the Securities Act or the securities laws of any state of the United States, and it will not offer, sell, pledge or transfer any of the Note and the Conversion Shares other than pursuant to an exemption from the registration requirements of the Securities Act and in accordance with all other applicable laws of any state or territory of the United States and any relevant foreign jurisdiction.

## 7. RESCISSION

7.1 If any of the following events occurs at any time prior to Completion, the Subscriber may, by giving a written notice to the Company, rescind this Agreement:-

- (a) the introduction of any new law or regulation or any change in existing law or regulation (or the judicial interpretation thereof) or other occurrence of any nature whatsoever which may in the reasonable opinion of the Subscriber materially and adversely affect the business or the financial position of the Group as a whole;
- (b) the occurrence of any local, national or international event or change, whether or not forming part of a series of events or changes occurring or continuing before and/or after the date hereof, of a political, military, financial, economic or other nature (whether or not ejusdem generis with any of the foregoing), or in the nature of any local, national or international outbreak or escalation of hostilities or armed conflict, or affecting local securities markets which may, in the reasonable opinion of the Subscriber, materially and adversely affect the business or the financial position of the Group as a whole;
- (c) in the reasonable opinion of the Subscriber, there shall have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange, the Nasdaq Stock Market, Inc., the London Stock Exchange plc and/or the Stock Exchange; (ii) a suspension or material limitation in trading in the Company's securities or the Shares on the Stock Exchange (other than any temporary suspension for clearance of announcement for no more than five consecutive trading days); (iii) a general moratorium on commercial banking activities in New York, London or Hong Kong declared by the relevant authorities, or a material disruption in commercial banking or securities settlement or clearance services in the United States, the United Kingdom or Hong Kong; (iv) a change or development involving a prospective change in taxation in Bermuda or Hong Kong affecting the Company, the Shares, the Note or the transfer thereof; (v) the outbreak or escalation of hostilities involving the United States, the United Kingdom or Hong Kong or the declaration by the United States, the United Kingdom or Hong Kong of a national emergency or war; or (vi) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions or currency exchange rates or controls;
- (d) any breach of the Warranties, any failure by the Company to perform any of the agreements set forth in this Agreement or any change which would render the Warranties inaccurate if they were to be repeated immediately thereafter comes to the notice of the Subscriber and not waived by the Subscriber; or
- (e) in connection with the subscription of the Note, any of the Conditions Precedent set out in Clause 3.1 has not been satisfied or waived by the Subscriber by the Long Stop Date.

7.2 Upon the giving of notice pursuant to Clause 7.1, all obligations of the Company and the Subscriber hereunder shall cease and determine and no Party shall have any claim against the other in respect of any matter or thing arising out of or in connection with this

Agreement, except that (a) in all circumstances, the Company shall remain liable under Clause 10.10 and remain responsible for the payment of all costs and expenses referred to in Clause 9 already incurred or incurred in consequence of such termination pursuant to Clause 7.1; and (b) the Subscriber shall remain liable under Clause 10.10.

## 8. NOTICES

Any notice, demand or other communication required or permitted to be given by or under this Agreement shall be in writing and delivered personally or sent by post (airmail if overseas) or by facsimile message to the Parties due to receive such notice at their addresses or facsimile numbers as shown below:

To the Company:

Address : 41st Floor, New World Tower I, 16-18 Queen's Road Central,  
Hong Kong  
Facsimile : +852 2138 8070  
Attention : Mr. Samson Tang

To the Subscriber:

Address: 41<sup>st</sup> Floor, New World Tower 1,  
No. 16-18 Queen's Road Central,  
Hong Kong.  
Facsimile: +852 2138 8200  
Attention: Mr. Lo Lin Shing, Simon

or to such other address or facsimile number as the Party concerned may have notified to the other Party pursuant to this Clause and may be given by sending it by registered post or by hand to such address or by facsimile transmission to such facsimile number. Such notice shall be deemed to be served on the day of delivery or facsimile transmission (or, if the day of delivery or transmission is not a Business Day or if the delivery or transmission is made after 5:00 p.m., it will be deemed to be served on the immediately following Business Day), or in the case of registered post, 48 hours after posting, or if sooner, upon acknowledgement of receipt by or on behalf of the Party to which it is addressed.

## 9. COSTS AND EXPENSES

Each Party shall bear its own costs and expenses (if any) incurred by it in connection with the preparation, negotiation and settlement of this Agreement. The capital fees, stamp duty and all other fees and duties (if any) relating to the issue and delivery of the Note and Conversion Shares and fulfilment of the Conditions Precedent shall be borne by the Company.

## 10. GENERAL PROVISIONS RELATING TO AGREEMENT

10.1 Time shall be of the essence of this Agreement.

- 10.2 This Agreement shall be binding on and enure for the benefit of the successors of each of the Parties and (subject to the other provisions of this Agreement and the Conditions) permitted assigns provided that the benefits and obligations or any part thereof bestowed upon the Company shall not be capable of being assigned, transferred, encumbered or otherwise disposed of.
- 10.3 The exercise of or failure to exercise any right or remedy in respect of any breach of this Agreement shall not, save as provided herein, constitute a waiver by such Party of any other right or remedy it may have in respect of that breach.
- 10.4 Any right or remedy conferred by this Agreement on any Party for breach of this Agreement (including without limitation the breach of any representations and warranties) shall be in addition and without prejudice to all other rights and remedies available to it in respect of that breach.
- 10.5 Any provision of this Agreement which is capable of being performed after Completion but which has not been performed on or before Completion and all representations, warranties and undertakings contained in or entered into pursuant to this Agreement shall remain in full force and effect notwithstanding Completion.
- 10.6 This Agreement constitutes the entire agreement between the Parties with respect to its subject matter (no Party having relied on any representation, warranty or undertaking made by the other Party which is not contained in this Agreement) and no variation of this Agreement shall be effective unless made in writing and signed by the Parties.
- 10.7 This Agreement supersedes all and any previous agreements, arrangements or understandings between the Parties relating to the matters referred to in this Agreement and all such previous agreements, understanding or arrangements (if any) shall cease and determine with effect from the date hereof.
- 10.8 If at any time any provision of this Agreement is or becomes illegal, void or unenforceable in any respect, the remaining provisions hereof shall in no way be affected or impaired thereby.
- 10.9 Subject to the requirements of the Stock Exchange or of any other regulatory authority or as required by any rules, regulations or laws to which any member of the Group is subject, no Party shall make any press or other announcements relating to this Agreement and the Note without the prior consent of the other Party as to the form and manner of such announcement (such consent not to be unreasonably withheld or delayed).
- 10.10 Each of the Parties agrees that it shall treat as strictly confidential all information received or obtained by it or its employees or advisers as a result of entering into or performing this Agreement including information relating to the provisions of this Agreement and the Note and the negotiations leading up to this Agreement, the subject matter thereof and, subject to Clause 10.9, it will not at any time hereafter make use of or disclose or divulge to any person any such information and shall use its best endeavours to prevent the publication or disclosure of any such information. For the purposes of this Clause 10.10, confidential information of a Party excludes information of such Party that is:
- (a) in the public domain not resulting from any breach of this Clause 10.10 by the relevant Party;

- (b) provided to the relevant Party by a third party which is not subject to the duty of confidentiality to such Party;
- (c) lawfully in the possession of the relevant Party without any restriction on use or disclosure prior to the disclosure by the relevant Party to a third party; or
- (d) independently developed by the relevant Party.

Nothing in this Clause 10.10 shall prohibit the relevant Party from disclosing any information:

- (i) to its financial, tax, legal or other professional advisers or any of its affiliates or the respective offices, employees, agents and limited partners of the relevant Party and its affiliates;
- (ii) pursuant to the requirements of any laws and regulations or the rules, orders, judgments or directions of governmental, administrative, judicial, tax or other regulatory authority or body (including without limitation the Stock Exchange); or
- (iii) for the purpose of protecting, defending or enforcing any of its rights under this Agreement.

10.11 Each of the Parties agrees to do and execute or procure to be done and executed all such further acts, deeds, documents and things as may be reasonable and appropriate for such Party to do or execute or procure to be done or executed in order to give full effect to the terms of this Agreement.

10.12 All payments due under this Agreement are to be made in HK Dollars and are stated exclusive of any applicable tax whether income taxes, withholding taxes, value added taxes, goods and services taxes, business or services taxes or similar taxes other than taxes imposed in respect of net income by a taxing jurisdiction wherein the recipient is incorporated or resident for tax purposes (“**Taxes**”). If any deduction or withholding for or on account of Taxes is required to be made from any payment to the Subscriber, then the Company shall pay an additional amount so that the Subscriber receives, free from any such withholding, deduction, assessment or levy, the full amount of the payments set out herein. The Company shall make appropriate payments and returns in respect of such Taxes and provide the Subscriber with an original or authenticated copy of the tax receipt. All payments in respect of the costs, fees and expenses referred to in this Clause 10.12 shall be satisfied by the Company making them to the Subscriber.

- 10.13
- (a) HK Dollars (the “**Contractual Currency**”) is the sole currency of account and payment for all sums payable by the Company under or in connection with this Agreement, including damages.
  - (b) An amount received or recovered in a currency other than the Contractual Currency (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the insolvency, winding-up or dissolution of the Company or otherwise), by the Subscriber in respect of any sum expressed to be due to it from the Company will only discharge the Company to the extent of the Contractual Currency amount which the recipient is able to purchase with the amount so

received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so).

- (c) If that Contractual Currency amount is less than the Contractual Currency amount expressed to be due to the recipient under this Agreement, the Company will indemnify it against any loss sustained by it as a result. In any event, the Company will indemnify the recipient against the cost of making any such purchase.
- (d) Subject to the limitations on liability as described in Clause 5.12, the indemnities in this Clause 10.13 and in Clause 5.11 constitute separate and independent obligations from the other obligations in this Agreement, will give rise to a separate and independent cause of action, will apply irrespective of any indulgence granted by the Subscriber and will continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due under this Agreement or any other judgment or order.

10.14 The Subscriber may, upon giving written notice to, but without the consent of, the Company assign any or all of its rights and delegate or transfer any or all of its obligations under any this Agreement to any of its Affiliates (including, without limitation, the indemnities in Clauses 5.11 and 10.13). Save as aforesaid and subject to the other provisions of this Agreement, a Party may not otherwise assign any of its rights or delegate or transfer any of its obligations under this Agreement without the prior written consent of the other Party. Any purported transfer in contravention of this Clause 10.14 shall be null and void ab initio.

## 11. COUNTERPARTS

This Agreement may be executed by the Parties in any number of counterparts and on separate counterparts, each of which when so executed shall be deemed an original but all of which shall constitute one and the same instrument and be binding on the Parties.

