

**PRIVATE & CONFIDENTIAL**

BETWEEN

**CHINA KINGSTONE MINING HOLDINGS LIMITED**  
(THE “COMPANY”)

AND

**ADVANCE OPPORTUNITIES FUND VCC**  
(acting for and on behalf of and for the account of  
AOF Hong Kong Opportunities Fund)  
 (“AOF VCC”)

AND

**ADVANCE OPPORTUNITIES FUND I**  
 (“AOF I”)

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**AMENDED AND RESTATED SUBSCRIPTION AGREEMENT**  
relating to the issue of 2.0% redeemable convertible notes  
in aggregate nominal value of up to HKD200,000,000

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**AMENDED AND RESTATED  
SUBSCRIPTION AGREEMENT**

**THIS AGREEMENT** is made on this 8th day of November **2023**.

**BETWEEN**

- (1) **CHINA KINGSTONE MINING HOLDINGS LIMITED** (Hong Kong Stock Code 1380 and bearing Bermuda Company Registration Number 51756), a company incorporated in the Cayman Islands and continued in Bermuda and having its registered office at Victoria Place, 5<sup>th</sup> Floor, 31 Victoria Street, Hamilton HM10, Bermuda (the “**Company**”);

**AND**

- (2) **ADVANCE OPPORTUNITIES FUND VCC** (UEN: T22VC0307) (acting on behalf of and for the account of AOF Hong Kong Opportunities Fund (Sub-Fund No.: T22VC0307-SF003)), an umbrella variable capital company incorporated in the Republic of Singapore and having its registered office at 77 Robinson Road, #06-03, Robinson 77, Singapore 068896 (“**AOF VCC**”);

**AND**

- (3) **ADVANCE OPPORTUNITIES FUND I** (Cayman Islands Company Registration Number 308364), a company incorporated in the Cayman Islands and having its registered office at Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman, KY1-1111, Cayman Islands (“**AOF I**”),

(collectively, the “**Parties**” and each a “**Party**”).

**WHEREAS**

- (A) The Company is listed on the Main Board of the HKEx.
- (B) The Company proposes to issue to AOF VCC and AOF I (the “**Subscribers**” and each, a “**Subscriber**”) 2.0% redeemable convertible notes with an aggregate nominal value of up to HKD200,000,000, comprising two (2) equal tranches of a nominal value of HKD100,000,000 each (collectively, the convertible notes shall be referred to as the “**Notes**” and individually, the two (2) tranches of the Notes shall be referenced to as “**T1**” and “**T2**”). Each tranche of the Notes shall comprise of fifty (50) equal sub-tranches of HKD2,000,000 each (“**ST01**” to “**ST50**”). The Notes shall entitle the holder thereof to interest at the rate of 2.0% per annum calculated based on the aggregate nominal value of the Notes held, and on the terms and conditions set out in this Agreement, be convertible into ordinary shares in the capital of the Company listed on the Main Board of the HKEx.
- (C) The Company and the Subscribers entered into a subscription agreement dated 22 September 2023 (the “**Original Agreement**”) in relation to, among other things, the Notes. Upon the entering into this Agreement, the Original Agreement shall be superseded and replaced by the terms of this Agreement.
- (D) The Parties are entering into this Agreement to set out the terms and conditions in respect of this transaction.

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

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement, except to the extent that the context requires otherwise, the following terms shall have the following respective meanings:

**"ACP"** means Advance Capital Partners Pte. Ltd. (Singapore Company Registration Number 200506044H), a company incorporated in Singapore and having its registered address at 10 Anson Road, #25-06, International Plaza, Singapore 079903;

**"Administrative Fee"** has the meaning ascribed to it in Clause 5.1(b);

**"Affiliate"** means with respect to any person, any other person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with that person. For the purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that person whether through ownership of shares, voting securities or otherwise;

**"Agreement"** means this Amended and Restated Subscription Agreement and includes all annexures, appendices, schedules and attachments herein;

**"Allocation Notice"** shall have the meaning ascribed to it in Clause 2.1;

**"Authorisation Notice"** shall have the meaning ascribed to it in Clause 2.6(a);

**"Authority Approvals"** shall have the meaning ascribed to it in Clause 3.1(g);

**"Business Day"** means a day on which banks are open for business in Hong Kong and the HKEx is open for trading, ending at 5.00 pm (Hong Kong Time);

**"Bye-Laws"** means the memorandum of association and bye-laws of the Company as amended from time to time;

**"CCASS"** means the Central Clearing and Settlement System established and operated by the HKSCC;

**"Closing Date"** means, in respect of each sub-tranche of the Notes, the date on which such sub-tranche of the Notes is subscribed for and issued pursuant to Clause 2;

**"Closing Price"** means, in respect of a Share, on any particular Business Day, the closing price of the Shares on the Main Board for one Share on that day (as adjusted pursuant to Condition 8.14) PROVIDED THAT in the event that there has been no trading of the Shares on that day the **"Closing Price"** shall mean the closing price of one Share (as adjusted pursuant to Condition 8.14) on the Main Board on the preceding Business Day on which there was trading of the Shares and PROVIDED FURTHER THAT in the event that trading of the Shares is suspended, the **"Closing Price"** means, in respect of a Share, the last reported trading price of one Share (as adjusted pursuant to Condition 8.14) on the Main Board on the Business Day immediately prior to such suspension;

**"Companies Ordinance"** means the Companies Ordinance (Chapter 622 of the Laws of Hong Kong), or as the context may require, the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), as amended, supplemented or otherwise modified from time to time;

**"Conditions"** means the terms and conditions of the Notes set out in Schedule 3C as may from time to time be modified in accordance with the provisions set out herein and therein, and **"Condition"** followed by a number refers to the relative numbered paragraph of the Conditions;

**“Conversion Date”** shall have the meaning ascribed to it in Condition 8.10, Schedule 3C;

**“Conversion Notice”** shall have the meaning ascribed to it in Condition 8.8, Schedule 3C;

**“Conversion Right”** shall have the meaning ascribed to it in Condition 8.1, Schedule 3C;

**“Conversion Shares”** means ordinary shares of the Company to be allotted and issued by the Company upon the conversion of the Notes in accordance with the provisions of this Agreement and the Conditions;

**“Corporate Approvals”** shall have the meaning ascribed to it in Clause 3.1(f);

**“Depositor”** means a person being a Depository Agent or holder of a Securities Account maintained with CCASS (but does not include a holder of a sub-account maintained with a Depository Agent);

**“Depository Agent”** means an entity registered with CCASS for the purpose of maintaining securities sub-accounts for its own account and for the account of others;

**“Event of Default”** has the meaning ascribed to it in Condition 12.1, Schedule 3C;

**“Group”** means the Company and its Subsidiaries;

**“HKD”** or **“Hong Kong Dollars”** means the lawful currency of Hong Kong;

**“HKEx”** means The Stock Exchange of Hong Kong Limited;

**“HKSCC”** means the Hong Kong Securities Clearing Company Limited;

**“Hong Kong”** means the Hong Kong Special Administrative Region of the People’s Republic of China;

**“Laws”** means all applicable provisions of all (a) constitutions, treaties, statutes, laws (including the common law), codes, rules, regulations, ordinances or orders of any governmental authority, (b) governmental approvals and (c) orders, decisions, injunctions, judgments, awards and decrees of or agreements with any governmental authority, whether in Hong Kong, Bermuda, or such other jurisdictions as may be applicable to the Company and the transactions contemplated under this Agreement, and **“Law”** shall be construed accordingly;

**“Indemnified Person”** shall have the meaning ascribed to it in Clause 8.1;

**“Listing Rules”** means the Rules Governing the Listing of Securities on the Main Board of HKEx, as amended or supplemented from time to time;

**“Main Board”** means the Main Board of HKEx;

**“Notes”** shall have the meaning ascribed to it in Recital (B);

**“Noteholder”** and (in relation to a Note) **“holder”** means holders of the Notes who are for the time being the beneficial owners of the Notes as reflected in the Record (as defined in the Conditions);

**“Note Issue Price”** means, in relation to each sub-tranche of the Notes, the amount equivalent to 100% of the nominal value of the Notes for such sub-tranche;

**“Other Approvals”** shall have the meaning ascribed to it in Clause 3.1(i);

**“Parties”** means the Company and the Subscribers, and **“Party”** means any one of them;

**“Securities Account”** means a securities account maintained by a Depositor with CCASS;

“**SFO**” means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong), as amended or supplemented from time to time;

“**SGM**” means the special general meeting of the Shareholders to be convened and held for the purpose of approving the proposed T1 Specific Mandate or T2 Specific Mandate, as the case may be;

“**Shareholders**” means the registered holders of the Shares for the time being;

“**Shares**” means the ordinary shares in the capital of the Company;

“**Shares Issuance Date**” means the date the Conversion Shares is delivered pursuant to relevant steps and procedures as set out in Condition 8.11, Schedule 3C;

“**Stock Split**” means any kind of stock split in relation to the Shares, including a bonus share distribution, a stock dividend or a sub-division of Shares;

“**Subscriber’s Appointee**” shall have the meaning prescribed to it in Clause 2.6(a);

“**Subsidiary**” shall have the meaning ascribed to it in Condition 12.2, Schedule 3C;

“**T1 Fulfilment Date**” means the date falling three (3) months from the date of this Agreement or such other date as the Parties may mutually agree in writing;

“**T2 Fulfilment Date**” means the date falling three (3) months from the date of the Shares Issuance Date of ST50 of T1 or such other date as the Parties may mutually agree in writing;

“**T1 Maturity Date**” means with regard to T1, the date falling twelve (12) calendar months from the Closing Date of ST01 of T1;

“**T2 Maturity Date**” means with regard to T2, the date falling twelve (12) calendar months from the Closing Date of ST01 of T2;

“**T1 Maximum Conversion Shares**” shall have the meaning ascribed to it in Clause 2.7;

“**T2 Maximum Conversion Shares**” shall have the meaning ascribed to it in Clause 2.7;

“**T1 Specific Mandate**” shall have the meaning ascribed to it in Clause 7.1(c);

“**T2 Specific Mandate**” shall have the meaning ascribed to it in Clause 7.2(b);

“**Takeovers Code**” means The Codes on Takeovers and Mergers and Share Buy-backs of Hong Kong, as amended, supplemented or otherwise modified from time to time;

“**Warranties**” means the warranties set out in Schedule 2; and

“**%**” means per centum or percentage.

## 1.2 Interpretation of Certain Terms

In this Agreement, unless the context or subject otherwise requires:

- (a) references to each of the “**Subscribers**” shall where the context so permits include its respective successors and assigns;
- (b) references to “**completion**” in respect of any tranche or sub-tranche of the Notes means the completion of the subscription for that tranche or sub-tranche of the Notes as the case may be, on the terms and subject to the conditions of this Agreement;
- (c) the headings in this Agreement are for convenience only and shall not affect the interpretation hereof;

- (d) references to the singular number shall include references to the plural number and vice versa, references to natural persons shall include bodies corporate, and the use of any gender shall include all genders;
- (e) references to “**Clauses**”, “**Conditions**”, “**Schedules**” and “**Appendices**” are to be construed as references to the clauses, the conditions, the schedules and the appendices to, this Agreement;
- (f) references to a “**day**”, “**calendar day**”, “**month**”, “**calendar month**”, “**year**” or “**calendar year**” shall be construed by reference to the Gregorian calendar.
- (g) any reference to a statutory provision shall include such provision as from time to time modified or re-enacted and any regulations, ordinances, by-laws, published rulings, statements of policy or guidelines made in pursuance thereto as from time to time modified or re-enacted after the date of this Agreement and shall also include any provision in any other statute which replaces that present statutory provision; and
- (h) any reference to a document includes an amendment or supplement to, or replacement or novation of, that document.

## 2. ISSUE AND SUBSCRIPTION OF THE NOTES

### 2.1 Issue and subscription of T1

Subject to the terms and conditions of this Agreement, the Company agrees to issue and the Subscribers agree to subscribe for T1 in the proportion set out in the form in Schedule 6 (“**Allocation Notice**”), at the Note Issue Price:-

- (a) in respect of ST01 of T1, on the date falling five (5) Business Days immediately after the last of the conditions set out in Clause 7.1 is fulfilled, such date being the Closing Date of ST01 of T1.

The Subscribers may subscribe for at least five (5) sub-tranches of T1 (including ST01 of T1) with an aggregate principal amount of HKD10.0 million on the Closing Date of ST01 of T1.

The Company shall issue a notice substantially set out in the form in Schedule 5 (“**Drawdown Notice**”) to the Subscribers at least four (4) Business Days before the Closing Date of ST01 of T1. To avoid doubt, the Drawdown Notice will only be applicable for the issuance of ST01 of T1; and

- (b) thereafter, subject to Clause 2.4, in respect of each of ST02 to ST50 of T1, on or before the fifth (5<sup>th</sup>) Business Day after the Shares Issuance Date in respect of the immediately preceding sub-tranche of T1, such date being the Closing Date for each of ST02 to ST50 of T1. The Subscribers shall inform the Company of its intention to subscribe for each of ST02 to ST50 of T1 vide the issuance of an Allocation Notice.

PROVIDED THAT:

- (c) no issue and subscription of any Notes shall take place after the T1 Maturity Date, or such other period as may be mutually agreed in writing between the Parties;
- (d) the T1 Maximum Conversion Shares has not been reached; and
- (e) in the event the T1 Maximum Conversion Shares has been reached, the Company shall not be obliged to issue, and the Subscribers shall not be obliged to subscribe for and pay for any unissued sub-tranches of T1. In such event, the T2 Fulfilment Date shall be at a date falling three (3) months from the date the T1 Maximum Conversion Shares has been reached.



## 2.2 Issue and subscription of T2

Subject to the terms and conditions of this Agreement, the Company has the right but not the obligation to issue ST01 of T2 on or before the fifth (5<sup>th</sup>) Business Day following the fulfilment of the last of the conditions as set out in Clause 7.2 by delivering a Drawdown Notice to the Subscribers, who:

- (a) shall be obliged to subscribe for ST01 of T2 on or before the fifth (5<sup>th</sup>) Business Day following the date of such Drawdown Notice in respect of T2, such date being the Closing Date of ST01 of T2, as the case may be.

The Company shall issue a notice substantially set out in the form in Schedule 5 ("**Drawdown Notice**") to the Subscribers at least three (3) Business Days before the Closing Date of ST01 of T2. To avoid doubt, in respect of T2, the Drawdown Notice will only be applicable for the issuance of ST01 of T2; and

- (b) subject to Clause 2.4, in respect of ST02 to ST50 of T2, on or before the fifth (5<sup>th</sup>) Business Day after the Shares Issuance Date in respect of the immediately preceding sub-tranche, such date being the Closing Date for each of ST02 to ST50 of T2. The Subscribers shall inform the Company of its intention to subscribe for each of ST02 to ST50 of T2 vide the issuance of an Allocation Notice.

PROVIDED THAT:

- (c) no issue and subscription of any Notes shall take place after the T2 Maturity Date, or such other period as may be mutually agreed in writing between the Parties;
- (d) the T2 Maximum Conversion Shares has not been reached; and
- (e) in the event the T2 Maximum Conversion Shares has been reached, the Company shall not be obliged to issue, and the Subscribers shall not be obliged to subscribe for and pay for any unissued sub-tranches of T2 and this Agreement shall terminate pursuant to Clause 9.1.

## 2.3 Allocation of the Notes among the Subscribers

- (a) The Subscribers shall have the sole discretion to allocate amongst themselves which the Subscriber(s) shall be subscribing for the Notes.
- (b) The Subscribers shall inform the Company of the desired allocation via an Allocation Notice jointly issued by the Subscribers (or the Subscribers' Agents) to the Company at least two (2) Business Day before the Closing Date of each sub-tranche of the Notes.

## 2.4 Concurrent Subscription of Sub-Tranches

Notwithstanding Clauses 2.1(b) and 2.2(b), the Parties agree:

- (a) in respect of ST02 to ST50 of T1 and ST02 to ST50 of T2, at any time prior to full conversion of the preceding sub-tranche, the Subscribers shall be entitled at their sole discretion to subscribe for one (1) or more sub-tranches in T1 and T2 even though the preceding sub-tranche(s) have yet to be converted;
- (b) the Subscribers may jointly exercise its right in sub-Clause (a) above by delivering a request in writing to the Company together with a jointly issued Allocation Notice; and
- (c) the Company shall be obliged to issue such sub-tranche(s) on or before the fifth (5<sup>th</sup>) Business Day on receipt of such written request, such date being the Closing Date of such sub-tranche(s).

## 2.5 Terms of the Issue

The Notes will be issued in accordance with the terms and conditions of this Agreement and the Conditions set out in Schedule 3C.