## 12. GOVERNING LAW AND JURISDICTION

12.1 This Agreement is governed by and shall be construed in accordance with the laws of Hong Kong and each Party hereby submits to the non-exclusive jurisdiction of the courts of Hong Kong and accordingly any legal action or proceedings arising out of or in connection with this Agreement (“**Proceedings**”) may be brought in such courts. Each Party irrevocably submits to the jurisdiction of such courts and waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission by each Party is made for the benefit of the other Party and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

12.3 The Company agrees that the process by which any legal proceedings in Hong Kong are begun may be served on it by being delivered to it at its then principal place of business in Hong Kong.

## SCHEDULE 1

### Particulars of the Company

1. Registered Number : 15584
2. Registered Office : Clarendon House, Church Street, Hamilton  
HM11, Bermuda  
  
Head office and principal place of business : 41st Floor, New World Tower I, 16-18 Queen's  
Road Central, Hong Kong
3. Date of Incorporation : 21 May 1990  
  
Place of Incorporation : Bermuda
4. Business Registration Certificate No. : 14185545-000
5. Business : Mining
6. Directors : **Executive directors**  
Lo Lin Shing, Simon  
Yvette Ong  
  
**Non-executive director**  
To Hin Tsun, Gerald  
  
**Independent non-executive directors**  
Lau Wai Piu  
Tsui Hing Chuen, William  
Peter Pun
7. Secretary : Tang Chi Kei
8. Authorised Share Capital : HK\$300,000,000.00 divided into 15,000,000,000  
shares of HK\$0.02 each  
  
Issued Share Capital : HK\$135,130,956.56 divided into 6,756,547,828  
ordinary shares of HK\$0.02 each
9. Financial year-end : 31 March

**SCHEDULE 2**

**Conditions**

**THE CERTIFICATE**

Amount: HK\$[●]

Certificate No. CN00[●]

**MONGOLIA ENERGY CORPORATION LIMITED**

(the "**Company**")

*(Incorporated in Bermuda with limited liability)*

**3% CONVERTIBLE NOTE DUE 201[9]**

**THIS IS TO CERTIFY** that the Company shall pay to [SUBSCRIBER], having its registered office at [registered office of the Subscriber], being the registered holder (the "**Noteholder**") of this Note, on the Maturity Date (as defined in Condition 1 of the Conditions referred to below) or on such earlier date as such sum may become due and payable in accordance with the terms and conditions endorsed hereon (the "**Conditions**") upon presentation of this Note the principal sum of HK\$[value amount] in accordance with the Conditions unless the principal sum is fully or partially redeemed, repaid or repurchased or converted into Shares (as defined in the Conditions) at HK\$[] per Share, subject to Adjustment (as defined in the Conditions), in accordance with the Conditions. Subject to Condition 2.13, no security will be provided by the Company in respect of its obligations under this Note.

Title to this Note passes only on due registration on the register of noteholders of the Company and only the duly registered holder of this Note is entitled to payment on this Note.

**GIVEN** under the Seal of **MONGOLIA ENERGY CORPORATION LIMITED** on this [            ].

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Director

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Secretary



## TERMS AND CONDITIONS

This Note is issued by Mongolia Energy Corporation Limited (the “**Company**”) and is convertible into Shares and shall be held subject to and with the benefit of the terms and conditions set out below. In this Note, the words and expressions set out below shall have the meanings attributed to them below unless the context otherwise required:

- “**Adjustment**” means any adjustment to the Conversion Price pursuant to Condition 6.
- “**authorised denomination(s)**” means HK\$1,000.
- “**Business Day**” means a day (excluding Saturday, Sunday, any public holiday and any day on which a tropical cyclone warning no.8 or above is hoisted or remains hoisted between 9:00 a.m. and 12:00 noon and is not lowered at or before 12:00 noon or on which a "black" rainstorm warning is hoisted or remains in effect between 9:00 a.m. and 12:00 noon and is not discontinued at or before 12:00 noon)) on which licensed banks in Hong Kong are generally open for business.
- “**CCASS**” means the Central Clearing and Settlement System operated by the Hong Kong Securities Clearing Company Limited.
- “**Change of Control**” occurs when: (i) any person or persons (other than Lo Lin Shing, Simon, Chow Tai Fook Nominee Limited and their respective associates and parties acting in concert), acting together, acquires control, directly or indirectly, of the Company provided that such person or persons (other than Lo Lin Shing, Simon, Chow Tai Fook Nominee Limited and their respective associates and parties acting in concert) does not or do not have, and would not be deemed to have, control of the Company on the Issue Date; or (ii) the Company consolidates with or merges into or sells or transfers all or substantially all of the assets of the Company to any other person or persons, acting together.
- “**closing price per Share**” means on any given date the closing price per Share as quoted on the daily quotation sheet of the Stock Exchange, or, if the Stock Exchange begins to operate on an extended hours basis and does not designate the closing price, then the last traded price of the Shares prior to 4:00 p.m. on that day. If such closing price cannot be calculated for the Shares on a particular date on the foregoing bases, the closing price per Share on such date shall be the fair market value as mutually determined by the Company and the Noteholder. If the Company and the Noteholder are unable to agree upon the fair market value of the Shares, then it shall be determined in good faith by a financial adviser (as defined in Condition 6.2).

<b>“Companies Ordinance”</b>	means the Companies Ordinance, Chapter 622 of the Laws of Hong Kong, as amended, supplemented and/or replaced from time to time.
<b>“Company”</b>	means Mongolia Energy Corporation Limited, a company incorporated in Bermuda with limited liability and the issued Shares of which are listed on the main board of the Stock Exchange.
<b>“Conditions”</b>	means the terms and conditions attached to or endorsed on this Note and <b>“Condition”</b> refers to the relative numbered paragraph of the Conditions.
<b>“Conversion Notice”</b>	means the notice setting out the exercise of the Conversion Rights by the Noteholder in accordance with Condition 7.1, the form of which is set out in Appendix A hereto.
<b>“Conversion Price”</b>	means the initial price of HK\$[] per Share, subject to the Adjustment, from time to time, if any.
<b>“Conversion Rights”</b>	means the rights attached to this Note to convert the principal amount and any accrued but unpaid interest thereon or any part thereof into Shares.
<b>“Conversion Shares”</b>	means the Shares to be issued by the Company under this Note, whether upon exercise by the Noteholder of the Conversion Rights, or otherwise pursuant to the Conditions.
<b>“Event of Default”</b>	means any of the events or circumstances set out under Condition 9 hereof.
<b>“Exercise Date”</b>	means a date on which the Conversion Notice is given.
<b>“HK\$” and “cents”</b>	means Hong Kong dollars and cents, respectively, the lawful currency of Hong Kong.
<b>“Hong Kong”</b>	means the Hong Kong Special Administrative Region of the People’s Republic of China.
<b>“Issue Date”</b>	means the date of issue of this Note by the Company.
<b>“Listing Rules”</b>	means the Rules Governing the Listing of Securities on the Stock Exchange.
<b>“Material Subsidiary”</b>	means any subsidiary of the Company: <ul style="list-style-type: none"> <li>(a) whose gross revenue (consolidated in the case of a subsidiary which itself has subsidiaries) or whose gross assets (consolidated in the case of a subsidiary which itself has subsidiaries) represent not less than 5 per cent. of the consolidated gross revenue, or, as the case may be, the consolidated gross assets of the Company and its subsidiaries taken as a whole, all as calculated respectively by reference to</li> </ul>

the latest audited financial statements (consolidated or, as the case may be, unconsolidated) of the subsidiary and the then latest audited consolidated financial statements of the Company, provided that:

- (i) in the case of a subsidiary acquired after the end of the financial period to which the then latest audited consolidated financial statements of the Company relate for the purpose of applying each of the foregoing tests, the reference to the Company's latest audited consolidated financial statements shall be deemed to be a reference to such audited financial statements as if such subsidiary had been shown therein by reference to its then latest relevant audited financial statements, adjusted as deemed appropriate by the auditor for the time being, of the Company after consultation with the Company; and
  - (ii) if at any relevant time in relation to the Company or any subsidiary no financial statements are prepared and audited, its gross revenue and gross assets (consolidated, if applicable) shall be determined on the basis of pro forma consolidated financial statements (consolidated, if applicable) prepared for this purpose by the Company; and
  - (iii) if the financial statements of any subsidiary (not being a subsidiary referred to in proviso (i) above) are not consolidated with those of the Company, then the determination of whether or not such subsidiary is a Material Subsidiary shall be based on a pro forma consolidation of its financial statements (consolidated, if appropriate) with the consolidated financial statements (determined on the basis of the foregoing) of the Company; or
- (b) to which is transferred all or substantially all of the business, undertaking and assets of another subsidiary which immediately prior to such transfer is a Material Subsidiary, whereupon (i) in the case of a transfer by a Material Subsidiary, the transferor Material Subsidiary shall immediately cease to be a Material Subsidiary and (ii) the transferee subsidiary shall immediately become a Material Subsidiary, provided that on or after the date on which the relevant financial statements for the financial period current at the date of such transfer are published, whether such transferor subsidiary or such transferee subsidiary is or is not a Material Subsidiary shall be determined pursuant to the provisions of sub-paragraph (a) above.

A report by two of the directors of the Company that in their opinion (making such adjustments (if any) as they shall deem appropriate) a subsidiary is or is not or was or was not at any particular time or during any particular period a Material Subsidiary

shall, in the absence of manifest error, be conclusive, final and binding on the Company and the Noteholder.

- “Maturity Date”** has the meaning ascribed to it in Condition 1.
- “month”** means the reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next succeeding calendar month provided that if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last day in that later month.
- “New CTF Convertible Note”** means 3% convertible note due 2019 issued by the Company to Chow Tai Fook Nominee Limited on the date hereof convertible into Shares.
- “New SF Convertible Notes”** means 3% convertible notes due 2019 issued by the Company to Sculptor Finance (MD) Ireland Limited, Sculptor Finance (AS) Ireland Limited and Sculptor Finance (SI) Ireland Limited on the date hereof convertible into Shares.
- “Note”** means the 3% convertible note due 2019 in the principal amount of HK\$[ ] issued by the Company to the Noteholder on the Issue Date with the benefit and subject to the Conditions.
- “Noteholder”** means the holder, for the time being, of this Note appearing in the register of noteholders of the Company as the registered holder of this Note.
- “outstanding”** means this Note issued except (a) that which has been redeemed in accordance with the Conditions; (b) that in respect of which the date for redemption has occurred and the redemption moneys and all accrued interest have been duly paid to or to the order of the Noteholder in accordance with the Conditions; (c) that in respect of which claims have become prescribed under Condition 8.6; (d) that which has been purchased and cancelled by the Company or any of its subsidiaries as provided in the Conditions; (e) that in respect of which the Conversion Right has been duly exercised and discharged (and, for the avoidance of doubt, this Note in respect of which an Exercise Date has occurred shall be deemed to remain outstanding until the Conversion Right has been satisfied and discharged even if the holder is removed from the register of noteholders of the Company during the conversion process); (f) that mutilated or defaced Note which has been surrendered and cancelled and in respect of which replacement has been issued pursuant to Condition 13; (g) any Certificate to the extent that it shall have been exchanged for another Certificate in respect of this Note pursuant to its provisions; and provided that for the purposes of determining whether this Note is outstanding for the purposes of these Conditions, this Note which is beneficially held by or on behalf of the Company or any of its subsidiaries and not yet cancelled shall (unless no longer so held) be deemed not to remain outstanding.

<b>“Outstanding Convertible Notes”</b>	means the New CTF Convertible Note and the New SF Convertible Notes.
<b>“Outstanding Obligations”</b>	means Outstanding Convertible Notes and /or Outstanding Options as the context permits or requires.
<b>“Outstanding Options”</b>	means outstanding options which entitle the holders thereof to subscribe for [] Shares pursuant to the share option schemes of the Company adopted in accordance with Chapter 17 of the Listing Rules.
<b>“person”</b>	includes any individual, company, corporation, firm, partnership, joint venture, undertaking, association, organisation, trust, state or agency of a state (in each case whether or not being a separate legal entity) but does not include the Company’s board of directors or any other governing board and does not include the Company’s wholly-owned direct or indirect subsidiaries.
<b>“Redemption Notice”</b>	means the notice of redemption given by the Company to the Noteholder pursuant to Condition 1.3, the form of which is set out in Appendix C hereto.
<b>“Relevant Date”</b>	means whichever is the later of (a) the date on which such payment first becomes due and (b) if the full amount payable has not been received by the Noteholder on or prior to such due date, the date on which, the full amount having been so received, notice to that effect shall have been given to the Noteholder and cheque(s) despatched or payment made.
<b>“Relevant Indebtedness”</b>	means any indebtedness which is in the form of, or represented or evidenced by, bonds, notes, debentures, loan stock, bearer participation certificates, depositary receipts, certificates of deposit or other similar securities or instruments which for the time being are, or are intended to be or are capable of being, quoted, listed, dealt in or traded on any stock exchange or over-the-counter or other securities market (whether or not initially distributed by way of private placement).
<b>“Restricted Holder”</b>	means a person who is a resident or national of any jurisdiction other than Hong Kong under the laws and regulations of which an exercise of the Conversion Rights by the Noteholder or the performance by the Company of the obligations expressed to be assumed by it under the Conditions or the allotment and issue and holding of the Conversion Shares cannot be carried out lawfully or cannot be carried out lawfully without the Company first having to take certain actions in such jurisdiction.
<b>“Share(s)”</b>	means ordinary share(s) of HK\$[0.02] each in the share capital of the Company as at the Issue Date and all other (if any) stock or shares from time to time and for the time being ranking <i>pari passu</i> therewith and all other (if any) shares or stock resulting from any sub-division, consolidation or re-classification thereof.

“Shareholder(s)”	means holder(s) of the Shares.
“Stock Exchange”	means The Stock Exchange of Hong Kong Limited.
“subsidiary”	of any person means (a) any company or other business entity of which that person owns or controls (either directly or through one or more other subsidiaries) more than 50 per cent. of the issued share capital or other ownership interest having ordinary voting power to elect directors, managers or trustees of such company or other business entity, or (b) any company or other business entity which at any time has its accounts consolidated with those of that person or which, from time to time, under the law or regulations of the jurisdiction of incorporation of such person or generally accepted accounting principles properly adopted by such person, should have its accounts consolidated with those of that person.
“Takeovers Code”	means The Hong Kong Code on Takeovers and Mergers.
“trading day”	means a day on which the Shares are traded on the Stock Exchange for a minimum of three (3) hours.
“Voting Rights”	means the rights generally to vote at a general meeting of shareholders of the Company (irrespective of whether or not, at the time, stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency).

The expressions “**Company**” and “**Noteholder**” shall where the context permits include their respective successors and permitted assigns.

In this Note, unless the context requires otherwise:-

- (i) words importing the singular include the plural and vice versa;
- (ii) words importing gender or the neuter include both genders and the neuter;
- (iii) references to this Note or any other document shall be construed as references to such document as the same may be amended or supplemented from time to time; and
- (iv) all times and dates herein refer to Hong Kong local times and dates.

Condition headings are inserted for reference only and shall be ignored in construing the terms of this Note.

In this Note, unless where the context requires otherwise, words and phrases the definitions of which are contained or referred to in the Companies Ordinance shall be construed as having the meaning thereby attributed to them.

## 1. Maturity

- 1.1 Subject as provided herein, the outstanding principal amount of this Note shall, unless previously redeemed, repaid or converted into Shares or purchased and cancelled in accordance with the Conditions, be redeemed in accordance with the Conditions on [*To insert fifth anniversary of Issue Date*] or such later date as consented by the Noteholder (the “**Maturity Date**”).
- 1.2 The Company or any of its subsidiaries may at any time and from time to time repurchase this Note or any part thereof at any price, in the open market or otherwise, as may be agreed between the Company or such subsidiary and the Noteholder. This Note so purchased shall forthwith be cancelled by the Company.
- 1.3 The Company may, at any time after the Issue Date on giving to the Noteholder not less than ten (10) Business Days' notice in writing (the “**Redemption Notice**”), elect to redeem the whole or any part of this Note (in the authorised denominations) then outstanding. On the date of redemption as specified in the Redemption Notice, the Company shall effect payment of the principal amount of this Note to be redeemed together with all interest accrued on the principal amount of this Note thereby redeemed up to (but excluding) the date of payment of the aforesaid redemption monies in accordance with the provisions of Condition 4.2, against delivery of the certificate for this Note (which the Noteholder is obliged to deliver to the Company upon such redemption) for cancellation or (in the case of partial redemption) for endorsement by the Company to record the reduced outstanding principal amount of this Note immediately after such redemption.

## 2. **Status of this Note, Transferability and Purpose, Negative Pledge**

- 2.1 This Note is freely transferable and may (subject to the provisions of this Condition 2) be transferred to any person, subject to the Listing Rules (and any other stock exchange on which the issued Shares may be listed at the relevant time) and all applicable laws and regulations.
- 2.2 Any assignment or transfer of this Note shall be of the whole or any part (being an authorised denomination) of the outstanding principal amount of this Note. Title to this Note passes only upon the entry on the register of noteholders of the Company of the relevant transfer. The Company shall use its best endeavours to facilitate any such assignment or transfer of this Note, including but not limited to making any necessary applications to the Stock Exchange for approval, if required under the Listing Rules.
- 2.3 In relation to any assignment and/or transfer of this Note permitted under or otherwise pursuant to this Condition 2:
  - (a) This Note (or any part thereof in authorised denominations) may only be transferred by execution of a form of transfer (“**Transfer Form**”) substantially in the form annexed hereto as Appendix B (or in such other form as may be approved by the Company, such approval not to be unreasonably withheld or delayed, either generally or on a case-by-case basis) by the Transferor and the transferee (or their duly authorised representatives). In this Condition, “**Transferor**” shall, where the context permits or requires, include joint transferors and shall be construed, accordingly.
  - (b) This Note must be delivered to the Company for cancellation accompanied by: (i) a duly completed and executed (and if required, duly stamped) Transfer Form; and (ii) proof satisfactory to the Company, of the authority of the person or persons to execute and deliver this Note and the related Transfer Form and (if

relevant) contract notes and (if relevant) a copy of the constitutional document of such transferor. The Company shall, within three (3) Business Days of receipt of such documents from the Noteholder, cancel this Note and issue a new Note under the seal of the Company in favour of the transferee or assignee in respect of the outstanding principal amount of this Note so transferred and, if this Note is assigned or transferred in part only in authorised denominations, issue a new Note under the seal of the Company in favour of the Transferor in respect of any balance thereof retained by the Transferor.

- (c) The new Note issued pursuant to Condition 2.3(b) shall be delivered by registered mail or delivered by hand, in each case at the risk of the holder entitled thereto, to the address specified (in the case of transferee) in the Transfer Form or (in the case of the Transferor) in the register of noteholders of the Company as its correspondence address or (in the absence of which) its registered address, or (at the election of the Company) be made available for collection by the holder entitled thereto at the address of the Company as shown in Condition 14(b).
- 2.4 Registration of transfers of this Note in accordance with this Condition shall be effected without charge by or on behalf of the Company, but upon payment (or the giving of such indemnity as the Company may reasonably require) in respect of any taxes, duties or other government charges which may be imposed in relation to such transfer.
- 2.5 The Company shall not be required to register the transfer of this Note (or any part thereof in authorised denominations) (i) during the period of seven (7) days up to and including the due date for any payment of principal or premium, if any, on this Note; or (ii) in respect of which a Conversion Notice has been given in accordance with Condition 7.1.
- 2.6 Any legal and other administrative costs and expenses (including any registration costs arising from the transfer of this Note) which may be incurred by the Company in connection with any transfer or assignment of this Note (or any part thereof in authorised denominations) or any request therefor shall be borne by the Company but upon payment (or the giving of such indemnity as the Company may reasonably require) in respect of any taxes, duties or other government charges which may be imposed in relation to such transfer.
- 2.7 The obligations of the Company arising under this Note constitute general, unconditional, unsubordinated obligations of the Company and rank, and shall rank equally among themselves and *pari passu* with all other present and future unsecured and unsubordinated obligations of the Company except for obligations accorded preference by mandatory provisions of applicable law. This Note is issued with the benefit of and subject to the Conditions.
- 2.8 Subject to Condition 2.13, the obligations of the Company under this Note are unsecured.
- 2.9 No application shall be made for a listing of this Note on any stock exchange.
- 2.10 The Noteholder shall (except as otherwise required by law) be treated as the absolute owner of this Note for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or any writing on, or the theft or loss of, this Note) and no person shall be liable for so treating the Noteholder.
- 2.11 The Company will cause the register of noteholders to be kept outside Hong Kong on

which shall be entered the name and address of the holder of this Note and the particulars of this Note held by it and of all transfers, redemptions and conversions of this Note. The Noteholder shall be entitled to receive only one Certificate in respect of its entire holding of this Note.

- 2.12 The Company shall, subject to Condition 2.13, be at liberty to issue further bonds, notes and other securities, including but not limited to notes ranking *pari passu* with this Note.
- 2.13 So long as this Note remains outstanding, the Company will not, and will ensure that none of its subsidiaries will create, or have outstanding, any mortgage, charge, lien, pledge or other security interest upon the whole or any part of its present or future undertaking, assets or revenues (including any uncalled capital) to secure any Relevant Indebtedness, or any guarantee or indemnity in respect of any Relevant Indebtedness, without at the same time or prior thereto according to this Note the same security as is created or subsisting to secure any such Relevant Indebtedness, guarantee or indemnity or such other security as shall be approved by the Noteholder (such approval not to be unreasonably withheld or delayed).