## 2.6 Appointment of authorised agent by the Subscribers

- (a) During the subsistence of this Agreement or as long as the Company's obligations remain outstanding under this Agreement, each of the Subscribers shall be entitled to, by delivering a written notice substantially in the form set out in Schedule 7 of this Agreement (the "**Authorisation Notice**") to the Company, at any time and from time to time, appoint any authorised agent ("**Subscriber's Appointee**") which if required by the Laws of Singapore, is regulated by the Monetary Authority of Singapore, to act for and on behalf of each of the Subscribers respectively in respect of all its rights, obligations and entitlements set out under this Agreement with effect from the date set out in the Authorisation Notice.
- (b) Upon the Company's receipt of the Authorisation Notice from each of the Subscribers and without requirement for any further formality, with effect from the date set out in the Authorisation Notice:
  - (i) until and unless otherwise notified by the respective Subscriber in writing, any act undertaken by the Subscriber's Appointee for and on behalf of the Subscriber which the Subscriber's Appointee is representing in respect of any matters or terms set out under this Agreement shall have the same force and effect as if performed by the Subscriber which the Subscriber's Appointee is representing; and
  - (ii) each of the Subscriber's Appointee shall be entitled to (or each of the Subscriber shall be entitled to procure their respective appointees to), do and execute all such matters, acts and things (including but not limited to delivery or receipt of any notices, execution of such documents or undertaking of such matters, as required under the terms of this Agreement).
- (c) Each of the Subscribers acknowledges that the Company shall be entitled to rely on the respective Authorisation Notices until and unless otherwise notified in writing by the respective Subscriber in relation to any matters undertaken by each of the Subscriber's Appointee under this Agreement.

## 2.7 Maximum Conversion Shares

Notwithstanding anything to the contrary in this Agreement and the Conditions, the Parties agree that:

- (a) in respect of T1, the maximum number of Conversion Shares which may be issued pursuant to the exercise of a Conversion Right for all the T1 pursuant to this Agreement, the Conditions and the Listing Rules shall be equivalent to 60,000,000 Shares ("**T1 Maximum Conversion Shares**").
- (b) in respect of T2, the maximum number of Conversion Shares which may be issued pursuant to the exercise of a Conversion Right for all the T2 pursuant to this Agreement, the Conditions and the Listing Rules shall be equivalent to 60,000,000 Shares ("**T2 Maximum Conversion Shares**").
- (c) the T1 Maximum Conversion Shares and T2 Maximum Conversion Shares shall be subject to adjustments in the event of Stock Splits and/or consolidation of the Shares, where such events have taken place.
- (d) to avoid doubt, the aggregate of T1 Maximum Conversion Shares and T2 Maximum Conversion Shares (as the case may be) does not and will not on an-as converted basis result in a theoretical dilution of 25% or more of the enlarged share capital of the Company and is therefore in compliance and in accordance with Rule 7.27B of the

## Listing Rules.

**2.8 Suspension of subscription**

- (a) Notwithstanding anything to the contrary in this Clause 2, at any point before the T1 Maturity Date or the T2 Maturity Date (as the case may be) ("**Relevant Date**"), the Parties agree that the Company shall have the right to, by a notice in writing, to the Subscribers, suspend any further subscription of T1 or T2, if the aggregate of:
- (i) all Conversion Shares, which has been issued following the exercise of a Conversion Right in respect of T1 or T2 (as the case may be); and
  - (ii) the number of Conversion Shares represented by the product of the number of all existing outstanding Notes and Note Issue Price divided by 90% of the volume weighted average price per share for the preceding five (5) Business Days to the Relevant Date,
- would breach the T1 Maximum Conversion Shares or T2 Maximum Conversion Shares ("**Suspension**").
- (b) The Company reserves the right to lift the Suspension once the Company has obtained (i) Shareholders' approval at a general meeting to be held; (ii) receipt of all necessary regulatory approvals including but not limited to approval from HKEx; and (iii) receipt of approval from the board of directors of the Company, to increase the T1 Maximum Conversion Shares or T2 Maximum Conversion Shares (as the case may be) to be allotted and issued pursuant to the Subscribers pursuant to their exercise of their Conversion Right under T1 or T2.

**3. REPRESENTATIONS, WARRANTIES, UNDERTAKINGS AND COVENANTS BY THE COMPANY**

- 3.1 The Company hereby represents, warrants, undertakes and covenants to and with the Subscribers and its successors in title, with the intent that the provisions of this Clause 3 shall have full force and effect as at the date of this Agreement and on each Closing Date as if such representations, warranties, undertakings and covenants are made by the Company afresh on these respective dates, that:-
- (a) each of the representations, warranties, undertakings and covenants set out in this Clause 3.1 and the Warranties are true, accurate and not misleading as at the date of this Agreement and on each Closing Date;
  - (b) it has full power, authority and capacity to enter into and perform this Agreement and this Agreement will, when executed, constitute its valid and legally binding obligations enforceable in accordance with its terms;
  - (c) the Notes and all the Conversion Shares to be issued upon full conversion of the Notes shall be offered and issued to the Subscribers in compliance with the Listing Rules and all other applicable Laws and regulations;
  - (d) all applicable provisions of the Law and the Listing Rules relating to (i) the offer or sale, or invitation for subscription or purchase, and the issue, of the Notes; and (ii) the exercise of the Conversion Rights, on the terms of this Agreement and the Conditions have been duly complied with;
  - (e) no document or other material in connection with the offer or sale, or invitation for subscription or purchase of the Notes or the Conversion Shares, is required to be registered or filed to the extent as a prospectus or information memorandum with the HKEx and the Securities and Futures Commission or any other regulatory authorities;
  - (f) it shall, prior to the Closing Date of the Notes (and with regard with T1, in any event no later than the T1 Fulfilment Date; while with regard to T2, in any event no later than T2 Fulfilment Date), use its reasonable endeavour to obtain the approval of the (i) board

of directors of the Company; and (ii) Shareholders at the SGM (including the T1 Specific Mandate and the T2 Specific Mandate, respectively) for:

- (A) the offer or sale, or invitation for subscription or purchase, or the issue of, the Notes on the Conditions;
- (B) the allotment and issue of the Conversion Shares upon the exercise of the Conversion Rights in respect of all Notes; and
- (C) all other matters in relation thereto and in connection therewith, do all such acts and things and execute and file all such documents as may be required

(collectively, the “**Corporate Approvals**”), and in relation thereto, do all such acts and things and execute and file all such documents as may be required, and where any of such Corporate Approvals are obtained, such Corporate Approvals not having been amended, withdrawn, revoked, rescinded or cancelled prior to each Closing Date of the Notes, and where the Corporate Approvals were obtained subject to any conditions, such conditions, being acceptable to the Subscribers, and to the extent that such conditions are required to be fulfilled on or before the T1 Fulfilment Date and T2 Fulfilment Date (as the case may be), they are so fulfilled, and in this regard, to keep the Subscribers duly and promptly informed of the progress of such acts and things in writing including the delivery of all such documents to the Subscribers;

- (g) it shall, prior to the Closing Date of the Notes (and with regard with T1, in any event no later than the T1 Fulfilment Date; while with regard to T2, in any event no later than T2 Fulfilment Date), apply for and obtain all necessary approvals, consents and/or waivers (as the case may be) of all requisite regulatory authorities (including the HKEx) in respect of:

- (i) the subscription or issue of the Notes;
- (ii) the allotment and issue of the Conversion Shares upon the exercise of the Conversion Rights in respect of all the Notes;
- (iii) the listing of and permission to deal in, the Conversion Shares following the conversion of the Notes on the HKEx; and
- (iv) such other matters in relation to and in connection therewith

(collectively, the “**Authority Approvals**”), and in relation thereto, do all such acts and things and execute and file all such documents as may be required, and where any of such Authority Approvals are obtained, such Authority Approvals not having been amended, withdrawn, revoked, rescinded or cancelled prior to the Closing Date, and where the Authority Approvals were obtained subject to any conditions, such conditions, being acceptable to the Subscribers, and to the extent that such conditions are required to be fulfilled on or before the T1 Fulfilment Date or the T2 Fulfilment Date (as the case may be), they are so fulfilled, and in this regard, to keep the Subscribers duly and promptly informed of the progress of such acts and things in writing, including the delivery of all such documents to the Subscribers;

- (h) it shall, during the subsistence of this Agreement and for as long as any Notes are outstanding:

- (i) perform and comply with all rules, regulations and requirements imposed by the Listing Requirements in order to maintain its listing on the Main Board;
- (ii) comply with all applicable requirements of the Laws and the Listing Rules and such other applicable regulatory requirements in connection with the allotment and issuance of the Notes and the Conversion Shares and generally for the transactions contemplated under this Agreement; and

- (iii) comply with all applicable Laws, the Listing Rules, and any other rules and regulations, to which the Company is subject;
  - (i) it shall, prior to the Closing Date of the Notes (and with regard with T1, in any event no later than the T1 Fulfilment Date; while with regard to T2, in any event no later than T2 Fulfilment Date), apply for and obtain all other necessary approvals, consents, and waivers from any relevant party (other than the Corporate Approvals and Authority Approvals) for the transactions contemplated under this Agreement (in particular but without limitation the issue by the Company and the subscription by the Subscribers of the Notes, allotment and issuance of Conversion Shares upon exercise of the Conversion Rights) ("**Other Approvals**"), and where any of the Other Approvals were obtained subject to any conditions, such conditions, being acceptable to the Subscribers, and to the extent that such conditions are required to be fulfilled on or before the T1 Fulfilment Date and T2 Fulfilment Date (as the case may be), they are so fulfilled, and in this regard, to keep the Subscribers duly and promptly informed of the progress of such acts and things in writing including the delivery of all such document to the Subscribers;
  - (j) it shall not carry out or cause to be carried out any of the corporate transactions set out in Conditions 10.5(a),(b),(c),(d),(e),(f),(g),(h) or (i) of Schedule 3C (as the case may be) which will result in an adjustment to the Closing Price unless the prior written consent of the Subscribers shall have been obtained, consent of which shall not be unreasonably withheld; and
  - (k) deliver or cause to be delivered the Conversion Shares to the order of the person named for that purpose in the Conversion Notice within three (3) Business Days following the Conversion Date; and
  - (l) it shall during the subsistence of this Agreement, provide all copies of all announcements, information, including but not limited to circulars, annual reports, financial reports, being issued by the Company which are routinely provided or otherwise made available to the Shareholders shall be served to the Subscribers directly via email unless otherwise requested by the Subscribers no later than two (2) Business Days after such information becomes publicly available.
- 3.2 The representations, warranties, undertakings and covenants set out in this Agreement (including the Warranties) shall be separate and independent, and shall not be limited by reference to this Clause 3, Schedule 2 or by anything in this Agreement. To avoid doubt, each of the representations, warranties, undertakings and covenants (including each of the Warranties) is without prejudice to any other Warranty or any of the representations, warranties, undertakings and covenants set out in this Agreement except where expressly stated otherwise.
- 3.3 As long as there are any Notes outstanding, the rights and remedies of each of the Subscribers and its successor(s) in title in respect of any breach of representations, warranties, undertakings and covenants set out in this Agreement (including the Warranties) shall continue to subsist and shall not be affected by completion of the subscription of any Notes.
- 3.4 As long as there are Notes outstanding, the representations, warranties, undertakings and covenants given under this Agreement or pursuant hereto, including the Warranties, shall not in any respect be extinguished or affected by completion of the subscription of any Notes.
- 4. REPRESENTATIONS AND WARRANTIES BY THE SUBSCRIBERS**
- 4.1 Each of the Subscribers hereby represents and warrants to the Company that it has full power, authority and capacity to enter into and perform this Agreement in accordance with its terms and this Agreement will, when executed, constitute its valid and legally binding obligations enforceable in accordance with its terms.
- 4.2 Each of the Subscribers represents that it is subscribing for the Notes for investment purposes only and has no intention of influencing the management or exercising control over the Company which will result in the Subscriber(s) and any persons acting in concert with it (as defined under the Takeovers Code) holding in aggregate, directly or indirectly, 30% (or such

other amount as may from time to time specified in the Codes) or more of the total issued share capital and/or voting power at the general meetings of the Company that would trigger a mandatory general offer for the securities of the Company under the Takeovers Code.

- 4.3 The Subscribers agree not to, whether individually or together with any persons acting in concert with it (as defined under the Takeovers Code), directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with it/them, hold more than 20% interest in the share capital of the Company, at any time and from time to time without the prior written approval of the Company.
- 4.4 Each of the Subscribers agrees that there will be no conversion of the Notes by the Subscribers if such conversion would result in (a) the Subscribers and any persons acting in concert with it (as defined under the Takeovers Code) becoming controlling shareholder(s) (as defined under the Listing Rules) of the Company; or (b) the Subscribers and any persons acting in concert with it (as defined under the Takeovers Code) holding in aggregate, directly or indirectly, 30% (or such other amount as may from time to time be specified in the Takeovers Code as being the level that would trigger a mandatory general offer for the securities of the Company under the Takeovers Code) or more of the total issued share capital and/or voting power at the general meetings of the Company at any time and from time to time; or (c) the Company breaching the minimum public float requirement stipulated under Rule 8.08 of the Listing Rules.
- 4.5 The assets and liabilities of AOF VCC have been segregated in accordance with Section 29 of the Variable Capital Companies Act 2018 of Singapore.

## **5. COSTS AND EXPENSES**

### **5.1 The Company's costs and expenses**

Unless otherwise agreed, the Parties acknowledge and agree that:

- (a) the Company shall pay all costs and expenses incurred in connection with the issuance, preparation, printing and authentication of the Notes and the delivery of the Notes pursuant to the terms and conditions of this Agreement;
- (b) the Company shall pay an administrative fee of 5.5% of the aggregate nominal value subscribed of each sub-tranche of the issued Notes (the "**Administrative Fee**") which is payable to ACP (or such other party as may be jointly notified by the Subscribers) on each Closing Date of each sub-tranche of the Notes. The Company agrees that to facilitate this payment, the Administrative Fee payable shall be deducted by the Subscribers directly from the relevant Note Issue Price payable to the Company for the subscription of each sub-tranche of the Notes, unless otherwise agreed by the Parties in the Allocation Notice prior to the subscription of the Notes;
- (c) the Company shall pay all fees, costs and expenses incurred in connection with the continued listing or listing of the Conversion Shares on the Main Board; and
- (d) the Company shall pay all other costs and expenses in connection with the performance by the Company of its obligations under this Agreement.

### **5.2 Taxes**

The Company agrees to indemnify and hold the Subscribers and the Subscriber's Appointee harmless against any documentary, stamp or similar transfer tax as well as any other transfer expenses, on the subscription and the delivery of each sub-tranche of the Notes in accordance with the terms of this Agreement, or on the execution and delivery of this Agreement, which is or may be required to be paid under the Laws of Hong Kong.

### **5.3 Termination**

All fees, costs and expenses referred to in this Clause 5 payable by a Party to the other Party ("**Receiving Party**") shall remain payable if incurred notwithstanding that this Agreement is terminated for any reason whatsoever. To avoid doubt, the acceptance of the aforesaid costs

and expenses of the Receiving Party is without prejudice to any rights of the Receiving Party which may have occurred prior to termination.

## **6. COMPLETION**

### **6.1 Delivery of documents by the Company**

The Company shall:

- (a) on each Closing Date, procure that the name of the Subscribers be entered in the Company's register of Noteholders as the holder of the Notes constituting the subject matter of that completion, and that there shall be delivered to, or to the order of the Subscribers certificates, duly executed and authenticated, made out in the name of the Subscribers and representing the aggregate principal amount of that tranche or sub-tranche of the Notes. Such certificates shall be substantially in the form set out in Schedule 3A with such changes as may be mutually agreed in writing by the Parties from time to time; and
- (b) on or before the Closing Date of the Notes (as the case may be), deliver the documents as set out in Clauses 7.1, 7.2 and 7.3 (as the case may be) to the Subscribers.

### **6.2 Payment by the Subscribers**

On each Closing Date against compliance, delivery and deposit of the documents in accordance with Clauses 6 and 7, the Subscribers shall pay, the relevant Note Issue Price (after deducting the fees and expenses under this Agreement, if applicable) in respect of the relevant sub-tranche of the Notes to the Company by delivery of a cashier's order issued by a licensed financial institution in Hong Kong and drawn in favour of the Company or via CHATS/telegraphic transfer remittance to the following designated account of the Group in cleared funds by 11.00 am:

|                            |                                                          |
|----------------------------|----------------------------------------------------------|
| Beneficiary Name           | : KINGSFIELD (HONG KONG) HOLDINGS LIMITED (金田(香港)集團有限公司) |
| Beneficiary Account Number | : 38253293198067                                         |
| Beneficiary Bank           | : Bank of communications (Hong Kong) Limited             |
| Bank address               | : Wheelock House 20 Pedder Street, Central Hong Kong     |
| Swift code                 | : COMMHKHK                                               |

On each Closing Date, matters under Clause 6.1(a) or 6.1(b) (as the case may be) and Clause 6.2 shall be transacted simultaneously.

### **6.3 Defer Completion**

If any of the documents required to be delivered by the Company to the Subscribers in such manner set forth in this Clause 6 are not forthcoming for any reason or if in any other respect the foregoing provisions of this Clause 6 are not fully complied with or not waived by the Subscribers, on or before the Closing Date, the Subscribers shall be entitled (in addition to and without prejudice to all other rights or remedies available to it, including but not limited to the right to claim damages) to elect to either fix a new Closing Date or to terminate this Agreement.