### **3. Interest**

- 3.1 Subject as hereinafter provided, interest will accrue on the principal amount of this Note from and including the Issue Date thereof up to but excluding the Maturity Date at the rate specified in Condition 3.2 and, unless previously redeemed, repaid or converted into Shares, payable in arrear on the Maturity Date. This Note will cease to bear interest (a) where the Conversion Right attached to it shall have been exercised by the Noteholder, from and including the Exercise Date, or (b) where this Note is redeemed, repaid or purchased and cancelled pursuant to these Conditions, from and including the due date for redemption, repayment or purchase and cancellation thereof unless, upon due presentation thereof, payment of principal is improperly withheld or refused. In such event, it will continue to bear interest at 3 per cent. per annum above the rate as specified in Condition 3.2 (both before and after judgment) from and including the due date to but excluding the date on which all sums due in respect of this Note are paid by the Company to the Noteholder.
- 3.2 Interest shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed in a year of 365 days, at the rate of 3 per cent. per annum on the principal amount of this Note from time to time outstanding.

### **4. Payments**

- 4.1 All payments by the Company under this Note shall be paid in Hong Kong dollars to the registered Noteholder and shall be made in immediately available funds free and clear of any withholdings or deductions for any present or future taxes, imposts, levies, duties or other charges in respect of this Note. In the event that the Company is required by any applicable law to make any such deduction or withholding from any amount paid, the Company shall pay to the Noteholder such additional amount as shall be necessary so that the Noteholder continues to receive a net amount equal to the full amount which it would have received if such withholding or deduction had not been made.
- 4.2 All payments by the Company shall be made, not later than 3:00 pm on the due date, by remittance to such bank account as the Noteholder may notify the Company in writing from time to time (provided that any such notice shall be given no less than three (3)

Business Days prior to the date on which any payment is due to be made by the Company) or by such other method as may be agreed between the Company and the Noteholder provided that the Company shall not be responsible for any loss of or additional interest in respect of this Note due to the Noteholder giving inaccurate or late remittance instructions.

- 4.3 If the due date for payment of any amount in respect of this Note is not a Business Day, the Noteholder shall be entitled to payment on the next following Business Day in the same manner without any accrued interest in respect of such delay.

## 5. Conversion

- 5.1 Subject to Conditions 5.6 and 5.7 and the receipt of the Conversion Notice by the Company, the Noteholder shall have the right to convert on any Business Day from the Issue Date and up to the Business Day immediately prior to the Maturity Date, the whole or any part of this Note (comprising the outstanding principal amount and any accrued but unpaid interest thereon) (with a minimum aggregate amount of HK\$1,000,000 and authorised denomination(s) integral multiples thereof save that if at any time the aggregate outstanding amount of this Note held by the Noteholder is less than HK\$1,000,000, the whole (but not part only) of the aggregate outstanding amount of this Note may be converted) into Shares at any time and from time to time at the Conversion Price (subject to Adjustment), so that the number of Shares which fall to be issued (subject to Condition 5.2) shall be calculated by applying the formula:

$$n = \frac{x}{y}$$

where n = number of Shares to be issued  
x = the aggregate principal amount of this Note to be converted together with any accrued but unpaid interest thereon up to but excluding the Exercise Date  
y = the Conversion Price applicable on the Exercise Date

- 5.2 No fraction of a Share shall be issued on conversion of this Note nor will any moneys be paid in respect of such fraction of a Share. Fractional entitlements shall be ignored and any sum paid in respect thereof shall be retained by the Company for its own benefit. Shares issued upon conversion pursuant to Condition 5.1 shall be **credited as fully paid and non-assessable and** shall rank *pari passu* in all respects with all other existing Shares outstanding at the Exercise Date and be entitled to all dividends and other distributions the record date of which falls on a date on or after the Exercise Date.
- 5.3 In the event that immediately after the exercise of any Conversion Rights, an obligation to make a general offer in respect of the securities of the Company under the Takeovers Code is triggered, the Noteholder hereby agrees and undertakes that it shall forthwith comply with all relevant provisions under the Takeovers Code.
- 5.4 The right of the Noteholder to the repayment of the outstanding principal amount of this Note and any accrued but unpaid interest thereon, and premium (if any), being converted shall be extinguished and released upon the Conversion Right being fully satisfied and discharged in accordance with these Conditions.

- 5.5 No Conversion Shares may be received by any person who is a Restricted Holder.
- 5.6 Notwithstanding anything herein contained, if the issue of the Conversion Shares pursuant to the exercise of the Conversion Right attaching to this Note would result in the Company failing to meet its obligation under the Listing Rules to maintain the minimum prescribed percentage of the Shares which must at all times remain in public hands (as defined in the Listing Rules) (the “**Public Float Requirement**”), then such Conversion Right shall be deemed to have been exercised pursuant to such Conversion Notice such that the Company shall issue the maximum number of Conversion Shares under such Conversion Notice without breaching the Public Float Requirement. Any limitation on a Conversion Right with respect to a Conversion Notice under this Condition 5.6 shall be without prejudice whatsoever to any later exercise of the Conversion Rights pursuant to a subsequent Conversion Notice.
- 5.7 The Noteholder hereby agrees and acknowledges that the exercise of the Conversion Rights shall at all times be subject to the exercise of the conversion rights by the holders of the New SF Convertible Notes and the Company will, upon receipt of any Conversion Notice, give notice to the holders of the New SF Convertible Notes who will be entitled to issue a conversion notice within seven (7) Business Days following the delivery of such notice by the Company to exercise their conversion rights attaching to the New SF Convertible Notes in priority to the exercise of the Conversion Rights by the Noteholder hereunder.

## 6. Adjustments

- 6.1 Subject as hereinafter provided, the Conversion Price shall from time to time be adjusted in accordance with the following relevant provisions and if the event giving rise to any such adjustment shall be that which would be capable of falling within more than one of the sub-paragraphs (a) to (i) inclusive of this Condition 6.1, it shall, unless the context otherwise requires, fall within the first of the applicable sub-paragraphs to the exclusion of the remaining sub-paragraphs:

- (a) If and whenever the Shares, by reason of any consolidation, reclassification or sub-division, become of a different nominal amount, the Conversion Price in force immediately prior thereto shall be adjusted by multiplying it by the following fraction:

$$\frac{A}{B}$$

where           A    =   the revised nominal amount  
                   B    =   the former nominal amount

Each such adjustment shall be effective from the close of business in Hong Kong on the day the consolidation, reclassification or sub-division becomes effective.

- (b) If and whenever the Company shall issue (other than in lieu of a cash dividend) any Shares credited as fully paid by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve fund), the Conversion Price in force immediately prior to such issue shall be adjusted by multiplying it by the following fraction:

$$\frac{C}{D}$$

where C = the aggregate nominal amount of the issued Shares immediately before such issue

D = the aggregate nominal amount of the issued Shares immediately after such issue

Each such adjustment shall be effective (if appropriate, retroactively) from the date of such issue of Shares.

- (c) In the case of an issue of Shares by way of a Scrip Dividend (as defined in Condition 6.2) where the aggregate market price on the date of announcement of the terms of the issue of such Shares multiplied by the number of such Shares issued exceeds the amount of the Relevant Cash Dividend (as defined in Condition 6.2) or the relevant part thereof, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the issue of such Shares by the following fraction:

$$\frac{A+B}{A+C}$$

where:

A is the aggregate number of Shares in issue immediately before such Scrip Dividend;

B is the aggregate number of Shares which the Relevant Cash Dividend would purchase at such market price; and

C is the aggregate number of Shares to be issued pursuant to such Scrip Dividend;

or by making such other adjustment as a financial advisor shall certify to the Noteholder is fair and reasonable.

Such adjustment shall become effective on the date of issue of such Shares or if the number of such Shares is fixed on announcement and if a record date is fixed therefor, immediately after such record date.

- (d) If and whenever the Company shall make any Capital Distribution (as defined in Condition 6.2) (except where, and to the extent that, the Conversion Price has been adjusted under sub-paragraph (b) above) to the Shareholders (in their capacity as such) (whether on a reduction of capital or otherwise) or shall grant to such Shareholders rights to acquire for cash assets of the Company or any of its subsidiaries, the Conversion Price in force immediately prior to such distribution or grant shall be adjusted by multiplying it by the following fraction:

$$\frac{E - F}{E}$$

where E = the Market Price (as defined in Condition 6.2) of the Share on the date on which the Capital Distribution or, as the case may

be, the grant is publicly announced or (failing any such announcement) the date next preceding the date of the Capital Distribution or, as the case may be, of the grant

F = the fair market value (as defined in Condition 6.2) on the day of such announcement or (as the case may require) the date immediately preceding the date of the Capital Distribution or, as the case may be, of the grant, as determined in good faith by a financial adviser or the auditors of the Company for the time being, of the portion of the Capital Distribution or of such rights which is attributable to one Share

provided that if in the opinion of the relevant financial adviser or auditors of the Company (as the case may be), the use of the fair market value as aforesaid produces a result which is significantly inequitable, it may instead determine, and in such event the above formula shall be construed as if F meant the amount of the said market price which should properly be attributed to the value of the Capital Distribution or rights.

Each such adjustment shall be effective (if appropriate, retroactively) on the date that such Capital Distribution is made or if a record date is fixed therefor, immediately after such record date.

- (e) If and whenever the Company shall, after the date hereof, offer to the Shareholder new Shares for subscription by way of rights, or shall grant to the Shareholders by way of rights any options (other than pursuant to a share option scheme of the Company), warrants or other rights to subscribe for or purchase any Shares at a price which is less than the Market Price at the date of the announcement of the terms of such offer or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the date of the announcement of such offer or grant by the following fraction:

$$\frac{G + \frac{H \times I}{J}}{G + H}$$

where G = the number of Shares in issue immediately before the date of such announcement

H = the maximum aggregate number of Shares so offered for subscription or comprised in the options or warrants or other rights to subscribe for new Shares

I = the amount (if any) payable for the rights, options or warrants or other rights to subscribe for each new Share, plus the subscription price payable for each new Share

J = the Market Price at the date of such announcement

Such adjustment shall become effective (if appropriate, retroactively) on the date of issue of such securities.

- (f) If and whenever the Company shall issue securities (other than Shares or options, warrants or other rights to subscribe for, purchase or otherwise acquire Shares) to all or substantially all Shareholders as a class by way of rights, or shall issue or grant to all or substantially all Shareholders as a class by way of rights, options, warrants or other rights to subscribe for, purchase or otherwise acquire any securities (other than Shares or options, warrants or other rights to subscribe for, purchase or otherwise acquire Shares), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such issue or grant by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Market Price of one Share on the date on which such issue or grant is publicly announced; and  
B is the fair market value on the date of such announcement of the portion of the rights attributable to one Share as determined in good faith by a financial adviser or the auditors for the time being of the Company.

Such adjustment shall become effective on the date of issue of the securities, or issue or grant of such rights, options or warrants (as the case may be) or where a record date is set, the first date on which the Shares are traded ex-rights, ex-options or ex-warrants as the case may be on the Stock Exchange.

- (g) If and whenever the Company shall issue (otherwise than as mentioned in Condition 6.1(e)) wholly for cash any Shares (other than Shares issued on the exercise of Conversion Rights or on the exercise of any other rights of conversion into, or exchange or subscription for, or purchase of Shares) or issue or grant (otherwise than as mentioned in Condition 6.1(e)) wholly for cash any options, warrants or other rights to subscribe for, purchase or otherwise acquire any Shares (other than this Note), in each case at a price per Share which is less than 90% of the Market Price on the date of the first public announcement of the terms of such issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such issue by the following fraction:

$$\frac{A+B}{A+C}$$

where:

- A is the aggregate number of Shares in issue immediately before the issue of such additional Shares or the issue or grant of such options, warrants or other rights to subscribe for, purchase or otherwise acquire any Shares;  
B is the number of Shares which the aggregate consideration (if any) receivable for the issue of such additional Shares or, as the case may be, for the Shares to be issued or otherwise made available upon the exercise of any such options, warrants or rights, would purchase at such Market

- Price per Share; and
- C is the number of Shares to be issued pursuant to such issue of such Shares or, as the case may be, the maximum number of Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights.

Such adjustment shall become effective on the date of issue of such additional Shares or, as the case may be, the grant of such options, warrants or other rights.

- (h) (i) If and whenever the Company shall issue wholly for cash any securities which by their terms are (directly or indirectly) convertible into or exchangeable for or carry rights of subscription for new Shares (other than this Note), and the Total Effective Consideration per Share (as defined below in this sub-paragraph (h)) initially receivable for such securities is less than 90% of the Market Price per Share at the date of the announcement of the terms of issue of such securities, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the issue by a fraction of which the numerator is the number of Shares in issue immediately before the date of the issue plus the number of Shares which the Total Effective Consideration receivable for the securities issued would purchase at such Market Price per Share and the denominator is the number of Shares in issue immediately before the date of the issue plus the number of Shares to be issued upon conversion or exchange of, or the exercise of the subscription rights conferred by, such securities, at the initial conversion or exchange rate or subscription price. Such adjustment shall become effective (if appropriate, retrospectively) on the date of issue of such securities.
- (ii) If and whenever the rights of conversion or exchange or subscription attached to the New CTF Convertible Note, the New SF Convertible Notes or any such securities as are mentioned in section (i) of this sub-paragraph (h) are modified so that the Total Effective Consideration (as defined below in this sub-paragraph (h)) per Share is less than 90% of the Market Price per Share at the date of announcement of the proposal to modify such rights of conversion or exchange or subscription, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such modification by a fraction of which the numerator is the number of Shares in issue immediately before the date of such modification plus the number of Shares which the Total Effective Consideration receivable for the securities issued at the modified conversion or exchange price would purchase at such Market Price per Share and of which the denominator is the number of Shares in issue immediately before such date of modification plus the number of Shares to be issued upon conversion of or the exercise of the subscription rights conferred by such securities at the modified conversion or exchange rate or subscription price. Such adjustment shall take effect as at the date upon which such modification takes effect. A right of conversion or exchange or subscription shall not be treated as modified for the foregoing purposes where it is adjusted in accordance with the terms of such securities.

For the purposes of this sub-paragraph (h), the "Total Effective Consideration" receivable for the securities issued shall be deemed to be the consideration receivable by the Company for any such securities plus the additional minimum consideration (if any) to be received by the Company upon (and assuming) the conversion or exchange thereof or the exercise of such subscription rights, and the Total Effective Consideration per Share initially receivable for such securities shall be such aggregate consideration divided by the number of Shares to be issued upon (and assuming) such conversion or exchange at the initial conversion or exchange rate or the exercise of such subscription rights at the initial subscription price, in each case without any deduction for any commissions, discounts or expenses paid, allowed or incurred in connection with the issue.

- (i) If and whenever the Company or any of its subsidiaries or (at the direction or request of or pursuant to any arrangements with the Company or any of its subsidiaries) any other company, person or entity shall offer any securities in connection with which Shareholders as a class are entitled to participate in arrangements whereby such securities may be acquired by them (except where the Conversion Price falls to be adjusted under Conditions 6.1(b) to 6.1(h)(i) or would fall to be so adjusted if the relevant issue or grant was at 90% less than the Market Price per Share on the relevant Trading Day), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the making of such offer by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Market Price of one Share on the date on which the terms of such offer are first publicly announced; and  
B is the fair market value on the date of such announcement (less any consideration payable for the same by the Shareholders) of the portion of the relevant offer attributable to one Share as determined in good faith by a financial adviser or the auditors of the Company on the date of such announcement.

Such adjustment shall become effective on the first date on which the Shares are traded ex-rights on the Stock Exchange.

6.2 For the purposes of this Condition 6.1:

“**announcement**” means the release of an announcement to the public through the Company’s website and/or the Stock Exchange’s website and “date of announcement” means the date on which the announcement is first so released;

“**Capital Distribution**” shall mean distributions in cash or specie (whenever paid or made and however described) (and for these purposes a distribution of assets in specie includes without limitation an issue of shares or other securities credited as fully or partly paid (other than Shares credited as fully paid to the extent an adjustment to the Conversion Price is made in respect thereof under Condition 6.1(b)) by way of capitalisation of reserves and including any Scrip Dividend to the extent of the Relevant Cash Dividend). Any dividend charged or provided for in the accounts for any financial period shall (whenever paid and however described) be deemed to be a Capital

Distribution, unless (and only to the extent that) in the case of a cash dividend paid out of the aggregate of the net profits (less losses) attributable to the Shareholders does not, when taken together with any other cash dividend previously made or paid in respect of the same fiscal year, exceed 3% of the Market Capitalisation of the Company on the date of announcement of such dividend. For such purposes, “**Market Capitalisation**” means the product of (i) the closing price per Share and (ii) the issued share capital of the Company on such date;

“**financial adviser**” means an independent financial adviser registered under the Securities and Futures Ordinance in Hong Kong selected by the Company and approved by the Noteholder (which approval shall not be unreasonably withheld or delayed) for the purpose of providing a specific opinion or calculation or determination under these Conditions;

“**fair market value**” means, with respect to any asset, security, option, warrant or other right on any date, the fair market value of that asset, security, option, warrant or other right as determined by a financial adviser, provided that (i) the fair market value of a cash dividend paid or to be paid per Share shall be the amount of such cash dividend per Share determined as at the date of announcement of such dividend; (ii) where options, warrants or other rights are publicly traded in a market of adequate liquidity (as determined by such financial adviser) the fair market value of such options, warrants or other rights shall equal the arithmetic mean of the daily closing prices of such options, warrants or other rights during the period of five trading days on the relevant market commencing on the first such trading day such options, warrants or other rights are publicly traded;

“**issue**” shall include allot;

“**Market Price**” means the average of the closing prices per Share for each of the last five (5) trading days ending on such trading day last preceding the day on or as of which the Market Price is to be ascertained provided that on any such trading day where such closing price per Share is not available or cannot otherwise be determined in accordance with these Conditions, the Market Price of a Share in respect of such trading day shall be the closing price per Share, determined as provided above, on the immediately preceding trading day on which the same can be so determined;

“**Relevant Cash Dividend**” means the aggregate cash dividend or distribution declared by the Company including any cash dividend in respect of which there is any Scrip Dividend.

“**reserves**” includes unappropriated profits;

“**rights**” includes rights in whatsoever form issued; and

“**Scrip Dividend**” means any Shares issued in lieu of the whole or any part of any Relevant Cash Dividend being a dividend which the Shareholders concerned would or could otherwise have received (and for the avoidance of doubt to the extent that an adjustment is made under Condition 6.1(d) in respect of the Relevant Cash Dividend, an adjustment may also be made for the amount by which the market price of the Shares exceeds the Relevant Cash Dividend or part thereof) under Condition 6.1(c)).

- 6.3 Without prejudice to Condition 6.1, if the Company shall at any time or from time to time prior to conversion of this Note issue or sell any Shares or any options, warrants or other securities that are directly or indirectly convertible into, or exercisable or exchangeable for, such Shares (“**Equity Securities**”) at a price per Share (“**New Issue Price**”) that is less than the Conversion Price, then in effect as of the record date or issue date of such Equity Securities, as the case may be (treating the price per Share, in the case of the issuance of any Equity Securities, as equal to (x) the sum of the price for such Equity Securities plus any additional consideration payable (without regard to any anti-dilution adjustments) upon the conversion, exchange or exercise of such Equity Securities divided by (y) the number of Shares initially underlying such Equity Securities, other than issuance of any Shares upon conversion of this Note), the Conversion Price then in effect before the date of announcement of such issue or sale shall be adjusted in accordance with the following formula:

$$\text{NCP} = \text{OCP} - \left( \frac{\text{A}}{\text{B}} \times \text{C} \right)$$

where:

NCP means the new Conversion Price.

OCP means the Conversion Price in effect before the date of announcement of such issue or sale

A is maximum aggregate number of Shares so issued or sold or comprised in the option, warrants or other securities that are directly or indirectly convertible into, or exercisable or exchangeable for, such Shares

B is the number of Shares in issue immediately before such issue or sale

C means the difference between the OCP and the New Issue Price (provided that such difference shall not be less than zero)

Such adjustment shall be made whenever such Equity Securities are issued, and shall become effective retroactively (x) in the case of an issuance to Shareholders, as such, to a date immediately following the close of business on the record date for the determination of Shareholders entitled to receive such Equity Securities and (y) in all other cases, on the date of such issuance; provided, however, that the determination as to whether an adjustment is required to be made pursuant to this Condition 6.3 shall be made upon the issuance of Equity Securities, and not upon the issuance of any security into which the Equity Securities convert, exchange or may be exercised.

If at any time any Equity Securities or any rights or options to purchase any Equity Securities shall be issued or sold for cash, the consideration received therefor shall be deemed to be the amount received by the Company therefor, without deduction therefrom of any expenses incurred or any underwriting commissions or concessions or discounts paid or allowed by the Company in connection therewith. If Equity Securities or any rights or options to purchase any Equity Securities shall be issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Company shall be deemed to be the fair market value of such consideration, without deduction therefrom of any expenses incurred or any underwriting commissions or concessions or discounts paid or allowed by the Company in connection therewith.

The Company undertakes that it will not issue any Equity Securities if and to the extent that such issuance or sale will result in the Company being unable to comply with the adjustment provisions of Condition 6.1 or 6.3 or in breach of the Listing Rules or

applicable laws and regulations, and for the avoidance of doubt, a breach of this paragraph shall entitle the Noteholder to remedies expressly set out in the Conditions only.