## **7. CONDITIONS**

### **7.1 Conditions Precedent to the Closing of ST01 of T1**

Notwithstanding any other provisions in this Agreement, the Subscribers shall not be obliged to subscribe and pay for ST01 of T1 unless the following conditions precedent shall have been satisfied on or before the T1 Fulfilment Date, or otherwise waived by the Subscribers in their sole discretion in accordance with Clause 7.4:

- (a) on the date of this Agreement, there shall have been delivered to the Subscribers,

- (i) a list setting out the names of the substantial shareholders of the Company (as defined under the Listing Rules) dated the date of this Agreement, in such form and substance reasonably satisfactory to the Subscribers, which is certified to be true and accurate as at that date in such manner as permitted under the Laws; and
  - (ii) the duly executed letter of undertaking set out in Schedule 8;
- (b) the Company shall within two (2) Business Days from the date of publication on the HKEx website, serve to the Subscribers via electronic communications, a copy of the circular issued by the Company in regard to seeking Shareholders' approval for the issuance of T1 and allotment and issue of the Conversion Shares under T1 in accordance with the terms of this Agreement;
- (c) the approvals of Shareholders obtained by the Company at the SGM for the invitation for subscription, or the issue, of T1 and the allotment and the issue of the Conversion Shares under T1 in accordance with the terms of this Agreement and all other matters in relation thereto and in connection therewith ("**T1 Specific Mandate**"), shall remain effective and not have been amended, withdrawn, revoked, rescinded or cancelled and, where such approvals are obtained subject to any conditions and/or amendments, such conditions and/or amendments being reasonably acceptable to the Subscribers, and to the extent that any such conditions are required to be fulfilled on or before the Closing Date of ST01 of T1, they are fulfilled;
- (d) the HKEx having granted or agreed to grant the listing of and permission to deal in the Conversion Shares in respect of T1 and such approval and permission shall not have been subsequently revoked or withdrawn on or before the Closing Date of ST01 of T1;
- (e) (i) all the representations, warranties, undertakings and covenants of the Company including the Warranties shall be accurate and correct in all respects at, and as if made on, the Closing Date of ST01 of T1; (ii) the Company shall have performed all of its undertakings or obligations hereunder to be performed on or before the Closing Date of ST01 of T1; and (iii) there shall have been delivered to the Subscribers a certificate confirming the items (i) and (ii) in this sub-Clause, on a date not earlier than five (5) Business Days before the Closing Date of ST01 of T1, certified to be true and correct in such manner as permitted under the Laws;
- (f) all other necessary approvals, consents and waivers (including any governmental, regulatory and/or corporate approvals and consents), for the transactions contemplated under this Agreement (in particular but without limitation the issue by the Company and the subscription by the Subscribers of T1 or the Notes (as the case may be), including any Shareholders or directors' approval and other regulatory and/or corporate approvals and consents required by the Subscribers) having been obtained in form and substance satisfactory to the Subscribers (in the reasonable opinion of the Subscribers) and remaining valid and subsisting as at the Closing Date of ST01 of T1; and
- (g) there shall have been delivered to the Subscribers, each in form and substance satisfactory to the Subscribers certified on or dated, on a date not earlier than six (6) Business Days before the Closing Date of ST01 of T1:
  - (i) the documents listed in Schedule 1;
  - (ii) a legal opinion (substantially in the form and substance reasonably satisfactory to the Subscribers) of a firm of legal advisers to the Company in relation to Hong Kong Laws, as shall be acceptable to the Subscribers;
  - (iii) certified true copies of (A) the resolutions of the directors of the Company; (B) the resolutions of the Shareholders (all duly certified by a director or a company secretary of the Company); and (C) listing approval from the HKEx (all duly certified by a director or a company secretary of the Company), approving the issue of T1 or the Notes (as the case may be) and the allotment and issue of



the Conversion Shares under T1 in accordance with the terms of this Agreement;

- (iv) certified true copies of the (A) Corporate Approvals; (B) Authority Approvals; and (C) Other Approvals (if any), certified to be true and correct in such manner as permitted under the Laws; and
- (v) such other documents, opinions and certificates as the Subscribers may reasonably require in relation to T1 issuance.

## 7.2 Conditions Precedent to the Closing of ST01 of T2

Notwithstanding any other provisions in this Agreement, the Subscribers shall not be obliged to subscribe and pay for ST01 of T2 unless the following conditions precedent shall have been satisfied on or before the T2 Fulfilment Date, or otherwise waived by the Subscribers in accordance with Clause 7.4:

- (a) the Company shall within two (2) Business Days from the date of publication on the HKEx's website, serve to the Subscribers via electronic communications, a copy of the circular issued by the Company in regard to seeking Shareholders' approval for the issuance of T2 and allotment and issue of the Conversion Shares under T2 in accordance with the terms of this Agreement;
- (b) the approvals of Shareholders obtained by the Company at the SGM for the invitation for subscription, or the issue, of T2 and the allotment and the issue of the Conversion Shares under T2 in accordance with the terms of this Agreement and all other matters in relation thereto and in connection therewith ("**T2 Specific Mandate**"), shall remain effective and not have been amended, withdrawn, revoked, rescinded or cancelled and, where such approvals are obtained subject to any conditions and/or amendments, such conditions and/or amendments being reasonably acceptable to the Subscribers, and to the extent that any such conditions are required to be fulfilled on or before the Closing Date of ST01 of T2, they are fulfilled;
- (c) the HKEx having granted or agreed to grant the listing of and permission to deal in the Conversion Shares in respect of T2 and such approval and permission shall not have been subsequently revoked or withdrawn on or before the Closing Date of ST01 of T2;
- (d) (i) all the representations, warranties, undertakings and covenants of the Company including the Warranties shall be accurate and correct in all respects at, and as if made on, the Closing Date of ST01 of T2; (ii) the Company shall have performed all of its undertakings or obligations hereunder to be performed on or before the Closing Date of ST01 of T2; and (iii) there shall have been delivered to the Subscribers a certificate confirming the items (i) and (ii) in this sub-Clause, on a date not earlier than five (5) Business Days before the Closing Date of ST01 of T2, certified to be true and correct in such manner as permitted under the Laws;
- (e) where applicable, all other necessary approvals, consents and waivers (including any governmental, regulatory and/or corporate approvals and consents), for the transactions contemplated under this Agreement (in particular but without limitation the issue by the Company and the subscription by the Subscribers of T2, including any Shareholders or directors' approval and other regulatory and/or corporate approvals and consents required by the Subscribers) shall have been obtained in form and substance reasonably satisfactory to the Subscribers (in the reasonable opinion of the Subscribers) and shall remain valid and subsisting as at the Closing Date of ST01 of T2; and
- (f) there shall have been delivered to the Subscribers, each in form and substance reasonably satisfactory to the Subscribers certified on or dated, as the case may be, on a date not earlier than six (6) Business Days before the Closing Date of ST01 of T2:
  - (i) the documents listed in Schedule 1;

- (ii) certified true copies of (A) the resolutions of the directors of the Company; (B) the resolutions of the Shareholders (all duly certified by a director or a company secretary of the Company); and (C) listing approval from the HKEx (all duly certified by a director or a company secretary of the Company), approving the issue of T2 and the allotment and issue of the Conversion Shares under T2 in accordance with the terms of this Agreement;
- (iii) certified true copies of the (A) Corporate Approvals; (B) Authority Approvals; and (C) Other Approvals (if any), certified to be true and correct in such manner as permitted under the Laws; and
- (iv) such other documents, opinions and certificates as the Subscribers may reasonably require in relation to the T2 issuance.

**7.3 Conditions Precedent to each of the respective Closings of Notes (other than ST01 of T1 and ST01 of T2)**

Notwithstanding any other provisions in this Agreement, the Subscribers shall not be obliged to subscribe and pay for any of the T1 and T2 (other than ST01 of T1 and ST01 of T2) unless the following conditions precedent shall have been satisfied by the Company to the satisfaction of the Subscribers, on or prior to each applicable Closing Date in respect of such remaining sub-tranches, or otherwise waived by the Subscribers in their sole discretion in accordance with Clause 7.4:

- (a) the T1 Specific Mandate or the T2 Specific Mandate (as the case may be) shall remain effective and not have been amended, withdrawn, revoked, rescinded or cancelled and, where such approvals are obtained subject to any conditions and/or amendments, such conditions and/or amendments being reasonably acceptable to the Subscribers, and to the extent that any such conditions are required to be fulfilled on or before each subsequent Closing Date of the Notes (other than ST01 of T1 and ST01 of T2), they are fulfilled;
- (b) the approval granted by the HKEx in regard to the listing of and permission to deal in the Conversion Shares under the Notes and such approval and permission shall not have been subsequently revoked or withdrawn on or before each of the Closing Date of the Notes (other than ST01 of T1 and ST01 of T2);
- (c) all other necessary approvals, consents and waivers (including any governmental, regulatory and/or corporate approvals and consents), for the transactions contemplated under this Agreement (in particular but without limitation the issue by the Company and the subscription by the Subscribers of the Notes (other than ST01 of T1 and ST01 of T2), including any Shareholders or directors' approval and other regulatory and/or corporate approvals and consents required by the Subscribers) having been obtained in form and substance satisfactory to the Subscribers in their sole and absolute discretion and remaining valid and subsisting as at each subsequent Closing Date of the Notes (other than ST01 of T1 and ST01 of T2); and
- (d) at each subsequent Closing Date of the Notes (other than ST01 of T1 and ST01 of T2),
  - (i) all the representations, warranties, undertakings and covenants of the Company including the Warranties set out in this Agreement shall be accurate and correct in all respects at, and as if made on, that Closing Date; (ii) the Company shall have performed all of its undertakings or obligations hereunder to be performed on or before that Closing Date; and (iii) there shall have been delivered to the Subscribers a certificate, dated on a date not earlier than five (5) Business Days before the applicable Closing Date, certified to be true and correct by in such manner as permitted under the Laws;
- (e) there shall have been delivered to the Subscribers, each in form and substance satisfactory to the Subscribers certified on or dated, on a date not earlier than six (6) Business Days before the applicable Closing Date:

- (i) unless waived in writing by the Subscriber, the documents listed in Schedule 1;
- (ii) certified true copies of (A) the resolutions of the directors of the Company; (B) the resolutions of the Shareholders (all duly certified by a director or a company secretary of the Company); (C) listing approval from HKEx (all duly certified by a director or a company secretary of the Company), approving the issue of applicable Notes and the allotment and issue of the Conversion Shares in respect of the applicable Notes in accordance with the terms of this Agreement;
- (iii) certified true copies of the (A) Corporate Approvals; (B) Authority Approvals; and (C) Other Approvals (if any), certified to be true and correct in such manner as permitted under the Laws; and
- (iv) such other documents, opinions and certificates as the Subscribers may reasonably require in relation to such applicable Notes issuance.

#### 7.4 Waiver of Conditions Precedent

The Subscribers may at their discretion jointly waive compliance with the whole or any part of this Clause 7 which are capable of being waived (save for the conditions set out in Clauses 7.1(b), (c), (d), (e), (f), 7.2 and 7.3) at any time, provided always that any such waiver as aforesaid shall be without prejudice to the Subscribers' right to elect to treat any further or other such breach, failure or event as releasing and discharging it from its obligations to subscribe for the Notes as aforesaid.

#### 7.5 Failure to fulfil the Conditions Precedent set forth in Clauses 7.1 and 7.2

If any of the conditions set forth in Clauses 7.1 and 7.2 (as the case may be) are not satisfied or jointly waived by the Subscribers, if capable of being waived, on or before the T1 Fulfilment Date or T2 Fulfilment Date (as the case may be), the Subscribers shall inform the Company of the unfulfilment of the conditions precedent in writing and this Agreement shall *ipso facto* cease and the Parties shall be released and discharged from their respective obligations under this Agreement except for (a) the liability of the Company for the payment of costs and expenses as provided in Clause 5; (b) the obligations of the Company pursuant to Clause 8; and (c) any antecedent breaches.

#### 7.6 Failure to fulfil the Conditions Precedent set forth in Clause 7.3

If any of the conditions set forth in Clause 7.3 are not satisfied or jointly waived by the Subscribers, if capable of being waived, on or before the applicable Closing Date in respect of such sub-tranche of the Notes, the Subscribers shall inform the Company of the unfulfilment of the conditions precedent in writing and this Agreement shall *ipso facto* cease and the Parties shall be released and discharged from their respective obligations under this Agreement except for (a) the liability of the Company for the payment of costs and expenses as provided in Clause 5; (b) any outstanding interest (if any); (c) the obligations of the Company pursuant to Clause 8; and (d) any antecedent breaches.

#### 7.7 Undertakings

The Company hereby undertakes to the Subscribers to take all necessary steps to fulfil the conditions precedent set forth in Clauses 7.1, 7.2 and 7.3 forthwith upon the signing of this Agreement and in any event before T1 Fulfilment Date and T2 Fulfilment Date or such applicable Closing Date of the Notes (as the case may be), and do all such acts and things and execute and file all such documents as shall be necessary including, to:

- (a) file and/or submit the requisite applications to the relevant authorities in respect of the Approvals (including the Corporate Approvals, Authority Approvals and Other Approvals) and in connection therewith, to use its best endeavours to pursue the grant of approvals (including the Corporate Approvals, Authority Approvals and Other Approvals);

- (b) prepare the application to be submitted to HKEx for its approval for the listing of and permission to deal in the Conversion Shares for the Notes, the circular to Shareholders to convene a SGM pursuant to the T1 Specific Mandate and T2 Specific Mandate, respectively set out in Clauses 7.1 and 7.2, and where required, any other documents, pursuant to Clauses 7.1, 7.2 and 7.3 and in compliance with the Listing Rules and all applicable Laws and regulations;
- (c) file and/or submit the said listing application and circular, and if required, submit such other documents with and to HKEx and will use its best endeavours to pursue the grant of approvals of the Shareholders and HKEx; and
- (d) perform and comply with all requirements imposed by the relevant authorities (including HKEx) as conditions to its approval (including paying any listing fees when due) and maintain the listing of the Shares (including the validity of the listing approval for the Conversion Shares) on the Main Board and any other conditions as may be imposed by any other authorities in respect of the approvals (including the Corporate Approvals, Authority Approvals and Other Approvals).

## **8. INDEMNIFICATION**

### **8.1 Indemnity**

The Company undertakes to the Subscribers (and if applicable, the Subscriber's Appointee), for themselves and for each of their respective officers, employees and agents (each, together with the Subscribers (and if applicable, the Subscriber's Appointee), an "**Indemnified Person**") to fully indemnify and keep fully indemnified on demand each Indemnified Person from and against any and all direct liabilities, losses, claims, costs, charges and expenses of any nature whatsoever (including without limitation legal expenses on a full indemnity basis) which any Indemnified Person may incur or sustain from or in consequence of any misrepresentation or any of the representations, warranties, undertakings or covenants including the Warranties contained herein not being correct or fully complied with. Such indemnity shall extend to include all reasonable charges and expenses which any of the Indemnified Persons may incur in investigating, disputing or defending any claim or action or other proceedings in respect of which the Company is or may be liable to indemnify under this Clause 8.1. Provided however the Company shall not have any obligation to any Indemnified Person under this Clause 8.1 for any indemnity arising from the negligence or wilful misconduct of such Indemnified Person.

This indemnity shall be without prejudice to any other rights and remedies of any Indemnified Person in relation to any such breach of any such Warranties and all other rights and remedies are expressly reserved to each Indemnified Person.

### **8.2 Conduct of Defence**

If any action, proceeding, claim or demand shall be brought or asserted against an Indemnified Person or any of them in respect of which the Company is held liable to indemnify as herein provided, any such Indemnified Person shall promptly notify the Company in writing, and shall employ such legal advisers as the Subscribers (and if applicable, the Subscriber's Appointee) may select. The Company shall not be liable in respect of any settlement of any such action effected without the Company's consent, which consent shall not be unreasonably withheld.

## **9. TERMINATION**

### **9.1 The Subscribers' Ability to Terminate**

Notwithstanding anything to the contrary of this Agreement, the Subscribers may by notice in writing to the Company, terminate this Agreement at any time before the time on the relevant Closing Date when payment would otherwise be due under Clause 6, in any of the following circumstances:

- (a) there shall have come to the notice of the Subscribers any breach of, or any event rendering untrue or incorrect in any material respect, any of the representations, warranties, undertakings and covenants set forth in this Agreement including any of the

Warranties or the failure to perform any of the Company's undertakings or obligations under this Agreement; or

- (b) the T2 Maximum Conversion Shares have been fully issued; or
- (c) if any of the conditions specified in Clauses 7.1, 7.2 and 7.3 has not been satisfied to the reasonable satisfaction of the Subscribers or waived by the Subscribers, as the case may be; or
- (d) pursuant to Clauses 6 and/or 7; or
- (e) if:
  - (i) there shall have been any change, or any development involving a prospective change, in the condition, financial or otherwise, or in the earnings, business or operations, or affecting the properties, of the Company or any of its Subsidiaries and which materially and adversely affects the Company or the Company and its Subsidiaries, taken as a whole, to perform its obligations under this Agreement and the Notes; or
  - (ii) there shall have been an imposition of a new legal or regulatory restriction (in each case, whether or not having the force of law but, if not having the force of law, compliance with which is in accordance with the general practice of persons to whom the directive is addressed) not in effect on the date hereof, or any change in the interpretation of existing legal or regulatory restrictions (in each case, whether or not having the force of law but, if not having the force of law, compliance with which is in accordance with the general practice of persons to whom the directive is addressed), that materially and adversely affects the ability of the Company or the Company and its Subsidiaries, taken as a whole, to perform its obligations under this Agreement, or the offering, sale or delivery of the Notes or the Conversion Shares which in the Subscribers' reasonable opinion would not be acceptable; or
- (f) an event of default shall have occurred in respect of any notes, debentures, bonds or other similar securities of the Company or any Subsidiary issued and outstanding and/or has affected the Company's ability to comply with its obligations under this Agreement; or
- (g) there shall have been a suspension of, or material limitation of, trading of any shares of the Company by the Main Board for five (5) consecutive Business Days save for suspension caused by administrative or technical error not due to the Company or trading halts made at the request of the Company for corporate announcement(s) or circular(s) pending clearance by HKEx or other regulatory or governmental bodies; or
- (h) there shall have been a delisting or an order for delisting or a threatened delisting of the Company from the Main Board; or
- (i) an Event of Default (as set out in the Conditions) has occurred and is continuing; or
- (j) any of the Corporate Approvals, Authority Approvals or Other Approvals, consents or waivers obtained by the Company pursuant to Clause 3 or 7 are amended, withdrawn, revoked, rescinded or cancelled prior to the relevant Closing Date or, where any of such approvals, consents or waivers were obtained subject to any conditions which were required to be fulfilled on or before each such applicable Closing Date, they were not fulfilled; or
- (k) there is a default in any payment by the Company pursuant to the Conditions and such default is not remedied by the Company within seven (7) Business Days from the due date of such payment.

## 9.2 Consequences of Termination

Upon notice being given by the Subscribers in accordance with Clause 9.1:-

- (a) this Agreement shall terminate and be of no further effect save that:
  - (i) the Company shall pay a compensation fee of USD50,000 to each Subscriber ("**Compensation Fee**"). To avoid doubt, in the event the Agreement is terminated due to the occurrence of (A) an event pursuant to Clause 9.1(b) or 9.1(e)(ii); or (B) a breach of the Conditions, the Company shall not be liable to pay the Compensation Fee contemplated under this Clause 9.2(a)(i);
  - (ii) in relation to termination pursuant to Clause 9.1(b) or 9.1(e)(ii), all outstanding Notes shall immediately become redeemable at the discretion of the Subscriber at 115% of the principal amount of the outstanding Notes, together with all accrued interest, without further formality (the "**Special Situation Redemption Amount**"). Interest shall accrue on the Special Situation Redemption Amount on a daily basis at the rate of 3.0% per month ("**Special Situation Default Interest**") from the date the notice is being given by the Subscribers in accordance with Clause 9.1 up to and including the date which the Subscribers receives full payment of the Special Situation Redemption Amount, together with the Special Situation Default Interest;
  - (iii) the Company shall remain liable for the payment of all costs and expenses referred to in Clause 5 already incurred or incurred in consequence of such termination; and
  - (iv) the respective obligations of the Parties under Clauses 8 and 18 shall continue and the Company shall remain liable for any antecedent breaches; and
- (b) each Party shall cease to have further rights or obligations under this Agreement provided that such termination shall be without prejudice to any rights of the Subscribers which may have accrued prior to such termination.

For the avoidance of doubt, nothing herein shall affect the Notes or the Conversion Shares already issued to the Subscribers pursuant to this Agreement and the obligations of the Company to the Subscribers or any other person in respect of such Notes or the Conversion Shares under this Agreement or otherwise, those provisions shall continue to survive termination.

## 10. SURVIVAL OF REPRESENTATIONS AND OBLIGATIONS

The respective indemnities, agreements, representations, warranties, undertakings, covenants, the Warranties and other statements of the Company and the respective representations, warranties and other statements of the Subscribers (as the case may be) set out in this Agreement or made by or on behalf of the Company or the Subscribers (as the case may be) pursuant to this Agreement shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any indemnified party and shall survive delivery of and payment for the Notes so long as any Notes remain outstanding.

## 11. NOTICES

### 11.1 Contact Details of the Parties

All notices delivered hereunder shall be in writing in English and shall be communicated to the address and/or to the email address of the Party and addressed for the attention of the relevant person as specified below:

#### The Company

Address : Unit 14, 18/F, Seapower Tower, Concordia Plaza No. 1, Science Museum Road, Kowloon, Hong Kong

Email Address : kennyc@kingstonemining.com  
Attention : Mr. Kenny Cheung

**AOF VCC**

Address : 77 Robinson Road, #06-03, Robinson 77, Singapore 068896  
E-mail address : cwtan@advancecp.com / aofvcc@zicoholdings.com  
Attention : Mr. Tan Choon Wee

**AOF I**

Address : 77 Robinson Road, #06-03, Robinson 77, Singapore 068896  
Email Address : cwtan@advancecp.com / aof1@zicoholdings.com  
Attention : Mr. Tan Choon Wee

**11.2 Mode of Communication**

Any notice shall be despatched by express courier or sent via email transmission and shall be deemed to have been given:

- (a) in the case of despatch by express courier, at the time of delivery; and
- (b) in the case of email, at the time of transmission (unless the sender receives an automated notification in response relating to the failure of delivery).

**12. CONTRACTS (RIGHTS OF THIRD PARTIES) ORDINANCE**

Save and except as provided under this Agreement (in particular (a) Clause 2.6; (b) such other provisions concerning the rights and obligations of the Subscriber's Appointee; and (c) ACP), a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce any provision in this Agreement.

**13. ENTIRE AGREEMENT**

This Agreement and the documents referred to herein are in substitution for all previous agreements between all or any of the Parties and contains the whole agreement between the Parties relating to the subject matter of this Agreement. For the avoidance of doubt, the Parties agree that this Agreement supersedes and replaces the Original Agreement in its entirety and the Original Agreement is of no force and effect upon entering into of this Agreement.

**14. SEVERANCE**

If any provision of this Agreement or part thereof is rendered void, illegal or unenforceable by any legislation to which it is subject, it shall be rendered void, illegal or unenforceable to that extent and no further and, to avoid doubt, the rest of this Agreement shall continue in full force and effect.

**15. AMENDMENT AND NON-WAIVER**

**15.1 Amendments**

No amendment or variation of this Agreement shall be effective unless in writing and signed by or on behalf of each of the Parties.

**15.2 Non-Waiver**

The failure of the Subscriber to insist upon the strict performance of the terms, conditions and provisions of this Agreement shall not be construed as a waiver or relinquishment of future compliance therewith, and said terms, conditions and provisions shall remain in full force and effect. No waiver of any term or condition of this Agreement on the part of either party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such party.

**16. TIME OF ESSENCE**

Any time or period mentioned in any provision of this Agreement may be extended by mutual written agreement between the Parties but as to regards any time, date or period originally fixed or any time, date or period so extended as aforesaid, time shall be of the essence.

**17. COUNTERPARTS**

This Agreement may be signed in any number of counterparts or duplicates, each of which shall be an original but such counterparts or duplicates shall together constitute one and the same agreement. Any Party may enter into this Agreement by signing any such counterpart. Each counterpart may be signed and executed by the Parties and transmitted by email transmission and shall be as valid and effectual as if executed as an original.

**18. CONFIDENTIALITY**

Each of the Parties shall at all times use its best endeavours to keep confidential (and procure that its respective employees, agents and professional advisers keep confidential) any confidential information in relation to this Agreement, the Notes and/or the Conversion Shares and shall not use or disclose such confidential information, except:

- (a) with the prior written consent of the Party who provided the confidential information;
- (b) in accordance with an order of a court of competent jurisdiction or order of a competent governmental body acting with lawful authority;
- (c) information in the public domain;
- (d) where the information was already within the knowledge and possession of and used by the Party in the ordinary course of business;
- (e) to their respective professional advisers including lead arranger/lead manager;
- (f) solicitors and auditors; or
- (g) as required by applicable Law or the rules of any stock exchange.

**19. ASSIGNMENT**

All rights and obligations under this Agreement are personal to the Parties and neither the Company nor the Subscribers shall (nor shall it purport to) assign, transfer, charge or otherwise deal with all or any of its rights under this Agreement nor grant, declare, create or dispose of any right or interest in it without the prior written consent of the other Parties.

**20. GOVERNING LAW AND SUBMISSION TO JURISDICTION**

20.1 This Agreement shall be governed by and construed in accordance with the Laws of Hong Kong.

20.2 Any dispute, controversy, difference or claim arising out of or relating to this Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“SIAC”) in accordance with the Arbitration Rules of the SIAC (“SIAC Rules”) for the time being in force, which rules are deemed to be incorporated by reference to this Clause 20.2. The Parties hereby agree that any arbitration commenced pursuant to this Clause 20.2 shall be conducted in accordance with the Expedited Procedure set out in Rule 5.2 of the SIAC Rules. The Tribunal shall consist of one (1) arbitrator to be appointed by the Parties. The seat of arbitration shall be Singapore and the arbitration shall be conducted wholly in the English language. The arbitrator will be entitled to include in its decision a determination as to the payment of the costs and expenses of the arbitrator, the administrative costs of the arbitrator, the legal fees incurred by the Parties, the cost and expenses of witnesses and all other costs



and expenses necessarily incurred in the opinion of the arbitrator in order to properly settle the dispute.

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## SCHEDULE 1

### REQUIRED DOCUMENTS

1. The Company's annual financial reports for the financial year immediately preceding the relevant Closing Date (provided that the Company will not have to deliver such reports if the same reports have already been delivered on or immediately prior to any previous Closing Date).
2. If the Company's annual financial reports in item 1 above are dated more than three (3) months preceding the relevant Closing Date, copies of the interim accounts of the Company as publicly released (provided that the Company will not have to deliver such accounts if the same accounts have already been delivered on or immediately prior to any previous Closing Date).
3. Announcements issued by the Company to HKEx from the date of this Agreement up to the relevant Closing Date (provided that the Company will not have to deliver such announcements if the same announcements have already been delivered on or immediately prior to any previous Closing Date).
4. A list setting out the outstanding term loans and other loans of the Company as at a date not earlier than six (6) Business days before the Closing Date of ST01 of T1 or ST01 of T2 (as the case may be), which is certified to be true and accurate in all material respects as at that date in such manner as permitted under the Laws. This list of outstanding term loans and other loans is to include such particulars of each loan including but not limited to, the name of the lender, the principal amount loaned, the maturity, the interest rate, the currency of loan, the major covenants and the details of any security provided in respect of the loan, or if applicable, a negative statement thereof.
5. A list (substantially in the form and substance reasonably satisfactory to the Subscribers) setting out the names of the substantial shareholders of the Company dated as at a date falling not earlier than six (6) Business Days before the Closing Date of ST01 of T1 or ST01 of T2 (as the case may be), which is certified to be true and accurate in all material respects as at that date in such manner as permitted under the Laws.
6. A list (substantially in the form and substance reasonably satisfactory to the Subscribers) disclosing all existing and outstanding securities convertible into securities of the same class as the new Shares arising from the conversion of the Notes by the Subscribers securities substantially similar to the Notes that have been issued by the Company to other persons other than the Subscribers prior to the issuance of the Notes as at a date not earlier than six (6) Business Days before the Closing Date of ST01 of T1 or ST01 of T2 (as the case may be) , which is certified to be true and accurate in all material respects as at that date in such manner as permitted under the Laws, or if applicable, a negative statement thereof.

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## SCHEDULE 2

### REPRESENTATIONS, WARRANTIES, UNDERTAKINGS AND COVENANTS BY THE COMPANY

1. The Company is duly incorporated in the Cayman Islands and continued in Bermuda and validly existing under the Laws of Bermuda, with full power and authority to own its properties and to conduct its business as currently conducted.
2. The Company has full right, power and authority to enter into and perform its obligations under this Agreement. Subject to the Company obtaining the Corporate Approvals, Authority Approvals and Other Approvals (if applicable) for the allotment and issue of the Conversion Shares upon the exercise of the Conversion Rights in respect of such Notes being performed/obtained, as the case may be, prior to the issue of the Notes, the Company has full right, power and authority to enter into and perform its obligations under this Agreement and to issue the Notes and, subject to the approval of HKEx, the Conversion Shares in respect of such Notes and that this Agreement constitutes, and the Notes will on issue, and payment thereof being made, constitute, valid and legally binding obligations enforceable against the Company in accordance with their respective terms, except for obligations that are preferred by mandatory provisions of applicable Law.
3. The Conversion Shares are and will be (as at each Closing Date) duly authorised and they will be validly allotted and issued as fully paid-up Shares with all rights attached, and the Conversion Shares shall be issued unencumbered and free from any security interests, claims (including pre-emptive rights) or liens and will be freely transferable and shall rank *pari passu* in all respects with all other then existing Shares, except that such Conversion Shares shall not be entitled to any dividends, rights, allotments or other distributions, the record date of which is before the relevant Conversion Date of the Notes, and will be admitted to listing and quotation and for trading on the HKEx.
4. The Company has complied with all applicable provisions of the Laws, including but without limitation to the Companies Ordinance, the SFO and the Listing Rules in the issuance of the Notes to the Subscribers pursuant to the terms and conditions of this Agreement.
5. All actions or things required to be taken, fulfilled or done (including but without limitation to the obtaining of any consent or the making of any filing or registration) for, as the case may be, the execution of this Agreement, the issue of the Notes, the effective conversion of the Notes into Conversion Shares in accordance with this Agreement, the effective allotment and issue of the Conversion Shares in accordance with this Agreement or the compliance by the Company with the provisions of this Agreement have been, or will be by the relevant Closing Date, taken, fulfilled or done (as the case may be). If any consent, clearance or approval are required for the above and have been obtained, such consent, clearance or approval are in full force and effect and are not subject to any conditions which have yet to be satisfied when the Notes are issued.
6. The execution and delivery by or on behalf of the Company of this Agreement, the performance by the Company of its obligations under this Agreement and the issue and delivery of the Notes and the Conversion Shares do not and will not:
  - (a) conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, the Bye-Laws or any indenture, trust deed, mortgage or other instrument to which the Company is a party or by which it or its properties are bound except where such breach or default would not have a material adverse effect on the Group; or
  - (b) infringe any existing applicable Law, rule, regulation, judgment, order or decree of any government, governmental body or court or regulatory body in Bermuda or Hong Kong or any other jurisdiction to which any company in the Group is subject.

7. There are no actions, suits or proceedings against or affecting the Company or any Subsidiary or any of its or their properties or assets which, if determined adversely, would individually or in the aggregate have a material adverse effect on the condition (financial or otherwise), prospects, results of operations or general affairs of the Group, or on its ability to perform its obligations under this Agreement and the Notes, or which are otherwise material in the context of the issue and delivery of the Notes, and, so far as it is aware (after making due enquiry), no such actions, suits or proceedings are threatened or contemplated save as disclosed in the annual reports published by the Company and to the Subscribers as at the date of this Agreement.
8. No event has occurred or circumstance arisen which, had the Notes been issued already, will (with the giving of notice and/or the expiry of a grace period, the making of any determination and/or the fulfilment of any other requirement) constitute an Event of Default.
9. Since the date of the Company's audited financial report for financial year ended 31 December 2022, there has been no material adverse change in the business, properties, operations, financial condition, results of operations or prospects of the Company or the Company and its Subsidiaries, taken as a whole. Neither the Company nor any Subsidiary has taken any action, nor have any other steps been taken, or any legal proceedings been started or threatened, by any person against the Company or any Subsidiary, for its winding up or dissolution, or for it to enter into any arrangement or composition for the benefit of creditors, or for the appointment of a liquidator, provisional liquidator, judicial manager, provisional judicial manager, receiver, trustee, administrator or similar officer of any of them, or the whole or any part of its assets, businesses, investments, shareholdings, licences, operations, revenue, margins, profits, cash flows or properties. The Company has further not been unable to nor admitted in writing that it is unable to, pay its debts nor stopped nor suspended (or threatened to stop or suspend) payment of its debts generally nor ceased or threatened to cease carrying on all or a substantial part of its business.
10. The recitals and Schedules to this Agreement and all information and documents relating to the Group disclosed or supplied by the Company, its solicitors, accountants or other agents or advisers to the Subscribers (including its professional advisers) during or with a view to the negotiations leading up to this Agreement, are true and accurate in all respects and there is no fact not disclosed which would render any such information or document inaccurate or misleading or which, if disclosed, might reasonably affect the willingness of the Subscribers to subscribe for the Notes on the terms specified in this Agreement.
11. All facts, information and representations contained in the disclosure documents listed in Schedule 1 are true and accurate in all respects and there is no fact not disclosed which would render any such fact, information, or representation inaccurate or misleading or which, if disclosed, might reasonably affect the willingness of the Subscribers to subscribe for the Notes on the terms specified in this Agreement.
12. No event, liability, development or circumstance has occurred or exists, or is contemplated to occur, which would have a material adverse effect with respect to the Group or its businesses, properties, prospects, operations or financial condition, and which has not been disclosed in the documents listed in Schedule 1.
13. There:
  - (a) is no notice, demand, claim, action, suit, inquiry, hearing, proceeding, notice of violation or investigation of a civil, criminal or administrative nature before any court or governmental or other regulatory or administrative agency, commission or authority against or involving any product, substance or material (collectively, a "**Product**"), or class of claims or lawsuits involving the same or a similar Product manufactured, produced, distributed or sold by or on behalf of the Company or any Subsidiary, or any alleged failure to warn, or from any breach of implied warranties or representations in relation to any defect of any Product which are likely to have a material adverse effect on the Company or the Company and its Subsidiaries taken as a whole;