- 6.4 The provisions of sub-paragraphs (b), (c), (d), (e), (f), (g), (h) and (i) of Condition 6.1 and Condition 6.3 shall not apply to:
- (a) an issue of fully paid Shares upon the exercise of any conversion rights attached to securities convertible into Shares (including any conversion of any part of this Note) or upon exercise of any rights to acquire Shares provided that an Adjustment (if required) has been made under this Condition 6 in respect of the issue of such securities or granting of such rights (as the case may be);
  - (b) an issue of Shares or other securities of the Company or any subsidiary of the Company wholly or partly convertible into, or rights to acquire, Shares to eligible persons prescribed under any share option scheme of the Company; or
  - (c) an issue of Shares on conversion of part or the whole of the Outstanding Obligations in accordance with the terms of the relevant Outstanding Obligation.
- 6.5 Any Adjustment to the Conversion Price shall be made to the nearest one cent so that any amount under half a cent shall be rounded down and any amount of half of a cent or more shall be rounded up.
- 6.6 Notwithstanding anything contained herein, no Adjustment shall be made to the Conversion Price in any case:
- (a) in which the amount by which the same would be reduced in accordance with the foregoing provisions of this Condition would be less than one cent and any Adjustment that would otherwise be required to be made shall not be carried forward; and/or
  - (b) if, as a result of such Adjustment, the Conversion Price shall fall below the then nominal value of each Share unless Condition 8.4 has been complied with.
- 6.7 Whenever the Conversion Price is adjusted as herein provided, the Company shall as soon as reasonably practicable give notice of the same to the Noteholder (setting forth the event giving rise to the Adjustment, the Conversion Price in effect prior to such Adjustment, the adjusted Conversion Price and the effective date thereof).
- 6.8 Any Adjustment shall not involve an increase in the Conversion Price (except upon any consolidation of the Shares pursuant to Condition 6.1(a)).
- 6.9 Every Adjustment shall be certified in writing either by the auditors of the Company for the time being or by a financial adviser (as defined in Condition 6.2).
- 6.10 For so long as this Note remains outstanding, the Company shall make available for inspection at its principal place of business in Hong Kong at all times after the effective date of the Adjustment a signed copy of the certificate of the auditors of the Company or a financial adviser setting forth brief particulars of the event giving rise to the Adjustment, the Conversion Price in effect prior to the Adjustment, the adjusted

Conversion Price and the effective date thereof and shall, on request, send a copy thereof to the Noteholder.

- 6.11 If the Company or any subsidiary of the Company shall in any way modify the rights attached to any share or loan capital so as to convert wholly or partly or make convertible such share or loan capital into, or attach thereto any rights to acquire, Shares, the Company shall consider whether any Adjustment is appropriate and if it is decided that any such Adjustment is appropriate, the Conversion Price shall be adjusted accordingly and the provisions of Conditions 6.4, 6.5, 6.6, 6.7, 6.8, 6.9 and 6.10 shall apply.
- 6.12 Notwithstanding the provisions of Condition 6.1, in any circumstances where the directors of the Company or the Noteholder shall consider that an adjustment to the Conversion Price provided for under the said provisions should not be made or should be calculated on a different basis or that an adjustment to the Conversion Price should be made notwithstanding that no such adjustment is required under the said Condition or that an adjustment should take effect on a different date or with a different time from that provided for under the provisions, the Company or the Noteholder may consider whether for any reason whatsoever the adjustment to be made (or the absence of adjustment) would or might not fairly and appropriately reflect the relative interests of the persons affected thereby and, if the Company or the Noteholder shall consider this to be the case, the Company or the Noteholder (as the case may be) shall inform the other party as soon as possible and failing agreement between the Company and the Noteholder on the aforesaid, they shall jointly engage the auditors of the Company or a financial adviser (costs to be shared equally between the Company and the Noteholder) to certify in its opinion as to whether the adjustment shall be modified or nullified or an adjustment should be made instead of no adjustment being made in such manner (including without limitation, making an adjustment calculated on a different basis) and/or the adjustment shall take effect from such other date and/or time as shall be certified by the auditors of the Company or a financial adviser to be appropriate and the Noteholder and the Company jointly agree to apply such determination by the auditors of the Company or a financial adviser for the purpose of calculating the Conversion Price as adjusted and/or making and/or modifying and/or nullifying and/or confirming any adjustment.

## **7. Procedure for Conversion and Share Issue**

- 7.1 The Conversion Rights may, subject as provided herein, be exercised on any Business Day from the Issue Date and up to the Business Day immediately prior to the Maturity Date, by the Noteholder delivering the Conversion Notice (at its own expense during normal business hours) to the Company in accordance with Condition 14 stating the intention of the Noteholder to convert this Note into Shares. The Conversion Notice shall be in the form set out under Appendix A annexed to the Conditions.
- 7.2 The Noteholder shall pay all taxes and stamp duty, issue and registration duties (if any) and levies and charges (if any) (“**Duties**”) arising on any conversion of this Note including taxes imposed in respect of net income by a taxing jurisdiction wherein it is incorporated or resident for tax purposes (other than any Duties payable in Bermuda and/or Hong Kong by the Company in respect of the allotment and issue of Shares and listing of the Conversion Shares on the Stock Exchange. The Company will pay all other expenses arising on the issue of Shares on conversion of this Note and all charges of the

share transfer agent for the Shares.

- 7.3
- (a) The Conversion Shares shall be allotted and issued by the Company, credited as fully paid and non-assessable on its Hong Kong branch share register, to the Noteholder or as it may direct in writing, within seventeen (17) Business Days after, and with effect from, the later of the Exercise Date or the date on which the original certificate for this Note is delivered to and received by the Company for cancellation.
  - (b) The Company will, if the Noteholder has also requested in the Conversion Notice and to the extent permitted under the rules and procedures of CCASS effective from time to time, take all necessary action to procure that Conversion Shares are delivered through CCASS and credited to the relevant securities account of the Noteholder for so long as the Shares are listed on the Stock Exchange; or will make the certificate(s) (either in a single or multiple instruments) for the Conversion Shares to which the Noteholder shall become entitled in consequence of any conversion shall be issued and made available for collection at the Company's address specified in Condition 14, in each case within the seventeen (17) Business Day period provided for in sub-paragraph (a) above.
  - (c) On any partial conversion of this Note, the Noteholder will attend during normal business hours at the principal place of business of the Company in Hong Kong specified in Condition 14 with the certificate representing this Note and shall join in endorsing the certificate representing this Note with the amount of the relevant outstanding amount of this Note so converted.

## **8. Protection of the Noteholder**

- 8.1 So long as this Note is outstanding, unless with prior written approval of the Noteholder, which approval shall not be unreasonably withheld or delayed:
- (a) the Company shall from time to time keep available for issue, free from pre-emptive rights, out of its authorised but unissued capital sufficient Shares to satisfy in full the Conversion Rights at the Conversion Price and all other rights for the time being outstanding of subscription for and conversion into Shares;
  - (b) other than as a result of, or in circumstances where, an offer made to holders of Shares to acquire all or any proportion of the Shares becoming unconditional, the Company shall use its best endeavours to:
    - (i) maintain a listing for all the issued Shares on the Stock Exchange or on such other internationally recognised stock exchange (an "alternative stock exchange") as the Company may from time to time determine; and
    - (ii) obtain and maintain a listing on the Stock Exchange (or an alternative stock exchange) for all the Conversion Shares issued on the exercise of the Conversion Rights;
  - (c) the Company shall ensure that all Conversion Shares shall be duly and validly issued fully paid and registered;

- (d) as soon as possible and in any event not later than seven (7) Business Days after the announcement of the full terms of any event which would give rise to an Adjustment pursuant to Condition 6 (or, if later, as soon as the relevant Adjustment thereunder can reasonably be determined), give notice to the Noteholder advising it of the date on which the relevant Adjustment is likely to become effective and of the effect of exercising the Conversion Rights pending such date;
- (e) the Company shall comply with and procure the compliance of all conditions imposed by the Stock Exchange or by any other competent authority (in Hong Kong or elsewhere) for approval of the issue of this Note or for the listing of and permission to deal in the Conversion Shares issued or to be issued on the exercise of the Conversion Rights and the continued compliance thereof (provided in each case that the Noteholder complies with and satisfies all such conditions to the extent the same are applicable to the Noteholder);
- (f) the Company shall not in any way modify the rights attached to the Shares as a class or attach any special restrictions thereto;
- (g) the Company shall procure that at no time shall there be in issue Shares of differing nominal values;
- (h) the Company shall not issue or pay up any securities by way of capitalisation of profits or reserves other than (i) by the issue of fully paid Shares to the Shareholders; or (ii) as mentioned in Condition 6.1(b); or (iii) by the issue of Shares in lieu of a cash dividend in the manner referred to in Condition 6.1(c);
- (i) the Company shall not, without first having given prior written notice to the Noteholder of its intention to do so, create or permit to be in issue any share capital other than Shares, provided that nothing in this Condition 8.1(i) shall prevent (i) any consolidation, reclassification or sub-division of the Shares; or (ii) the issue of share capital which does not participate in dividend or in respect of a certain financial period but is *pari passu* in all other respects with the Shares which in each case has been appropriately adjusted in accordance with these Conditions;
- (j) the Company shall procure that (i) no securities issued by the Company shall be converted into Shares or exchanged for Shares except in accordance with the terms of issue thereof, and (ii) no securities issued by the Company without rights to convert into Shares or to be exchanged for Shares shall subsequently be granted such rights;
- (k) the Company shall not, subject as hereinafter provided, make any reduction or redemption of share capital, share premium account or capital redemption reserve involving the repayment of money to shareholders (other than to shareholders having the right on a winding-up to a return of capital in priority to the holders of Shares) or reduce any uncalled liability in respect thereof unless, in any such case, the same gives rise (or would, but for the provisions of Condition 6.4 or 6.5 give rise) to an Adjustment of the Conversion Price in accordance with Condition 6; and

- (l) the Company shall not enter into any deed, agreement, assignment, instrument or documents whatsoever which may result in any breach of any of the Conditions.

If any of the provisions or restrictions in this Condition 8.1 is or becomes invalid, unenforceable or illegal in any respect under the laws of any relevant jurisdiction, the relevant part of this Condition shall be severed from the other parts of the Conditions, and neither the validity, enforceability or legality of such other provisions under the laws of that jurisdiction, nor the validity, enforceability or legality of all such provisions under the laws of other jurisdictions shall in any way be thereby affected or impaired.

- 8.2 In the event of the consolidation or amalgamation of the Company with, or merger of the Company into, any other corporation (other than a consolidation, amalgamation or merger in which the Company is the continuing corporation), or in the case of any sale or transfer of all or substantially all of the assets of the Company, the Company shall forthwith give notice of such event to the Noteholder.
- 8.3 If an offer is made to all holders of Shares (or such holders other than the offeror and/or any company controlled by the offeror and/or persons associated or acting in concert with the offeror) to acquire all or a portion of the Shares and such offer comes to the knowledge of the Company, the Company shall forthwith give notice of such offer to the Noteholder and shall use all its reasonable endeavours to procure that a similar offer is extended in respect of this Note or in respect of any Conversion Shares during the period of the offer.
- 8.4 The Company shall not do any act or engage in any transaction the result of which, having regard to the provisions of Condition 6, would be to reduce the Conversion Price to below the nominal amount of a Share unless:
- (a) the bye-laws of the Company shall be in such form, or shall have been altered or added to in such manner, as may be necessary or appropriate to enable the following provisions of this Condition 8.4 to be implemented; and
  - (b) implementation of such provisions is not prohibited by and is in compliance with the laws of the place of incorporation of the Company.
- 8.5 The Company shall not close its register of shareholders for more than ten (10) Business Days each year (in addition to any period required by law or regulation including the Listing Rules) or take any other action which prevents the transfer of its Shares generally unless, under the laws of Hong Kong and Bermuda and the bye-laws of the Company as then in effect, this Note may be converted legally into Shares and the Shares so converted may be transferred at all times during the period of such closure. The Company shall not take any action which prevents the conversion of this Note or delivery of Shares in respect thereof.
- 8.6 Claims in respect of amounts due in respect of this Note shall be prescribed and become void unless made within six years from the appropriate Relevant Date.

## 9. Events of Default

If any of the following events ("**Events of Default**") occurs, the Noteholder may give notice in writing that this Note is immediately due and payable at its principal amount then outstanding together with any accrued and unpaid interest calculated up to and

excluding the date of payment (the giving of which notice is the sole remedy of the Noteholder):

- (a) the listing of the Shares (as a class) on the main board of the Stock Exchange:-
  - (i) ceases permanently; or
  - (ii) is suspended for a continuous period of twenty-one (21) Business Days on each of which the Stock Exchange is generally open for trading (due to the default of the Company or any of its directors, officers or employees);
- (b) there is a Change of Control;
- (c) the Company fails to pay in accordance with the terms of this Note, any sums hereunder when due unless non-payment of such sums is due solely to administrative or technical error and such failure is not remedied for seven (7) Business Days after the Noteholder has given notice thereof to the Company;
- (d) an order is made or an effective resolution passed for the winding-up or dissolution, judicial management or administration of the Company or any of its Material Subsidiaries (except for a members' voluntary solvent winding up of a Material Subsidiary), or the Company or any of its Material Subsidiaries ceases or threatens to cease to carry on all or substantially all of its business or operations, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation (i) on terms approved by the Noteholder, or (ii) in the case of a Material Subsidiary, whereby the undertaking and assets of such subsidiary are transferred to or otherwise vested in the Company or another of its subsidiaries; or
- (e) any decree or order is made by any competent court adjudging the Company or any of its Material Subsidiaries insolvent or bankrupt under the insolvency or bankruptcy laws of any jurisdiction to which it may be subject or any order or application is made for the appointment of any liquidator, receiver, trustee, curator or sequestrator or other similar official of the Company or any of its Material Subsidiaries in respect of all or substantial part of its or their respective assets and which is not discharged within thirty (30) days (save for the purposes of an amalgamation, merger or reconstruction not involving insolvency);
- (f) the Company or any of its Material Subsidiaries is unable to pay its debts as they fall due; stops payment to creditors generally or ceases or threatens to cease to carry on its business or any substantial part thereof; proposes or enters into any composition, arrangement with or any assignment for the benefit of its creditors generally;
- (g) any consent, licence, approval or authorisation of any governmental agency of any country or state or political subdivision thereof required for or in connection with the execution, delivery, performance, legality, validity, enforceability or admissibility in evidence of this Note is revoked or withheld or materially modified in a manner which, shall materially and adversely affect the ability of the Company to perform its obligations under this Note or otherwise ceases to be in full force and effect; or

- (h) if it is or becomes impossible or unlawful in Hong Kong for the Company to fulfill any of its payment obligations contained in this Note; or
- (i) any failure by the Company to deliver any Shares as and when the Shares are required to be delivered following conversion of this Note; or
- (j) the Company does not perform or comply with any one or more of its other obligations in this Note (other than in respect of those obligations described in Condition 9(c) or 9(i)) which default is incapable of remedy or, if capable of remedy, is not remedied within forty-five (45) days after written notice of such default shall have been given to the Company by the Noteholder; or
- (k) (A) any other present or future indebtedness of the Company or any of its Material Subsidiaries for or in respect of moneys borrowed or raised becomes (or becomes capable of being declared) due and payable prior to its stated maturity by reason of any actual default or event of default or the like (howsoever described), or (B) any such indebtedness is not paid when due or, as the case may be, within any applicable grace period, or (C) the Company or any of its Material Subsidiaries fails to pay when due any amount payable by it under any present or future guarantee for, or indemnity in respect of, any moneys borrowed or raised, provided that the aggregate amount of the relevant indebtedness, guarantees and indemnities in respect of which one or more of the events under (A) to (C) mentioned above in this Condition have occurred equals or exceeds HK\$50,000,000 or its equivalent (as reasonably determined on the basis of the middle spot rate for the relevant currency against the HK dollar as quoted by any leading bank on the day on which such indebtedness becomes due and payable or is not paid or any such amount becomes due and payable or is not paid under any such guarantee or indemnity); or
- (l) a distress, attachment, execution or other legal process is levied or enforced against any material part of the property, assets or revenues of the Company or any of its Material Subsidiaries and is not discharged or stayed within sixty (60) days;
- (m) any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by the Company or any of its Material Subsidiaries becomes enforceable and any step is taken to enforce it (including the taking of possession or the appointment of a receiver, manager or other similar person) and such enforcement is not discharged or stayed within sixty (60) days; or
- (n) (provided that the Noteholder is the Subscriber or an Affiliate (as defined in the Subscription Agreement) of the Subscriber) the Company breaches any of Clauses 2 to 4, 5.1(a) to 5.1(r)(except Clause 5.1(o)), 5.1(ii), and 5.6 to 5.8 of the Subscription Agreement,

provided that notwithstanding the foregoing, if the Company shall fail to issue the Conversion Shares in accordance with the Conditions, the Noteholder shall be entitled to bring an action against the Company for specific performance.

## 10. Most Favoured Treatment

The Company shall not amend the pari passu ranking tenor, interest rate, conversion price, adjustment provisions to the conversion price, the conversion right, the negative pledge and the events of default provision under the New CTF Convertible Note and the New SF Convertible Notes or insert any additional provisions which are, in the opinion of the Noteholder, on terms and conditions more favourable to this Note unless at the same time:

- (a) the Company offers to amend this Note the effect of which is to give the benefit of such more favourable terms and conditions to the Noteholder; and
- (b) to the extent the Noteholder accepts such offer, the Company executes such amendment.

## **11. Voting**

The Noteholder shall not be entitled to receive notices of, attend or vote at any meetings of the Company by reason only of it being the Noteholder.

## **12. Experts**

In giving any certificate or making the Adjustment, the auditors of the Company or (as the case may be) any financial adviser (as defined in Condition 6.2) appointed shall be deemed to be acting as experts and not as arbitrators and, in the absence of manifest error, their decision shall be conclusive and binding on the Company and the Noteholder and all persons claiming through or under them respectively.

## **13. Replacement Note**

13.1 If the certificate for this Note is lost or mutilated, the Noteholder shall forthwith notify the Company and a replacement certificate shall be issued if the Noteholder provides the Company with:

- (a) a declaration by the Noteholder or its officer that the certificate for this Note had been lost or mutilated (as the case may be) or other evidence that the certificate for this Note had been lost or mutilated, together with the mutilated certificate for this Note (if applicable); and
- (b) an appropriate indemnity in such form and content as the Company may reasonably require.

13.2 The certificate for this Note replaced in accordance with this Condition shall forthwith be cancelled. All reasonable administrative costs and expenses associated with the preparation, issue and delivery of a replacement certificate for this Note shall be borne by the Noteholder.

## **14. Notices**

Any notice, demand or other communication required or permitted to be given by or under this Note shall be in writing and delivered or sent to the relevant party at the address or facsimile number shown below:

(a) in the case of the Noteholder, at the following address:

Facsimile :  
Attention :

(b) in the case of the Company, at the following address:

Facsimile :  
Attention :

or to such other Hong Kong address or facsimile number as the Company may have notified to the Noteholder or vice versa pursuant to this Condition and may be given by sending it by registered post or by hand to such address or to such other address as the party concerned may have notified to the other party in accordance with this Condition and such notice shall be deemed to have been served on the day of delivery (or on the immediately following Business Day, if the day of delivery is not a Business Day or if the delivery or transmission is made after 5:00 p.m.), or in the case of registered post, 48 hours after posting, or if sooner, upon acknowledgement of receipt by or on behalf of the party to which it is addressed. Acknowledgement in writing of receipt of a notice by or on behalf of a Party, signed or initialled by any employee of such party, shall be evidence that such notice has been duly served in accordance with this Condition.

#### **15. Amendment**

The terms and conditions of this Note may be varied, expanded or amended by agreement in writing between the Company and the Noteholder.

#### **16. Governing Law and Jurisdiction**

This Note and the Conditions are governed by and shall be construed in accordance with the laws of Hong Kong and each of the Company and the Noteholder hereby submits to the non-exclusive jurisdiction of the courts of Hong Kong and accordingly any legal action or proceedings arising out of or in connection with this Note (“**Proceedings**”) may be brought in such courts as regards any claim or matter arising under this Note. The Company irrevocably submits to the jurisdiction of such courts and waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of the Noteholder and shall not limit its right to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

*The rest of this page is intentionally left blank.*

## Appendix A

### Conversion Notice

The undersigned hereby irrevocably elects to convert the following principal amount and accrued but unpaid interest thereon of the convertible note (the "**Convertible Note**") attached hereto issued to us on [date] into shares of HK\$[0.02] each in Mongolia Energy Corporation Limited (the "**Company**") in accordance with the terms and conditions of the Convertible Note (the "**Conditions**") and the terms below.

Convertible Note No.: \_\_\_\_\_

Principal Amount of the Convertible Note: HK\$ \_\_\_\_\_  
(the Convertible Note must be attached to this notice)

Accrued but unpaid interest up to date hereof: HK\$ \_\_\_\_\_

Amount to be converted: HK\$ \_\_\_\_\_

Exercise Date: \_\_\_\_\_  
(the date this notice is given, or deemed to be given, by the Noteholder)

Applicable Conversion Price: \_\_\_\_\_

Name in which Shares to be issued: \_\_\_\_\_

Address of shareholder: \_\_\_\_\_

Securities account details (if Shares to be delivered into CCASS): \_\_\_\_\_

Signature of Noteholder: \_\_\_\_\_

Name of Noteholder: \_\_\_\_\_

The undersigned hereby irrevocably and unconditionally represents and warrants to the Company that it is duly authorised to exercise the Conversion Rights and that the person to which the Company will issue the Conversion Shares is a not a Restricted Holder nor a connected person (as defined in the Listing Rules) of the Company.

Unless the context requires otherwise, capitalised terms used in this notice have the same meaning as defined in the Conditions.

**Appendix B**

**TRANSFER FORM**

**3% CONVERTIBLE NOTE DUE 2019**

Terms defined in the enclosed Note (as it may be amended from time to time) shall bear the same meaning in this Transfer Form.