- (b) has not been any accident suffered by third parties, happening or event happening to third parties which takes place at any time before the relevant Closing Date which is caused or allegedly caused by any alleged hazard or alleged defect in manufacture, design, materials or workmanship including, without limitation, any alleged failure to warn or any breach of express or implied warranties or representations with respect to, or any such accident, happening or event otherwise involving a Product (including any parts or components) manufactured, produced, distributed or sold by or on behalf of the Company or any Subsidiary which is likely to result in a claim or loss, which are likely to have a material adverse effect on the Company or the Company and its Subsidiaries taken as a whole; and
  - (c) has not been, nor is there under consideration or investigation by the Company or any Subsidiary, any Product recall, rework, retrofit or post-sale warning conducted by or on behalf of the Company or any Subsidiary concerning any products manufactured, produced, distributed or sold by or on behalf of the Company or any Subsidiary which materially and adversely affects its businesses or any Product recall conducted by or on behalf of any entity as a result of any alleged defect in any Product supplied by the Company or any Subsidiary, in each case, which are likely to have a material adverse effect on the Company or the Company and its Subsidiaries taken as a whole.
- 14. The Company and each of its Subsidiaries owns or possesses adequate rights or licences to use all material trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licences, approvals, governmental authorisations, trade secrets and other intellectual property rights necessary to conduct its business as now conducted. None of the Company's or any Subsidiary's material trademarks, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licences, approvals, governmental authorisations, trade secrets or other intellectual property rights have expired or terminated, or are expected to expire or terminate in the near future and are incapable of renewal. To the best of the Company's knowledge, the Company does not have any knowledge of any infringement by the Company or any Subsidiary of trademarks, trade name rights, patents, patent rights, copyrights, inventions, licences, service names, service marks, service mark registrations, trade secret or other similar rights of others, or of any such development of similar or identical trade secrets or technical information by others and to the Company's knowledge, there is no claim, action or proceeding being made or brought against or, being threatened against the Company or any Subsidiary regarding trademarks, trade names, patents, patent rights, inventions, copyrights, licences, service names, service marks, service mark registrations, trade secrets or other infringements having a material adverse effect on the financial conditions of the Company or on the consolidated financial conditions of the Group, the Company's performance of its obligations under this Agreement and the Notes and the Company is unaware of any facts or circumstances which might give rise to any of the foregoing. The Company has taken reasonable security measures to protect the secrecy, confidentiality and value of all of its and every Subsidiary's (if relevant) intellectual property rights.
- 15. The Company and each of its Subsidiaries is (a) not in breach of any and all applicable Laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants which are likely to have a material adverse effect on the Company or the Company and its Subsidiaries taken as a whole; (b) not required to obtain any material permits, licences or other approvals under applicable environmental Laws to conduct its respective businesses; and (c) is in compliance with all terms and conditions of any such material permit, licence or approval. For avoidance of doubt, any reference to "material permits, licenses, or other approvals" shall mean the permits, licenses or approvals that would have material adverse effect on the Company and its Subsidiaries if any of them has been revoked, suspended, cancelled or any of the key terms and conditions of which have been materially modified.
- 16. The Company and each of its Subsidiaries are in compliance with any and all applicable Law and regulations in relation to the conduct of its respective businesses, has received all certificates, authorisations, permits, licences or other approvals required of it under applicable Law to conduct its respective businesses, is in compliance with all terms and conditions of any such certificates, authorisations, permits, licences or approvals, and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification

of any such certificates, authorisations, permits, licences or approvals, such that it is no longer able to conduct its core businesses which are likely to have a material adverse effect on the Company or the Company and its Subsidiaries taken as a whole.

17. The Company and each of its Subsidiaries has good title to all real and personal property owned by it which is material to its businesses, in each case free and clear of such liens (other than those arising by statute or operation of Law), encumbrances (other than mortgages or charges created thereon in the ordinary course of business for purposes of securing finance to the Company and/or its Subsidiaries) and defects as would materially affect the value of such property or would interfere with the use made or proposed to be made by it of such property. Any real property and facilities held under lease by the Company or any Subsidiary are held by it under valid, subsisting and enforceable leases.
18. The Company and each of its Subsidiaries are insured by licenced/registered insurers against such losses and risks and in such amounts as the management of the Company believes to be prudent and customary having regard to the businesses in which the Group is engaged. To the best knowledge of the Company, the Company believes that the Group will be able to renew its or their existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not materially and adversely affect the condition, financial or otherwise, or the business, operations, results of operations or prospects of the Group.
19. The Company and each of its Subsidiaries has made or filed all tax returns, reports and declarations required by any jurisdiction to which it is subject (unless, and only to the extent that, the Company or any Subsidiary has set aside on its books provisions reasonably adequate for the payment of all unpaid and unreported taxes) and has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim.
20. The Company and each of its Subsidiaries maintains a system of internal accounting controls sufficient to provide reasonable assurance that:
  - (a) transactions are executed in accordance with the management's general or specific authorisations or delegations;
  - (b) transactions are recorded as necessary to permit preparation of accounts in conformity with the applicable accounting standards, Hong Kong Financial Reporting Standards, in the case of the Company in Hong Kong, and in the case of each Subsidiary, the applicable accounting practice standards in the relevant jurisdiction of that Subsidiary, and to maintain asset accountability;
  - (c) access to assets is permitted only in accordance with management's general or specific authorisations or delegations; and
  - (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any difference.
21. Neither the Company nor any Subsidiary is subject to any charter, corporate or other legal restriction, or any judgment, decree, order, rule or regulation which in the opinion of the Company's authorised officers has or is expected in the future to have a material adverse effect on the financial condition of the Company, its Subsidiary or that of the Company and its Subsidiaries taken as a whole.
22. Neither the Company nor any of its Subsidiaries is a party to any contract or agreement the performance of which is reasonably expected to have a material adverse effect on the financial condition of the Company, its Subsidiary or the Company and its Subsidiaries taken as a whole.

23. The Company is in compliance and shall comply with its obligations as set out in the Main Board Listing Requirements.
24. The number of Conversion Shares issued pursuant to conversion of the Notes may increase substantially in certain circumstances, including the event where the trading price of the Shares declines subject to the terms and conditions for the Notes. The Company's executive directors have studied and fully understand the nature of the Notes and recognise that the conversion of the Notes will have a dilutive effect on their shareholdings in the Company. The board of directors of the Company has concluded in its business judgment exercised in good faith that such issue is in the best interest of the Company. The Company acknowledges that, its obligation to issue Conversion Shares upon conversion of the Notes is binding upon it and enforceable regardless of the dilution that such issue may have on the ownership interest of other Shareholders.
25. The annual audited financial report of the Company for the financial year ended 31 December 2022 published and despatched to the Shareholders and copies of interim accounts of the Company as publicly released (the "**Financial Statements**") comply in all material respects with the requirements of the Main Board Listing Requirements and applicable Laws in the relevant jurisdiction of the Subsidiary and present fairly the financial position and results of operations of the Company and its Subsidiaries on the basis stated therein at the respective dates and for the respective periods specified therein. All the Financial Statements have been prepared in accordance with International Financial Reporting Standards applied consistently throughout the periods involved. Neither the Company nor any Subsidiary has any material liability or obligation, direct or contingent, other than those reflected in the Financial Statements or save as disclosed to the Subscribers as at the date of this Agreement.
26. The Company acknowledges and agrees that the Subscribers are not acting as a financial adviser or fiduciary of the Company (or in a similar capacity) with respect to the proposed transaction contemplated in this Agreement. In addition, the Company further acknowledges that the Company's decision to enter into this Agreement and the related documents has been based solely on the independent evaluation by the Company and its representatives and not in reliance of or induced by any representations made by the Subscribers (other than the representations of the Subscribers set out in this Agreement).
27. The indemnity given by the Company in Clause 8 of this Agreement shall continue in full force and effect notwithstanding the actual or constructive knowledge of the Subscribers with respect to any of the matters referred to in such representations and warranties, any investigation by or on behalf of the Subscribers, completion of the arrangements set out herein for the subscription and issue of the Notes and the termination of this Agreement pursuant to Clause 9 of this Agreement.
28. The Company shall notify the Subscribers promptly of any event or development making untrue, or any material change affecting, any of its representations, warranties, undertakings, agreements or indemnities herein at any time prior to payment being made on each of the Closing Dates and will take such steps as may be reasonably requested by the Subscribers to remedy the same within seven (7) Business Days from the said notice provided that the Subscribers shall use such information from the Company to the extent that such usage is permissible under the Main Board Listing Requirements and the applicable Laws and regulations.
29. The Company shall not, and shall cause all other persons (save for its professional advisers including corporate advisers, solicitors, accountants and auditors) acting on its behalf not to, issue any announcement, press release or other publicity in Hong Kong or elsewhere which relates to the issue of the Notes without the consent of the Subscribers, unless and until such announcement, press release or other publicity is required by any applicable Law, regulation, administrative guidance, rules or the Main Board Listing Requirements.
30. The Company shall make arrangements for the Notes certificate to be printed and delivered to the Subscribers in the manner provided in this Agreement and the Conditions.

31. The Company shall maintain or procure the maintenance of listing of all the issued and outstanding Shares (including the Conversion Shares but excluding treasury shares) on the Main Board.
32. The Company confirms that it understands and shall comply with the procedures for the conversion of the Notes as set out in Schedule 4 (Part A – Conversion Mechanics) and hereby agrees that the conversion notices shall be substantially in the form set out in Schedule 4 (Part B – Form of Conversion Notice).
33. The Company shall use the proceeds from the issue of the Notes mainly to increase the Group's general working capital and/or future development as and when business opportunities arise PROVIDED THAT the proceeds from the issue of the Notes shall not be used to pay dividends to Shareholders or for the purposes of or in relation to any repayment or reduction of any debt owed to a Related Party (as defined in the International Financial Reporting Standard). Pending the deployment of the proceeds from the issue of the Notes, such proceeds may be deposited with banks and/or financial institutions or invested in short-term money market instruments as the board of directors of the Company may deem fit.
34. The Company shall keep confidential the terms of this Agreement and of the Notes except for any disclosure required to be made in the manner as contemplated in paragraph 29 above and shall not disclose the same to any other person or entity without the prior written consent of the Subscribers unless to its professional advisers (who include corporate advisers, solicitors, accountants and auditors) or required by Law or court order or any relevant government authority or HKEx or pursuant to the Main Board Listing Requirements.
35. To the extent as permitted under the applicable Law or the Listing Rules, the Company consents to the Subscribers and any of its authorised officers and employees disclosing, on a need to know basis only, information relating to current and future transactions or arrangements between the Company and the Subscribers to the Subscribers' subsidiaries (including any officer and employee thereof) as the Subscribers, or any of its authorised officers or employees may in good faith consider necessary or desirable in relation to the Notes. The Company further authorises the Subscribers and any of its authorised officers and employees to disclose information relating to current and future transactions or arrangements between the Company and the Subscribers to regulators of its subsidiaries (including any officer or employee thereof) as such entity or any of its officers and employees may in good faith consider it necessary to meet regulatory obligations in relation to the Notes. The Subscribers acknowledge that the Company shall not be responsible for the accuracy and veracity of the information nor shall it assume any liability to any party for the information released by the Subscribers' authorised officers and employees.
36. Notwithstanding any provisions to the contrary in this Agreement or the Conditions, the Company undertakes not to (a) engage in any transaction whatsoever with hedge funds operating or originating from any part of the world; and (b) undertake a private placement (save for (A) any proposed private placement under general mandate pursuant to the Listing Rules; and (B) allotment and issuance of new Shares as consideration or as part consideration for the acquisition of new shares or assets by the Group) without obtaining the Subscribers' written consent (which consent shall not be unreasonably withheld or delayed), for as long as any Notes are outstanding.
37. The Company undertakes to the Subscribers not to perform any acts that may prejudice the rights and/or affect the interests of the Subscribers under this Agreement.

For the purposes of Schedule 2 of this Agreement, the term “**material adverse effect**” shall mean in relation to an event or circumstance that, in the sole opinion of the Subscribers, have a material adverse effect on:

- (a) the financial condition, assets, prospects or business of the Company or on the consolidated financial condition, assets, prospects or business of the Group;
- (b) the ability of Company and its Subsidiaries to perform and carry out its business operation; or
- (c) the ability of the Company to perform any of its obligations under this Agreement.



## SCHEDULE 3A

### FORM OF NOTE CERTIFICATE

**CHINA KINGSTONE MINING HOLDINGS LIMITED**

Bermuda Company Registration Number (51756), Hong Kong Stock Code (1380)

(the “**Company**”)

*Noteholder* :

Noteholder :  
Registration  
No.

Tranche No :

Sub-tranche :  
No

Issue No : \_\_\_\_\_

*Nominal Value* :

Issue Date :

*Maturity Date* :

Issue of registered 2.0% redeemable convertible notes amounting in aggregate to a sum of up to HKD200,000,000 (the "Notes") pursuant to the amended and restated subscription agreement dated \_\_\_\_\_ entered into between the Company, Advance Opportunities Fund VCC (acting on behalf and for the account of AOF Hong Kong Opportunities Fund) and Advance Opportunities Fund I (as subsequently amended, modified and/or supplemented) (the "Subscription Agreement").

### NOTE CERTIFICATE

THIS IS TO CERTIFY that the bearer of this Note Certificate is the holder of HKD \_\_\_\_\_ in nominal value of registered Notes. For value received, the Company promises to pay the person who appears at the relevant time on the register of Notes as the holder of the Note in respect of which this Certificate is issued such amount or amounts (including interest) as shall become due in respect of such Notes in accordance with and otherwise to comply with the terms and conditions of the Notes attached hereto (the "**Terms and Conditions**").

This Note Certificate is convertible into ordinary shares in the capital of the Company in accordance with and subject to the Terms and Conditions.

The Notes in respect of which this Note Certificate is issued pursuant to the specific mandate granted by the shareholders of the company at the shareholder's meeting of the Company passed on [date] forms one of a series of Notes in the aggregated nominal value of up to HKD200,000,000 comprising of two (2) equal tranches of a nominal value of HKD100,000,000 for each tranche (collectively, the convertible notes shall be referred to as the **"Notes"** and individually, the two (2) tranches of the Notes shall be referred to as **"T1"** and **"T2"** respectively). Each of T1 and T2 shall comprise of fifty (50) equal sub-tranches of HKD2,000,000 each (accordingly, **"ST01"** to **"ST50"**).

This Note Certificate shall be governed by, and construed in accordance with, the laws of Hong Kong.

IN WITNESS WHEREOF the Company has caused this Note Certificate to be executed in such manner as may be allowed under the Companies Ordinance.

Executed as a deed by China Kingstone Mining Holdings Limited and signed by:

---

DIRECTOR

---

DIRECTOR / SECRETARY

THE NOTES ARE NOT LISTED OR QUOTED ON THE MAIN BOARD OF THE HONG KONG STOCK EXCHANGE OR ANY STOCK EXCHANGE.

**Notes:**

Each of the Note(s) herein comprised is registered with the Company and is transferable in accordance with the Terms and Conditions and the provisions of the Subscription Agreement. This Certificate is evidence of entitlement only. Title to the Notes passes only on due registration in the register of Noteholder and only the duly registered holder is entitled to payments on the Note in respect of which this Certificate is issued. This Certificate must be surrendered before any transfer of the Note(s) comprised herein will be registered. The Company is entitled in all circumstances to treat the registered owner as the sole true owner of the Note(s) herein comprised.

Each of the Notes(s) herein comprised is eligible for conversion in accordance with the Terms and Conditions and the provisions of the Subscription Agreement at any time without the requirement for sequential conversion (based on the Certificate numbers) of any other Notes comprised in other Certificates.

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## SCHEDULE 3B

## TRANSFER FORM

## CHINA KINGSTONE MINING HOLDINGS LIMITED

Bermuda Company Registration Number (51756), Hong Kong Stock Code 1380)

(the "Company")

Issue of registered 2.0% redeemable convertible notes amounting in aggregate to a sum of up to HKD200,000,000 (the "Notes") pursuant to the amended and restated subscription agreement dated \_\_\_\_\_ entered into between the Company, Advance Opportunities Fund VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund) and Advance Opportunities Fund I (as subsequently amended, modified and/or supplemented) (the "Subscription Agreement").

To: **CHINA KINGSTONE MINING HOLDINGS LIMITED**

I am/We are\* the holders of HKD \_\_\_\_\_ in aggregate nominal value of the Notes.

References in this Transfer Form to Conditions are to the terms and conditions on which the Notes were issued, as the same may have been amended from time to time pursuant to the terms thereof (the "**Conditions**"). Defined terms in the Conditions shall have the same meaning herein, save where the context otherwise requires.

1. I/We\* have transferred all / some of\* the Notes registered in my/our\* name in the Register to \_\_\_\_\_ of/whose registered office address is at\*

\_\_\_\_\_  
\_\_\_\_\_

(the "**Transferee**").

2. Total nominal value and Notes Certificate number(s) of the transferred Notes : \_\_\_\_\_

Total nominal value : \_\_\_\_\_

Total number of Certificates : \_\_\_\_\_

Notes Certificate number(s) : \_\_\_\_\_

3. I/We\* hereby request that a Certificate in respect of the transferred Notes be issued to the person whose name and address is set out in paragraph 1 above and that such Certificate be delivered to the person whose name and address is given below in accordance with the Conditions:

Name : \_\_\_\_\_

Address : \_\_\_\_\_

\_\_\_\_\_

Email Address : \_\_\_\_\_

Attention : \_\_\_\_\_

\_\_\_\_\_

4. The Certificate(s) in respect of the transferred Notes is/are\* enclosed with this Transfer Notice for cancellation.

5. I/ We agree (a) that there will be no conversion of the Notes by me/us to transfer to a controlling interest in the Company without the prior approval of the shareholders of the Company at a general meeting and (b) not to, whether individually or together with any other person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with me/us, hold more than 20% interest in the share capital of the Company, at any time and from time to time without the prior approval of the Company.
6. The details of the HKD bank account of the Transferee for the purposes of receipt of all payments in respect of the transferred Notes are as follows:

Name of Account : \_\_\_\_\_

Account No. : \_\_\_\_\_

Name of Bank : \_\_\_\_\_

Address of Bank : \_\_\_\_\_

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

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

Date : \_\_\_\_\_

**Notes:**

- (i) A representative of the Noteholder should state the capacity in which he signs.
- (ii) The signature of the person effecting a transfer shall conform to any list of duly authorised specimen signatures supplied by the registered Noteholder or be certified by a recognised bank, notary public or in such other manner as the Company may reasonably require.
- (iii) This Transfer Form should be dated as at the date it is deposited with the Company.

*\*Delete as appropriate*

*[The remaining portion of this page has been intentionally left blank]*

## SCHEDULE 3C

## TERMS AND CONDITIONS OF THE NOTES

The following is the text of the Terms and Conditions of the Notes setting out the rights and obligations of China Kingstone Mining Holdings Limited (Hong Kong Stock Code 1380) (the **"Company"**) in its capacity as the issuer of the Notes and the Noteholders (as defined below) (the **"Terms and Conditions"**). These Terms and Conditions are attached to each Note Certificate and constitute an integral part of the Note Certificate representing the relevant Notes specified therein.

This Note is one of the series of 2.0% redeemable convertible notes amounting in aggregate to a sum of up to HKD200,000,000 comprising of two (2) equal tranches of a nominal value of HKD100,000,000 for each tranche (collectively, the convertible notes shall be referred to as the **"Notes"** and individually, the two (2) tranches of the Notes shall be referred to as **"T1"** and **"T2"** respectively) issued pursuant to the amended and restated subscription agreement dated \_\_\_\_\_ entered into between the Company, Advance Opportunities Fund VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund) and Advance Opportunities Fund I (as subsequently amended, modified and/or supplemented) (the **"Subscription Agreement"**). Each of T1 and T2 shall comprise of fifty (50) equal sub-tranches of HKD2,000,000 each (accordingly, **"ST01"** to **"ST50"**).

The issue of the Notes were authorised by the approval of the Shareholders dated \_\_\_\_\_. These Terms and Conditions include summaries of, and are subject to, the detailed provisions of the Subscription Agreement.

A copy of the Subscription Agreement is available for inspection by the Noteholders at the Company's principal place of business in Hong Kong during normal business hours of the Company. The Noteholders are deemed to have notice of all the provisions of the Subscription Agreement and are entitled to the benefit of and bound by their provisions where they are stated to apply to the Noteholders.

## 1. DEFINITIONS

1.1 In these Terms and Conditions, except where the context otherwise requires:

**"Affiliate"** means with respect to any person, any other person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with that person. For the purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that person whether through ownership of shares, voting securities or otherwise;

**"Business Day"** means a day on which banks are open for business in Hong Kong and the HKEx is open for trading, ending at 5.00 pm (Hong Kong Time);

**"Bye-Laws"** means the memorandum of association and the bye-laws of the Company as amended from time to time;

**"CCASS"** means the Central Clearing and Settlement System established and operated by the HKSCC;

**"Capital Distribution"** means (a) any distribution of assets in specie charged or provided for in the accounts of the Company for any financial period (whenever paid or made and however described) but excluding a distribution of assets in specie in lieu of, and to a value not exceeding, 110% of the cash dividend which would not have constituted a Capital Distribution under (b) below (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) by way of capitalisation of reserves); and (b) any cash dividend or distribution of any kind charged or provided for in the accounts of the Company for any financial period (whenever paid or made and however described) unless:-

- (i) and to the extent that it does not, when taken together with any dividend or distribution in cash or any distribution of assets in specie previously made or paid in respect of any financial period after 31 December 2022, exceed an amount equal to the aggregate of

the consolidated cumulative net profits less the aggregate of any consolidated net losses (after taxation but including any net realised gains (less any losses) made on the disposal of investments and extraordinary items) attributable to the members of the Company in respect of financial periods ending after 31 December 2022 as shown in the audited consolidated accounts of the Company, for such periods (PROVIDED THAT consolidated net profits shall exclude any amount arising as a result of any reduction of share capital); or

- (ii) (if it would exceed such amount available under (i)) and to the extent that (A) it would exceed such amount and (B) the rate of that dividend or distribution, together with all other dividends or distributions on the class of capital in question charged or provided for in the accounts or the Company for that period, does not exceed the aggregate rate of dividend or distribution on such class of capital charged or provided for in the accounts of the Company for the immediately preceding financial period. In computing such rates the value of distributions in specie shall be taken into account and such adjustments as are in the opinion of the auditors of the Company appropriate to the circumstances shall be made (including adjustments in the event that the lengths of such financial periods differ); or
- (iii) it comprises a purchase or redemption of share capital of the Company, provided, in the case of purchases of Shares by the Company, that the average price (before expenses) on any one Business Day in respect of such purchases does not exceed by more than 5% the current closing price per Share either (A) on that Business day, or (B) where an announcement has been made of the intention to purchase Shares at some future date at a specified price, on the Business Day immediately preceding the date of such announcement;

**"Certificates"** means the Note Certificate and where the context so requires, reference to **"Certificate"** shall mean the Note Certificate;

**"Closing Price"** means, in respect of a Share, on any particular Business Day, the closing price of the Share on the Main Board for one Share on that day (as adjusted pursuant to Condition 8.15) PROVIDED THAT in the event that there has been no trading of the Shares on that day, the **"Closing Price"** shall mean the closing price of one Share (as adjusted pursuant to Condition 8.15) on the Main Board on the preceding Business Day on which there was trading of the Shares and PROVIDED further that in the event that trading of the Shares is suspended, the **"Closing Price"** means, in respect of a Share, the last reported trading price of one Share (as adjusted pursuant to Condition 8.15) on the Main Board on the Business Day immediately prior to such suspension;

**"Conversion Date"** shall have the meaning ascribed to it in Condition 8.10;

**"Conversion Notice"** shall have the meaning ascribed to it in Condition 8.8;

**"Conversion Price"** shall have the meaning ascribed to it in Condition 8.4;

**"Conversion Right"** shall have the meaning ascribed to it in Condition 8.1;

**"Depositor"** means a person being a Depository Agent or holder of a Securities Account maintained with CCASS (but does not include a holder of a sub-account maintained with a Depository Agent);

**"Depository Agent"** means an entity registered with CCASS for the purpose of maintaining securities sub-accounts for its own account and for the account of others;

**"Designated Office"** means the principal place of business (or other office notified to the Noteholders in accordance with Condition 14) of the Company which shall be in Hong Kong;

**"Event of Default"** has the meaning ascribed to it in Condition 12;

**"Group"** means the Company and its Subsidiaries;

**"HKD"** or **"Hong Kong Dollars"** means the lawful currency of Hong Kong;

**"HKEx"** means the Stock Exchange of Hong Kong Limited;

**"HKSCC"** means the Hong Kong Securities Clearing Company Limited;

**"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;

**"Laws"** means all applicable provisions of all (a) constitutions, treaties, statutes, laws (including the common law), codes, rules, regulations, ordinances or orders of any governmental authority, (b) governmental approvals and (c) orders, decisions, injunctions, judgments, awards and decrees of or agreements with any governmental authority, whether in Hong Kong, Bermuda, or such other jurisdictions as may be applicable to the Company and the transactions contemplated under this Agreement, and **"Law"** shall be construed accordingly;

**"Listing Rules"** means the Rules Governing the Listing of Securities on the Main Board of HKEx, as amended or supplemented from time to time;

**"Majority Noteholders"** means the Noteholders in aggregate representing more than 50% of the total outstanding nominal value of the Notes at any time, and a **"Majority Noteholder"** shall be construed accordingly;

**"Note Issue"** means any issue of notes, bonds or other similar securities of the Company or any Subsidiary (as defined in Condition 12.2) to any other person but shall not include the indebtedness constituted by loan agreements from lenders not involving the issue of notes, bonds or other similar securities;

**"Note Issue Price"** means, in relation to each sub-tranche of the Notes, the amount equivalent to 100% of the nominal value of the Notes for such sub-tranche;

**"Noteholder"** and (in relation to a Note) **"holder"** means holders of the Notes who are for the time being the beneficial owners of the Notes as reflected in the Record;

**"Record"** means the record of the persons for the time being the beneficial owner of the Notes maintained by the Company;

**"Securities Account"** means a securities account maintained by a Depositor with CCASS;

**"SGM"** means the special general meeting of the Shareholders to be convened and held for the purpose of approving the proposed T1 Specific Mandate or T2 Specific Mandate;

**"Shares"** means the ordinary shares in the capital of the Company;

**"Shareholders"** means the registered holders of the Shares for the time being;

**"Shares Issuance Date"** means the date the Conversion Shares is delivered pursuant to relevant steps and procedures as set out in Condition 8.11;

**"Stock Split"** means any kind of stock split in relation to the Shares, including a bonus share distribution, a stock dividend or a sub-division of Shares;

**"Subsidiary"** shall have the meaning ascribed to it in Condition 12.2;

**"T1 Maturity Date"** means with regard to T1, the date falling twelve (12) calendar months from the Closing Date of ST01 of T1;

**"T2 Maturity Date"** means with regard to T2, the date falling twelve (12) calendar months from the Closing Date of ST01 of T2;

**"T1 Maximum Conversion Shares"** shall have the meaning ascribed to it in Clause 2.7 of the Subscription Agreement;

**"T2 Maximum Conversion Shares"** shall have the meaning ascribed to it in Clause 2.7 of the Subscription Agreement;

**"T1 Specific Mandate"** means the specific mandate to be sought from the Shareholders at the SGM to grant to the board of directors of the Company the authority for the allotment and issue of T1;

**"T2 Specific Mandate"** means the specific mandate to be sought from the Shareholders at the SGM to grant to the board of directors of the Company the authority for the allotment and issue of T2; and

**"Takeovers Code"** means The Codes on Takeovers and Mergers and Share Buy-backs of Hong Kong, as amended, supplemented or otherwise modified from time to time;

"%" means per centum or percentage.

1.2 Any reference to:

**"current market price"** means in respect of a Share or other security at a particular date the average of the closing prices of the Shares or other securities on the Main Board for one Share or such security for the five (5) consecutive Business Days ending on the last Business Day preceding such date

The term **"outstanding"** in relation to the Notes refers to all the Notes issued other than:

- (a) those which have been redeemed or in respect of which Conversion Rights (as defined in Condition 8.1) have been exercised and which have been cancelled in accordance with the Terms and Conditions;
- (b) those in respect of which the date for redemption in accordance with the Terms and Conditions has occurred and the redemption moneys (including all interest accrued on such Notes to the date for such redemption and any interest payable under Condition 6 after such date) have been duly paid to the relevant Noteholder or in accordance with its instructions;
- (c) those mutilated or defaced Notes which have been surrendered in exchange for replacement Notes pursuant to Condition 13;
- (d) for the purpose only of determining how many Notes are outstanding and without prejudice to their status for any other purpose, those Notes alleged to have been lost, stolen or destroyed and in respect of which replacement Notes have been issued pursuant to Condition 13; or
- (e) those which have been purchased and cancelled as provided in Condition 10.

1.3 Unless the context otherwise requires:

- (a) references to the singular number shall include references to the plural number and vice versa;
- (b) references to natural persons shall include bodies corporate, and the use of any gender shall include all genders;
- (c) the words **"written"** and **"in writing"** include any means of visible reproduction;
- (d) any reference to a statutory provision shall include such provision as from time to time modified or re-enacted and any regulations, ordinances, Bye-laws, published rulings, statements of policy or guidelines made in pursuance thereto as from time to time modified or re-enacted after the date of the Subscription Agreement and shall also include any provision in any other statute which replaces that present statutory provision; and



- (e) any reference to a document includes an amendment or supplement to, or replacement or novation of, that document.

1.4 References to a “day”, “calendar day”, “month”, “calendar month”, “year” or “calendar year” shall be construed by reference to the Gregorian calendar.

1.5 All capitalised terms defined in the Subscription Agreement and not defined herein shall have the same definition and meaning herein.

## 2. FORM AND DENOMINATION

2.1 The Notes shall be issued in multiples of HKD250,000.

2.2 The Notes shall be issued at the nominal value of the Notes.

## 3. NEGATIVE PLEDGE

Neither the Company nor any of its Subsidiaries shall, for as long as any of the Notes remains outstanding, without prior written consent of the Noteholders (such written consent shall not be unreasonably withheld or delayed) create or allow the creation of any mortgage, charge, pledge or any other security interest upon the whole or any part of its property or assets, present or future, in order to secure, for the benefit of holders of any existing or future Note Issue (or to secure for the benefit of holders thereof any guarantee or indemnity or other like obligation in respect thereof) without according to the Notes at the same time, either the same security as is created or is outstanding in respect of such Note Issue (or such guarantee or indemnity or other like obligation in respect thereof) or such other security or guarantee as is not materially less beneficial to the Noteholders. To avoid doubt, this Condition 3 shall not be applicable to the creation of any mortgage, charge, pledge or any other security interest upon the whole or any part of the property or assets of the Company or its Subsidiaries, present or future, in order to secure, for the benefit of the Company or its Subsidiaries of any loan facilities, borrowings and/or credit facilities granted to the Company or its Subsidiaries by banks for its business operation, repayment of bank borrowings, working capital or business expansion.

## 4. TITLE AND TRANSFER

4.1 A Note may be transferred in whole but not in part.

4.2 Title to the Notes shall be evidenced by registration in the register of Notes which the Company shall keep. The Company may (except as otherwise required by Law) deem and treat the person in whose name a Note is registered as the absolute owner thereof (whether or not such Note shall be overdue and notwithstanding any notice of ownership, trust or any interest therein or writing thereon or notice of any previous loss or theft thereof) for the purpose of receiving payment thereof or on account thereof and the Company shall not be liable for so treating the person as the absolute owner.

4.3 The Noteholder (in this Condition 4 referred to as the “**Transferor**”) shall, subject as provided hereinafter, be entitled at any time and from time to time to transfer the Note(s) registered in its name (to be referred to hereinafter as the “**Transferred Note(s)**”) to any third party (the “**Intended Transferee**”).

4.4 A Note may be transferred by emailing the transfer form in the form set out in Schedule 3B to the Subscription Agreement duly completed and signed to the Company.

4.5 Upon receipt of the transfer form duly completed and signed, the Company shall forthwith make a notation on the register of Notes to the effect that the Note is registered in the name of the transferee specified in such transfer form.

4.6 Each new Certificate to be issued upon a transfer of Notes will (following execution in manual or electronic form by a duly authorised officer(s) of the Company and authentication on behalf of the Company), be sent by email and/or express mail to the transferee's address which is specified in the transfer form, within five (5) Business Days of receipt by the Company of the duly completed transfer form.

- 4.7 Registration of a transfer of Notes will 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 tax or other governmental charges which may be imposed in relation to such transfer.
- 4.8 No Noteholder may require the transfer of a Note to be registered (a) during the period of fifteen (15) Business Days ending on the due date for any payment of any principal or interest on the Notes, or (b) after the Certificate in respect of such Note has been deposited for conversion pursuant to Condition 8.
- 4.9 Any transfer of the Notes by the Noteholders to any core connected person (as defined in the Listing Rules) of the Company will be subject to the requirements (if any) that the HKEx may impose from time to time.

## 5. STATUS

- 5.1 The Notes constitute:
- (a) direct, unconditional, unsubordinated and (subject to the provisions of Condition 3) unsecured obligations of the Company, ranking *pari passu* and rateably without any preference among themselves, and, subject as mentioned above and save as otherwise provided under any applicable Laws or regulations, equally with all other unsecured obligations (other than subordinated obligations, if any) of the Company from time to time outstanding; and
  - (b) legal, valid and binding obligations of the Company to pay to the Noteholders, the sums represented thereby.
- 5.2 The Noteholders shall not be entitled to the right to receive dividends, bonuses and other distributions made by the Company nor shall the Noteholders have the right to receive notices of or to attend, speak or vote at any general meetings held by the Company until the Notes held by the Noteholders have been converted into Shares.

## 6. INTEREST

- 6.1 The Notes shall bear interest from the respective dates on which they are issued in accordance with these Terms and Conditions at the rate of 2.0% per annum, payable quarterly in arrears on 31 March, 30 June, 30 September and 31 December in each year (each an “**Interest Payment Date**”). Accrued interest on any outstanding Notes payable on each Interest Payment Date shall be calculated from the previous Interest Payment Date (in respect of existing Notes) or the Closing Date of such Notes (in respect of new Notes to be issued) until:
- (a) the date preceding the following Interest Payment Date, wherein interest shall be paid on that Interest Payment Date;
  - (b) the date preceding the Conversion Date, wherein interest accrued on such Note from the last Interest Payment Date up till the Conversion Date unless, upon delivery of the Conversion Notice hereof, issuance and allotment of the Conversion Shares is improperly withheld, delayed or refused or default is otherwise made in respect of timely delivery of the Conversion Shares pursuant to Condition 8.12 and, in such event, interest will continue to accrue from the Conversion Date at the said rate up to but excluding the date on which the Conversion Shares are duly issued and allotted to the Noteholder. All interest accrued on such Notes from the last Interest Payment Date up till the Conversion Date will be payable to the Noteholder on the next Interest Payment Date; or
  - (c) the date of redemption of such Notes, wherein interest shall be paid on that redemption date, unless, upon due surrender hereof, payment of principal is improperly withheld, delayed or refused or default is otherwise made in respect of any such payment and, in such event, interest will continue to accrue from the date of such withholding, refusal or default at the said rate up to but excluding the date on which payment in full of the

principal

6.2 For the avoidance of doubt and notwithstanding anything to the contrary, the following shall apply:

- (a) the accrued interest on the outstanding Notes to be paid on the Interest Payment Date is to be calculated from and including the previous coupon date or the day from which interest is to accrue for a new issue, up to but excluding the value date of the transaction. For purposes of illustration, the calculation of the accrued interest on the outstanding Notes payable quarterly shall not include the value date of the transaction being 31 March, 30 June, 30 September and 31 December respectively; or
- (b) in the event the Noteholder elects to convert the Notes into ordinary shares of the Company in accordance with Condition **Error! Reference source not found.**, the calculation of the said accrued interest shall not include the Conversion Date.