FOR VALUE RECEIVED the undersigned transferor (the "Transferor") hereby transfers to the transferee (the "Transferee") whose particulars are set out below the principal amount of HK\$\_\_\_\_\_ of the enclosed Note, and all rights in respect thereof and hereby irrevocably requests the Company to register and to issue new Note in accordance with the terms of the Note (as it may be amended from time to time).

Particulars of the Transferee are as follows:-

(PLEASE PRINT OR TYPE IN THE RELEVANT INFORMATION)

Name of Transferee:	
Registered Office:	
Correspondence Address:	
Facsimile:	
HK dollar registered account for the purposes of payments under the Note:	<ul style="list-style-type: none"><li>• Name of Account</li><li>• Account No.</li><li>• Sort Code:</li><li>• Name of Bank:</li><li>• Address of Bank:</li></ul>

In connection with any transfer of this Note:

[Check One]

- (a) this Note is being transferred to the Company;
- (b) this Note is being transferred pursuant to and in accordance with Rule 144A under the U.S. Securities Act of 1933, as amended (the "**Securities Act**") and, accordingly, the undersigned does hereby further certify that this Note is being transferred to a person that the undersigned reasonably believes is purchasing this Note for its own account, or for one or more accounts with respect to which such person exercises sole investment discretion, and such person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A, in each case in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities laws of any state of the United States;
- (c) this Note is being transferred pursuant to and in accordance with Regulation S and:
  - (A) the offer of this Note was not made to a person in the United States; and

- (B) either:
- (i) at the time the buy order was originated, the transferee was outside the United States or the undersigned and any person acting on its behalf reasonably believed that the transferee was outside the United States, or
  - (ii) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither the undersigned nor any person acting on its behalf knows that the transaction was prearranged with a buyer in the United States; and
- (C) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or 904(b) of Regulation S, as applicable; and
- (D) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act;
- (d) this Note is being transferred in a transaction permitted by Rule 144 and the undersigned has delivered to the Company such additional evidence that the Company may require as to compliance with such available exemption; or
- (e) the undersigned did not purchase this Note as part of the initial distribution thereof and the transfer is being effected pursuant to and in accordance with an applicable exemption (other than (a) through (d) above) from the registration requirements under the Securities Act and the undersigned has delivered to the Company such additional evidence that the Company may require as to compliance with such available exemption.

If none of the foregoing boxes is checked, the Company shall not be obligated to register this Note in the name of any Person other than the Holder hereof unless and until the conditions to any such transfer or registration set forth herein shall have been satisfied.

**TO BE COMPLETED BY TRANSFEREE IF (b) ABOVE IS CHECKED.**

The undersigned Transferee represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the Transferor is relying upon the undersigned Transferee's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

The Transferee hereby irrevocably represents, warrants and undertakes to the Company that it and its ultimate beneficial owner(s) are not connected persons (as defined in the Listing Rules) of the Company.

**NOTICE: TRANSFER FORM TO BE EXECUTED BY A DULY AUTHORISED OFFICER OF EACH OF THE TRANSFEROR AND THE TRANSFEREE**

Dated:  
Transferor's Name:

Transferee's Name:

\_\_\_\_\_  
Transferor's authorised signature:

\_\_\_\_\_  
Transferee's authorised signature:

\_\_\_\_\_  
Witness to Transferor's signature:

\_\_\_\_\_  
Witness to Transferee's signature:

[signature]

[signature]

\_\_\_\_\_  
name

\_\_\_\_\_  
name

*Notes:*

- 1. A representative of the Noteholder should state the capacity in which he signs (e.g. director).*
- 2. In the case of joint holders, all joint holders must sign this transfer form.*
- 3. The signature of the person effecting a transfer shall conform to any list of duly authorised specimen signatures supplied by the registered holder or be certified by a recognised bank, notary public or in such other manner as the Company may require.*
- 4. A transfer must be in an amount equal to the whole of this Note being transferred or an authorised denomination.*
- 5. The Transferee hereby confirms and acknowledges that in making an investment decision, it has relied solely on its own examination of the Company and the terms of this Note and the Shares and it has consulted its own tax legal and business or other professional advisers to the extent it deems necessary, including any "connected person" issues under the Listing Rules.*

**Appendix C**

**REDEMPTION NOTICE**

[Date]

To: [Name of Noteholder]  
[Address]

Dear Sirs,

We hereby elect to redeem the following principal amount of the convertible note (the "Note") issued by us to you dated [ ● ] in accordance with the Conditions (as defined in the Note) and the terms below.

Principal amount to be redeemed: \_\_\_\_\_

Balance of the principal amount: \_\_\_\_\_

Redemption date: \_\_\_\_\_

Interest accrued on the principal amount  
to be redeemed up to the redemption date: \_\_\_\_\_

Total amount (comprising principal and interest accrued thereon)  
to be paid on the redemption date: \_\_\_\_\_

Yours faithfully,  
For and on behalf of  
Mongolia Energy Corporation Limited

\_\_\_\_\_  
[Name]  
Director/[Title of authorised officer]

### **SCHEDULE 3**

#### **Completion Requirements**

##### **1. Obligations of the Company**

At Completion, the Company:-

- (a) shall deliver to the Subscriber a certified copy of the board resolutions of the Company approving and authorising the execution and completion of this Agreement and the issue of the Certificates in respect of the Note to the Subscriber;
- (b) shall issue the Note at full face value in favour of the Subscriber in the amount as set out against its name in column 2 of Schedule 4 and shall deliver to the Subscriber or as it may direct the Certificate in respect of the Note duly issued in favour of the Subscriber and register the Subscriber in the register of the noteholders of the Company in accordance with the Conditions; and
- (c) shall deliver to the Subscriber evidence to the reasonable satisfaction of the Subscriber of the fulfilment of the Conditions Precedent set out in Clause 3.1.

##### **2. Obligations of the Subscriber**

At Completion and against compliance by the Company with paragraph 1 in this Schedule 3, the Subscriber shall deliver to the Company:

- (a) a written acknowledgement and confirmation in the form attached as Schedule 7 that the amount of the Subscription Price as is set out against its name in column 2 of Schedule 4 has been applied and paid to it to settle the aggregate outstanding amount due and owing under the Convertible Notes and that all obligations and liabilities of the Company under the Convertible Notes have been fully discharged, extinguished and waived (as applicable); and
- (b) the original of the certificates in respect of the Convertible Notes for cancellation by the Company.
- (c) a certified copy of a certificate of incumbency dated the date of Completion in respect of itself.

**SCHEDULE 4**

**Subscriber**

<b>Subscriber</b>	<b>The Subscription Price at which the Subscriber will pay for the Note</b>
Golden Infinity Co., Ltd.	the price equivalent to the entire aggregate outstanding amount (including the aggregate principal amount and any outstanding accrued interest up to the Completion Date) owing by the Company to it under the Convertible Notes

**SCHEDULE 5**

**Form of Certificate Confirming No Material Adverse Change**

[ON THE LETTERHEAD OF THE COMPANY]

To: [The Subscriber]  
[ADDRESS]

[Date]

Dear Sirs,

**SUBSCRIPTION AGREEMENT RELATING TO SUBSCRIPTION OF 3%  
CONVERTIBLE NOTE DUE 2019**

Pursuant to the Subscription Agreement dated [●] 2014 (the “**Agreement**”) made between (1) Mongolia Energy Corporation Limited (the “**Issuer**”) and (2) yourselves as Subscriber, I hereby confirm, on behalf of the Issuer, that save as disclosed in the Agreement, as at today’s date (i) the Warranties are true, accurate and correct in all respects and not misleading in any respect at, and as if made on, today’s date with reference to the facts and circumstances subsisting as at such date; and (ii) the Issuer has performed all of its obligations under the Agreement to be performed on or before today’s date; and (iii) there has been no change (nor any development or event involving a prospective change) which is materially adverse to the financial condition or results of operations of the Issuer and the Group taken as a whole.

Unless the context otherwise requires, terms defined in the Agreement shall have the same meanings in this certificate.

Yours faithfully

For and on behalf of  
**Mongolia Energy Corporation Limited**

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[Name]  
Director/[Title of authorised officer]

**SCHEDULE 6**

**Form of Certificate Confirming No Default**

[ON THE LETTERHEAD OF THE COMPANY]

To: [The Subscriber]  
[ADDRESS]

[Date]

Dear Sirs,

**SUBSCRIPTION AGREEMENT RELATING TO SUBSCRIPTION OF 3%  
CONVERTIBLE NOTE DUE 2019**

Pursuant to the Subscription Agreement dated [●] 2014 (the “**Agreement**”) made between (1) Mongolia Energy Corporation Limited (the “**Issuer**”) and (2) yourselves as Subscriber, I hereby confirm, on behalf of the Issuer, that save as disclosed in the Agreement, as at today’s date, neither the Issuer nor any of its subsidiaries is in breach of or in default (nor has any event occurred which, with the giving of notice and/or the passage of time and/or the fulfilment of any other requirement would result in a default by the Issuer or any of its subsidiaries) under the terms of any agreement or other instrument or any obligation to which it is a party or to which their respective assets are bound.

Unless the context otherwise requires, terms defined in the Agreement shall have the same meanings in this certificate.

Yours faithfully

For and on behalf of  
**Mongolia Energy Corporation Limited**

\_\_\_\_\_  
[Name]  
Director/[Title of authorised officer]

**SCHEDULE 7**

**Form of Acknowledgement and Confirmation**

To: Mongolia Energy Corporation Limited  
41/F.,  
New World Tower 1,  
16-18 Queen's Road Central,  
Hong Kong.

[Date]

Dear Sirs,

**Re: Subscription Agreement dated [       ] 2014 relating to subscription of 3% convertible note due 2019 (the "Subscription Agreement")**

Unless the context otherwise requires, terms defined in the Subscription Agreement shall have the same meanings in this acknowledgement and confirmation.

We refer to completion of the Subscription Agreement to be taken place today.

We, the Subscriber, hereby acknowledge and confirm that the amount of the Subscription Price in the sum of HK\$[                    ] has been applied and paid to us to settle the aggregate outstanding amount owing by the Company to us under the Convertible Notes.

We, the Subscriber, hereby further acknowledge and confirm that all the respective obligations and liabilities of the Company under the Convertible Notes have been fully discharged, extinguished and waived (as applicable).

Yours faithfully

For and on behalf of  
**Golden Infinity Co., Ltd.**

\_\_\_\_\_  
[Name of the Director], director

IN WITNESS whereof this Agreement has been duly executed on the date first above written.

SIGNED by *Mr. Lo Lin Shing, Simon* )  
 )  
duly authorised director for and on behalf of )  
**MONGOLIA ENERGY** )  
**CORPORATION LIMITED** )  
in the presence of:- )



SIGNED by *Mr. Lo Lin Shing, Simon* )  
 )  
duly authorised for and on behalf of )  
**GOLDEN INFINITY CO., LTD.** )  
in the presence of:- )