6.3 Whenever it is necessary to compute any amount of interest in respect of the Notes for a period of less than a half-year, such interest shall be calculated on the basis of the actual number of days in such period divided by 365 (or, if any portion of that period falls in a leap year, the sum of (a) the actual number of days in that portion of the period falling in a leap year divided by 366 and (b) the actual number of days in that portion of the period falling in a non-leap year divided by 365).

## 7. PAYMENT

7.1 Payments in respect of principal, interest or any other monies payable by the Company or any of its Subsidiaries to the Noteholder (as applicable) will be made to the registered Noteholder by a cashier's order made out in Hong Kong Dollars and drawn on a licensed bank in Hong Kong or by transfer to an account maintained by the payee with a licensed bank in Hong Kong (details of which shall have been notified to the Company at least seven (7) Business Days before the due date for payment), subject in all cases to any fiscal or other Laws of Hong Kong and regulations applicable thereto, but without prejudice to the provisions of Condition 11. Cashier's orders shall be sent to the address of the Noteholder appearing on the register of Notes by registered mail and at the risk of the Noteholder.

7.2 If the due date for payment of any amount of principal, interest or any other monies payable by the Company to the Noteholder (as applicable) in respect of any Note is not a Business Day, then the Noteholder thereof shall not be entitled to payment of the amount due until the next Business Day if the latter falls within the same month and if the next Business Day falls into the next month, the Noteholder thereof shall be entitled to payment of the amount due on the preceding Business Day in the current month.

7.3 The Notes being repaid shall be so repaid against surrender of the Certificate for cancellation and, against such surrender, all outstanding interest due and owing to the Noteholder will be paid by the Company in accordance with Condition 7.1.

7.4 All payments made by the Company pursuant to Condition 7 shall be a good and absolute discharge of the Company's obligations under the Notes.

## 8. CONVERSION

8.1 The right of a Noteholder to convert any Notes hereunder is hereinafter called the "**Conversion Right**". Subject to and upon compliance with these Terms and Conditions, any Note may be converted in whole multiples into duly authorised and registered, validly allotted and issued, fully-paid and unencumbered Shares with all rights attached, at the option of the holder thereof, at any time, from and including the respective dates on which they are issued and registered in accordance with the Subscription Agreement up to the close of business (at the place where the Note is deposited for conversion, namely, Singapore) on the day falling seven (7) calendar days prior to the T1 Maturity Date or the T2 Maturity Date (as the case may be) (the "**Conversion Period**"), PROVIDED THAT:

- (a) The T1 Maximum Conversion Shares or T2 Maximum Shares (as the case may be)

have not been reached; or

- (b) there has been no occurrence of any Event of Default.

In the event the T1 Maximum Conversion Shares or T2 Maximum Shares (as the case may be) have been reached and the Company has failed to obtain the relevant Corporate Approvals and Authority Approvals to increase the T1 Maximum Conversion Shares or T2 Maximum Shares (as the case may be), the Noteholder shall issue a written notice to the Company (the “**Redemption Notice**”) and the Company shall redeem in cash the outstanding Notes that are not capable of being converted at 115% of its nominal value (the “**Redemption Sum**”) and pay the Redemption Sum to the Noteholder within five (5) Business Days of the Company’s receipt of the Redemption Notice.

In the event an Event of Default has occurred and continues to occur, the provisions in Condition **Error! Reference source not found.** shall apply.

- 8.2 Subject to the T1 Maximum Conversion Shares and T2 Maximum Conversion Shares (as the case may be), the number of Shares arising from the conversion of the T1 and T2 to which a Noteholder is entitled on conversion shall be determined by dividing the aggregate principal amount of the Notes held by the Noteholder with the Conversion Price, determined as hereinafter provided, in effect on the relevant Conversion Date.

- 8.3 Fractions of a Share will not be issued on conversion and adjustment or cash payment will be made in respect thereof.

- 8.4 The price at which each Conversion Share shall be issued upon conversion of:

- (a) any T1 Notes or T2 Notes shall be 90% of the average Closing Price per Share on any three (3) consecutive Business Days as selected by the Noteholder during the forty-five (45) Business Days immediately preceding the relevant Conversion Date on which Shares were traded on the Main Board (“**Conversion Price**”) PROVIDED THAT:

- (i) the Closing Price per Share shall refer to the adjusted Closing Price pursuant to Condition 8.15, if applicable;
- (ii) the Conversion Shares when issued pursuant to the conversion of any Notes at the Conversion Price does not on an-as converted basis result in a theoretical dilution of more than 25% of the enlarged share capital of the Company in accordance with Rule 7.27B of the Listing Rules; and
- (iii) the Conversion Price for any Notes calculated in accordance with Condition 8.4(a) shall in no event be below HKD0.01, otherwise, the Company shall do the following:

- (A) subject to Condition 8.2, allot and issue to the Noteholder such number of Conversion Shares equivalent to:

$$A = [(N * FV) / PV]$$

Where:

- “A” : the number of Conversion Shares to be allotted and issued.
- “N” : the number of Notes presented for conversion.
- “FV” : the nominal value of each Note presented for conversion.
- “PV” : the par value.

and

(B) pay the Noteholder in cash an amount equivalent to:

$$B = [(N * FV) / CP - (N * FV) / PV] * C$$

Where:

- "B" : cash payable to Noteholder.
- "N" : the number of Notes presented for conversion.
- "FV" : the nominal value of each Note presented for conversion.
- "CP" : the Conversion Price.
- "PV" : the par value.
- "C" : the Closing Price on the Conversion Date.

Notwithstanding any other provisions to the contrary, in the event that the three (3) Business Days as selected by the relevant Noteholder were not consecutive Business Days, these three (3) Business Days selected shall be deemed consecutive in nature for the purposes of this Condition 8.4(a), PROVIDED THAT:

- (1) those consecutive Business Days that ought to have been selected (to constitute consecutive) were not selected as that they were Business Days where no trades were done on the Shares on the Main Board; and
- (2) the first (1<sup>st</sup>) Business Day immediately thereafter where there were trading in the Shares were selected as a Business Day for the purposes of this Condition 8.4 in their stead.

8.5 The delivery of Shares upon the exercise of any right of conversion of any Notes under these Conditions shall be effected by the Company in accordance with Condition 8.6.

8.6 The Company shall, upon the exercise of any right of conversion by the Noteholder under these Conditions, promptly take all necessary action to effect the delivery of Shares to be issued to the Noteholder (a) by delivering the physical Share certificates to the designated address or such other address as may be instructed by the Noteholder in writing; and (b) instructing the Company's share registrar to credit the Shares to the Securities Account designated by the relevant Noteholder.

8.7 As used in this Condition 8, the expression "**Shares**" means:

- (a) ordinary shares in the capital of the Company, together with shares of any class or classes resulting from any Stock Split, consolidation or re-classification thereof, which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company, and
- (b) fully-paid and unencumbered shares of any other class or classes in the share capital of the Company which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company.

8.8 The Noteholder shall exercise its Conversion Right under this Condition 8 by sending, via email to kennyc@kingstonemining.com (Attn: Mr. Kenny Cheung) by 3.30 pm (Hong Kong Time) on a Business Day, a duly completed and executed notice of conversion as set out in Schedule 4 (Part B – Form of Conversion Notice) to the Subscription Agreement (the "**Conversion Notice**"). The Company shall acknowledge receipt of the Conversion Notice by email to the sender of the Conversion Notice by 5.30 pm (Hong Kong time) on the Conversion Date (as defined below). Failure of the Company to deliver such an acknowledgement shall not affect the validity of the Conversion Notice PROVIDED THAT the relevant Noteholder shall retain a

mechanical or electronically generated confirmation of the successful transmission of such email.

- 8.9 The Company shall be obliged to effect the conversion of the Notes and will pay the expenses arising on the registration, allotment and issue of Shares on conversion of the Notes.
- 8.10 The date on which the emailed Conversion Notice is received by the Company (as evidenced by the transmission report of the Noteholder's email server) (or the next Business Day if the Conversion Notice is received by the Company after 3.30 pm Hong Kong time) is herein referred to as the "**Conversion Date**" applicable to such Note. The Company shall acknowledge receipt of the Conversion Notice by email to the sender of the Conversion Notice on the Conversion Date PROVIDED THAT the Company may from time to time give not more than thirty five (35) calendar days' and not less than fourteen (14) calendar days' written notice to all Noteholders specifying a period being not more than four (4) Business Days commencing on the expiry of such written notice during which the Notes will not be convertible (the "**No Conversion Period**"), PROVIDED THAT that the aggregate of the days on which the Notes are not convertible shall not exceed twelve (12) Business Days in any calendar year. Where such Conversion Notice is received during a period in which the Notes are not convertible, the Conversion Date shall be (other than for the purpose of the determination of the Conversion Price in accordance with Condition 8.4) the Business Day following the expiry of such period.
- 8.11 The Company shall, as soon as practicable, and in any event within three (3) Business Days after the relevant Conversion Date ("**Shares Issuance Date**"), or if the Conversion Date occurs within the No Conversion Period, on the third (3rd) Business Day following the last day of the No Conversion Period, deliver or cause to be delivered the Conversion Shares to the order of the person named for that purpose in the relevant Conversion Notice, such delivery to be in accordance with normal practice for settlement of transactions on the HKEx, together with any such other securities, property or cash required to be delivered on conversion, and such assignments and other documents (if any) as may be required by Law to effect the transfer thereof.
- 8.12 The new Shares to be issued arising from the conversion of the Notes shall upon issue and allotment, be listed on the Main Board of the HKEx and rank pari passu in all respects with the then existing Shares except that the new Shares shall not be entitled to any dividends, rights, and/or other distributions that may be declared, made or paid prior to the date of allotment and issuance of the new Shares.
- 8.13 If the Conversion Date falls on or before the record date for determining entitlement of Shareholders to any dividend or other distribution or of participation in any rights issue in respect of the Shares (notwithstanding the Conversion Date falling on the period of closure of register of members in connection with the determination of such entitlement), the converting Noteholder shall be entitled to a sum equal to any such dividend or other distribution to which he would have been entitled to prior to the Conversion Date or to participate in such rights issue as if he had on that record date been such a Shareholder on record and the Company shall make the payment at the same time as it makes payment of the dividend or other distribution, or as soon as practicable thereafter, but, in any event, not later than seven (7) calendar days thereafter or seven (7) calendar days after the Conversion Date (whichever is later).
- 8.14 Where, pursuant to an exercise of Conversion Rights, either:
- (a) the aggregate Conversion Shares held by the Noteholder after the allotment and issue of such Conversion Shares results in the Noteholders and any persons acting in concert with it (as defined under the Takeovers Code) becoming controlling shareholder(s) (as defined under the Listing Rules) of the Company; or
  - (b) the aggregate Conversion Shares held by the Noteholder and any persons acting in concert with it (as defined under the Takeovers Code) after the allotment and issue of such Conversion Shares amount to 30% (or such other amount as may be as may from time to time be specified in the Takeovers Code as being the level that would trigger a mandatory general offer for the securities of the Company under the Takeovers Code) or more of the total issued share capital and/or voting power at general meetings of the Company; or

- (c) the aggregate Conversion Shares held by the Noteholder after the allotment and issue of such Conversion Shares results in the Company being in breach of the minimum public float requirement stipulated under Rule 8.08 of the Listing Rules,

the Noteholder shall not be entitled to such exercise.

- 8.15 If, during any period in which an event specified in Condition 10.3 has occurred such that the Closing Price per Share before and after such event does not represent the same economic and financial participation that a holder of a Share would have had without the occurrence of such an event, then for the purposes of determining the Conversion Price subject to the Listing Rules, the Closing Price shall be adjusted in the either of the following manner, at the election of the Noteholder:

- (a) the adjusted Closing Price published by HKEx or such other sources that the Parties and the Noteholders may mutually agree in writing; or
- (b) the Closing Price shall be adjusted by the Noteholder in accordance with the provisions set out in Conditions 10.5(a), (b), (c), (d), (e), (f), (g), (h) and (i), 10.6, 10.7, 10.8 and 10.9 of this Agreement in which event, all references to "Conversion Downside Price" shall be taken as referring to "Conversion Price" and to be construed accordingly for the purposes of this Condition 8.15.

PROVIDED THAT, in the event the Company disagrees with the adjusted Closing Prices adopted by the Noteholder for the purposes of computing the Conversion Price, the Company may, at its own cost within three (3) Business Days, appoint an independent corporation licensed under the Securities and Futures Ordinance which the Majority Noteholders and Company mutually agree is competent, fair and reasonable to make such adjustments, who shall act as expert and not arbitrator and whose decision as to such adjustments shall be final and conclusive (the "**Relevant Expert**"). The Company shall procure the Relevant Expert to complete the adjustment calculations within three (3) Business Days from its appointment.

PROVIDED FURTHER THAT if the Company and the Majority Noteholder fail to agree on the appointment of the Relevant Expert within three (3) Business Days from the date the Company notifies the Noteholder in writing that it disputes the adjusted Closing Price presented by the Noteholder, the Company and each Noteholder agree to the appointment of a firm as recognised by the Hong Kong Institute of Certified Public Accountants as the Relevant Expert (the "**Nominated Relevant Expert**"), who shall act as expert and not arbitrator and whose decision as to such adjustments shall be final and conclusive. The Company shall procure the Nominated Relevant Expert to complete the adjustment calculations within three (3) Business Days from its nomination.

- 8.16 Notwithstanding the provisions of this Condition 8, the Conversion Price shall not be reduced as a result of any adjustment made hereunder, and the Company will not take any action which would otherwise reduce the Conversion Price, to such an extent that, under applicable Law then in effect, the Notes may not be converted at such reduced Conversion Price into legally issued, fully-paid and unencumbered Shares.

## 9. COVENANTS ON THE CONVERSION RIGHT

- 9.1 The Company hereby covenants with and undertakes to the Noteholders that, so long as any of the Notes are outstanding:

- (a) it will keep available free from pre-emptive or other rights for the purpose of effecting the conversion of the Notes such number of its unissued Shares to satisfy fully the Conversion Rights under the outstanding Notes and will ensure that all Shares delivered upon conversion of the Notes pursuant to these Terms and Conditions will be duly authorised, validly issued, fully-paid and unencumbered Shares;
- (b) it will not close its register of Shareholders for more than twelve (12) Business Days in a calendar year (and only in accordance with Conditions 8.8 to 8.10) or take any other action which prevents the transfer of the Shares generally unless, as permitted under the Laws, the Listing Rules and the Bye-Laws of the Company as then in effect, the

Notes may be converted legally into Shares and the Shares issued upon conversion may (subject to any limitation imposed by Law and, to the extent required by Law, the Bye-Laws) be transferred (as between transferor and transferee although not as against the Company) at all times during the period of such closure or while such other action is effective, nor take any action which prevents conversion of the Notes or the issue of the Shares in respect thereof;

- (c) it will give notice to the Noteholders in accordance with Condition 14 as soon as practicable after it effects any change of its financial year or establishment or change of the record date for the payment of any annual cash dividend or interim dividend;
- (d) it will not take any action which would result in an adjustment of the Conversion Price if, after giving effect thereto, the Conversion Price would be decreased to such an extent that the Shares to be issued on exercise of the Conversion Right could not, under any applicable Law then in effect, be legally issued as fully-paid and unencumbered with all rights attached;
- (e) it will use (i) its best endeavours to procure the maintenance of listing of all the issued and outstanding Shares (excluding treasury shares) on the Main Board and (ii) its best endeavours to obtain and maintain a listing on the Main Board for the Shares which will be allotted and issued on the exercise of the Conversion Right;
- (f) it will procure that unless the consent of the Majority Noteholders is obtained, no securities convertible by their terms into Shares may be converted into or exchanged for Shares and that no options, rights or warrants or such other convertible securities to subscribe for or purchase Shares may be exercised otherwise than, in each case, in accordance with the terms of issue thereof (except to the extent that such terms are amended as a result of any change in the Main Board Listing Requirements or change in or coming into force of any of the Laws) or pursuant to amendments duly authorised in accordance with the conditions of issue of such other convertible securities;
- (g) it will not create or issue any class of share capital other than Shares, unless the consent of the Majority Noteholders has been obtained prior to the date of such creation or issue;
- (h) it will not cancel, reduce or otherwise change its share capital unless with the prior written consent of the Noteholders, consent of which shall not be unreasonably withheld or delayed;
- (i) if any 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, it will give notice of such offer to the Noteholders in accordance with Condition 14 within fourteen (14) calendar days after obtaining such knowledge;
- (j) it will in the case of any 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, it shall forthwith give notice to the Noteholders of such event in accordance with Condition 14 and it shall cause the corporation formed by such consolidation or amalgamation or the corporation into which the Company shall have merged or the corporation which shall have acquired such assets, as the case may be, to execute a deed providing that such corporation will assume the obligations to the Noteholder of each Note then outstanding analogous to all of the obligations of the Company under the Notes, including the right (during the period such Notes shall be convertible) to convert such Notes into the class and amount of shares and other securities and property receivable upon such consolidation, amalgamation, merger, sale or transfer by a holder of the number of Shares into which such Notes could be converted immediately prior to such consolidation, amalgamation, merger, sale or transfer. Such deed shall provide for adjustments to the Conversion Price. The above provisions of this Condition 9.1(j) shall



apply in the same way to any subsequent consolidations, amalgamations, mergers, sales or transfers; and

- (k) if it is a party to any transaction referred to in Condition 9.1(j), it will use its reasonable endeavours to obtain all consents which may be necessary or appropriate under the applicable Law to enable the relevant continuing corporation to give effect to the arrangement as provided in Condition 9.1(j).

9.2 The Company may offer and sell any new Shares PROVIDED THAT, in respect of any proposed private placement of such new Shares, the Company shall by a written notification offer and sell such new Shares on the same terms and conditions to the Noteholder prior to offering such new Shares to any other person (the **"Right of First Refusal to New Shares"**) except:

- (a) any allotment of new Shares as consideration or part consideration for acquisition of an investment in shares, securities, assets, business or other assets by the Group; and
- (b) allotment and issuance of Shares to Shareholders without preference amongst Shareholders (but so that the exclusion of Shareholders who are overseas or on other grounds approved by the HKEx shall not be deemed as preference of the other Shareholders).

To avoid doubt, the Right of First Refusal to New Shares shall not apply to:

- (i) an issue by the Company of Shares to officers, including directors, or employees of the Company or any of its Subsidiaries or associated companies pursuant to any share option scheme or performance scheme approved by the Shareholders in any general meeting; or
- (ii) any issue by the Company of Shares pursuant to the exercise of any of the existing warrants of the Company; or
- (iii) any purchase by the Company of Shares pursuant to any share purchase scheme approved by Shareholders in any general meeting, whether such Shares purchased are deemed cancelled or held in treasury; or
- (iv) any proposed private placement up to 20% of the Company's issued shares.

Upon receiving the Company's written notification, a Noteholder shall revert within five (5) Business Days on its decision as to whether to participate in the proposed private placement. Such participation shall be in full and not in part only. If the Company does not receive an acceptance within the prescribed five (5) Business Days for a full participation of the proposed private placement, the Company shall be entitled to proceed with the private placement on the same terms and conditions without further formality.

9.3 The Right of First Refusal to New Shares of the Noteholder shall not prejudice the Subscribers' undertaking provided under Clause 4.3 of the Subscription Agreement, inter alia, that each of the Subscribers shall not individually or together with its Affiliates hold in aggregate more than 20% interest in the total number of issued Shares of the Company (excluding treasury shares, if any), at any time and from time to time.

9.4 The Company or any Subsidiary (if applicable) may offer and sell any securities convertible into securities of the same class as the Issued Shares or securities substantially similar to the Notes (the **"Equity-linked Securities"**) PROVIDED THAT, in respect of any proposed private placement of such Equity-linked Securities:

- (a) the Company shall, and the Company shall procure that the relevant Subsidiary (if applicable) shall, offer and sell such Equity-linked Securities to the Noteholders prior to offering such Equity-linked Securities to any other person (the **"Right of First Refusal to Equity-linked Securities"**); and

- (b) the Equity-linked Securities shall not be convertible into Issued Shares at a price which is below the par value, unless prior written consent of the Noteholders have been obtained.

To avoid doubt, the term "**Equity-linked Securities**" shall exclude (i) any Shares, rights issues, warrants relating to the Shares, or convertible preference shares, issued to shareholders without preference among the shareholders (but so that the exclusion of shareholders who are overseas or on other grounds approved by the HKEx shall be deemed not to be a preference of the other shareholders) or (ii) any new securities convertible into securities of the same class as the Issued Shares or securities substantially similar to the Notes in respect of which the Company or any Subsidiary (if applicable) is restricted from doing all of the (a) and (b) provided above by Law, the Main Board Listing Requirements or any other applicable regulations. For the purposes of this Condition 9.4, "**Issued Shares**" shall mean Shares listed on the Main Board.

- 9.5 The Right of First Refusal to Equity-linked Securities is only exercisable by the Noteholders from and including the date of receipt by such Noteholders of a notice (the "**First Right of Refusal Notice**") in writing from the Company setting out the details of such offer to and including the date falling fourteen (14) Business Days thereafter (the "**Exercise Period**"). To indicate that it wishes to exercise the Right of First Refusal to Equity-linked Securities, a Noteholder (an "**Exercising Noteholder**") shall notify the Company in writing at any time during the Exercise Period that it wishes to exercise the Right of First Refusal to Equity-linked Securities. If during the Exercise Period, the Company receives notices from the Noteholders indicating they wish to exercise the Right of First Refusal to Equity-linked Securities in respect of the entire issue of the Equity-linked Securities (a "**Valid Full Exercise**"), the Company or the relevant Subsidiary (if applicable) shall issue to each Exercising Noteholder, and each Exercising Noteholder shall subscribe, such Equity-linked Securities in the proportion of each Exercising Noteholder's holding of Notes relative to the nominal value of all the outstanding Notes held by all the Exercising Noteholders (unless otherwise agreed between the Noteholders). To avoid doubt, on a Valid Full Exercise, the Company or the relevant Subsidiary (if applicable), as the case may be, shall issue, and the Exercising Noteholders shall subscribe for, the entire (and not part of) issue of the relevant Equity-linked Securities.
- 9.6 If the Noteholder delivers during the Exercise Period, a notice indicating its wish to exercise the Right of First Refusal only in respect of a portion (but not the entire) of the issues of the Equity linked-Securities ("**Valid Partial Exercise**"):
  - (a) as soon as practicable after its receipt of the Valid Partial Exercise, the Company shall or shall procure the relevant Subsidiary (if applicable) to issue, a notice (the "**Right of Participation Notice**") to each Noteholder and (where applicable) each other prospective investor;
  - (b) each Noteholder that wishes to exercise the Right of Participation (each a "**Participating Noteholder**") shall complete and return to the Company or the Subsidiary (if applicable), as the case may be, by no later than the date of expiry of the private placement offer, a counterpart of the Right of Participation Notice, indicating therein the nominal value of the Equity-linked Securities (the "**Participation Amount**") for which it intends to subscribe; and
  - (c) if the aggregate of the participation indicated by the Participating Noteholders referred to in sub-paragraph (b) above is:
    - (i) less than 20% of the aggregate nominal value offered under such private placement, the Company or the relevant Subsidiary (if applicable) is not required to issue the Equity-linked Securities to any Participating Noteholders;
    - (ii) not less than 20% but not more than 50% of the aggregate nominal value offered under such private placement, each Participating Noteholder shall subscribe for, and the Company or the relevant Subsidiary (if applicable) shall issue to the relevant Participating Noteholder, the Equity-linked Securities in an amount equal to the Participation Amount in respect of such Participating Noteholder; and

- (iii) more than 50% of the aggregate nominal value offered under such private placement, the Participating Noteholders shall subscribe for, and the Company or the relevant Subsidiary (if applicable) shall issue to the relevant Participating Noteholders, an aggregate of at least 50% of the aggregate amount offered under such private placement, and the part of such amount subscribed for by each Participating Noteholder shall be in the proportion that its holding of the Notes bears to the nominal value of all the outstanding Notes held by all the Participating Noteholders (unless otherwise agreed between the Participating Noteholders).

For the period from and including the date on which the Company or the relevant Subsidiary (if applicable) issues the First Right of Refusal Notice to and including the last date of the Participation Period, the Company shall close the Record at any time and advertise the notice in national newspaper in English language and of daily and general circulation in Hong Kong PROVIDED THAT such closure of the Record shall not affect any Noteholder's Conversion Right (as defined in Condition 8.1) unless such Noteholder is an Exercising Noteholder or a Participating Noteholder, in which event such Noteholder's Conversion Right shall be suspended during such period.

9.7 Without prejudice to the other provisions under the Terms and Conditions, the Company hereby covenants with and undertakes to the Noteholders that, so long as the Conversion Right is, or is capable of being, exercisable, if:

- (a) the Company shall authorise the granting or issue or offer to the holders of the Shares of rights or warrants to subscribe for or purchase any Shares or any securities convertible into or exchangeable for Shares;
- (b) the Company shall make a Stock Split, or pay or make any cash or other distribution in respect of the Shares, other than an annual dividend or an interim dividend;
- (c) there shall be any consolidation or re-classification of the Shares;
- (d) there shall be any consolidation, merger or amalgamation to which the Company is a party (other than a consolidation, merger or amalgamation in which the Company is the continuing corporation);
- (e) there shall be the sale or transfer of all or substantially all of the assets or business of the Company or any Subsidiary; or
- (f) there shall be a voluntary or involuntary dissolution, liquidation or winding-up of the Company or any Subsidiary,

the Company shall, subject to the provisions of the Main Board Listing Requirements being complied with, forthwith give notice thereof to the Noteholders in accordance with Condition 14, which notice shall, in any event, be (i) (in the case of sub-paragraph (aa) or (bb) below) at least fourteen (14) calendar days prior to the applicable record date (or, if no record date is set for the relevant Stock Split, on or prior to the commencement of the period referred to in sub-paragraph (bb) below); or (ii) in the case of sub-paragraph (cc), (dd) or (ee) below, at least fourteen (14) calendar days prior to the date of submission for approval of the same to the general meeting of the Shareholders and immediately after the record date or effective date thereof, whichever is earlier; or (iii) in the case of sub-paragraph (ff) below, at least fourteen (14) calendar days prior to the date of submission for approval of the dissolution to the general meeting of the Shareholders or immediately after the occurrence of any other event of dissolution and at least fourteen (14) calendar days prior to the record date referred to in paragraph (ff) below. Such notice shall state, as the case may require:

- (aa) in the event of such granting, issue or offer of rights or warrants:
  - (I) a brief description of the same;
  - (II) the record date in Hong Kong therefor; and

- (III) the period during which the rights or warrants may be exercised;
- (bb) in the event of such Stock Split or making of any cash or other distribution:
  - (I) a brief description of the same; and
  - (II) the record date in Hong Kong therefor;
- (cc) in the event of such consolidation or re-classification of the Shares:
  - (I) a description of the same;
  - (II) the date on which such consolidation or re-classification will be submitted for approval to the general meeting of Shareholders;
  - (III) the record date in Hong Kong therefor (if applicable); and
  - (IV) the date on which such consolidation or re-classification is expected to become effective;
- (dd) in the event of such consolidation, merger or amalgamation of the Company:
  - (I) a brief description of the same;
  - (II) the date on which such consolidation, merger or amalgamation will be submitted for approval to the general meeting of Shareholders;
  - (III) the record date in Hong Kong for determining the holders of the Shares entitled to exchange their Shares for securities or other property deliverable upon such consolidation, merger or amalgamation; and
  - (IV) the date on which such consolidation, merger or amalgamation is expected to become effective;
- (ee) in the event of such sale or transfer of assets of the Company or any Subsidiary:
  - (I) a brief description of the same;
  - (II) the date on which such sale or transfer will be submitted for approval to the general meeting of Shareholders;
  - (III) the date on which such sale or transfer is expected to become effective; and
  - (IV) the record date on which it is expected that holders of the Shares will be entitled, if applicable, to securities or other property deliverable upon such sale or transfer; or
- (ff) in the event of such dissolution, liquidation or winding-up, other than those resulting from consolidation, merger or amalgamation of the Company or any Subsidiary:
  - (I) a brief description of the same;
  - (II) the date on which such dissolution will be submitted for approval to the general meeting of Shareholders (if applicable); and
  - (III) the record date in Hong Kong for determining the holders of the Shares entitled to distribution of residual assets (if any),

PROVIDED THAT if the exact date of any such submission for approval to the general meeting of Shareholders as is referred to in paragraphs (cc), (dd), (ee) or (ff) above is not known at the time of such notice to the Noteholders, such notice shall indicate the approximate date thereof and the Company shall give a second notice to the Noteholders not later than the date upon which such notice required to be is given to the Noteholders as aforesaid, specifying the exact date of submission, and PROVIDED FURTHER THAT if such period referred to in paragraph (aa) above or such effective date referred to in paragraphs (cc), (dd) or (ee) above or such exchange date referred to in paragraph (dd) or (ee) above is not known at the time of such first notice to the Noteholders, the Company shall give a second notice to the Noteholders forthwith after such period or (as the case may be) such effective date or exchange date is known, specifying such period or such effective date and/or such exchange date.

- 9.8 Except as otherwise provided in Conditions 8.8 to 8.11, the Company will pay all issue, transfer and other similar taxes payable with respect to the deposit of the Notes for conversion pursuant to Condition 8, and the issue and delivery of the Shares and the delivery of any other securities, property or cash pursuant to Conditions 8.8 to 8.13 following such deposit.
- 9.9 The form of the Conversion Notice shall be submitted to, and be issued in a form set out in Schedule 4, Part B (Form of Conversion Notice) of the Subscription Agreement.
- 9.10 Notwithstanding Condition 14, the Company hereby covenants with and undertakes to the Noteholders that, so long as any Note is outstanding, copies of all announcements, information routinely provided or otherwise made available to the Shareholders shall be served to the Noteholders via electronic mail unless otherwise requested by the Noteholders at the correspondence address provided to the Company or, as set out in the Transfer Form (the form of which is substantially set out in Schedule 3B), where applicable no later than two (2) Business Days after such information becomes publicly available.

## 10. REDEMPTION AND PURCHASE

- 10.1 [Deleted].
- 10.2 Subject to there being no Event of Default, the Company may at any time and from time to time, purchase the outstanding Notes at 115% of its principal amount ("**Non-default Redemption Amount**"), or such other amount as may be agreed in writing between the Company, PROVIDED THAT all outstanding costs, fees and Interest payable under the Agreement or the Conditions shall be fully paid and settled by the Company together with the payment of the Non-Default Redemption Amount and the relevant Noteholder.
- 10.3 If, on presentation of any Notes for conversion pursuant to Condition 8, the Conversion Price is less than or equal to 65% of the average of the daily traded volume weighted average price per Share for a period of forty five (45) consecutive Business Days prior to the relevant Closing Date (as set out in Clause 2 of the Subscription Agreement) in respect of ST01 of T1 and ST01 of T2 (as the case may be)(the "**Conversion Downside Price**"), the Company may redeem such Notes (and only such Notes) presented by the Noteholder to the Company for conversion in cash at an amount calculated in accordance with the formula set out in Condition 10.4 below (the "**Conversion Redemption Amount**") by giving notice of the same to the relevant Noteholder.
- 10.4 The Conversion Redemption Amount shall be calculated in accordance with the following formula:

$$R = N \times \{P + [8\% \times P \times (D/365)] + I\}$$

where:-

"R" = the Conversion Redemption Amount.

"D" = the number of days elapsed since the relevant Closing Date (as set out in Clause 2 of the Subscription Agreement) in respect of each sub-tranche of the Notes.

- "N" = the number of Notes presented for conversion.
- "P" = HKD250,000 being the face value of each Note presented for conversion.
- "I" = the remaining unpaid interest accrued on each Note presented for conversion.

10.5 The Conversion Downside Price will be subject to adjustment as follows:

- (a) if the Company shall at any time and from time to time after its entry into the Subscription Agreement (i) make a Stock Split, (ii) consolidate the outstanding Shares into a smaller number of shares, or (iii) re-classify any of the Shares into other securities of the Company, then the Conversion Downside Price shall be appropriately adjusted so that the Noteholders, the Conversion Date in respect of which occurs after the coming into effect of the adjustment described in this Condition 10.5(a), shall be entitled to receive the number of Shares and/or other securities of the Company which it would have held or have been entitled to receive after the happening of any of the events described above had such Notes been converted immediately prior to the happening of such event (or, if the Company has fixed a prior record date for the determination of Shareholders entitled to receive any such Shares or other securities issued upon any such Stock Split, consolidations or re-classification, immediately prior to such record date), but without prejudice to the effect of any other adjustment to the Conversion Downside Price made with effect from the date of the happening of such event (or such record date) or any time thereafter. An adjustment made pursuant to this Condition 10.5(a) shall become effective immediately on the happening of the relevant event or, if a prior record date is fixed therefore, immediately after the record date; PROVIDED THAT in the case of a relevant transaction which must, under applicable Laws, be submitted for approval to a general meeting of Shareholders or to a meeting of the board of directors of the Company before being legally effective, and which is so approved after the record date fixed for the determination of the Shareholders entitled to receive such Shares or other securities, such adjustment shall, immediately upon such approval being given by such meeting, become effective retroactively to a day immediately after such record date.

If the Company shall make a Stock Split, consolidation of the outstanding Shares and/or re-classification of the Shares, and the record date therefore is also:

- (aa) the record date for the issue of any rights or warrants which requires an adjustment of the Conversion Downside Price pursuant to Conditions 10.5(b) or 10.5(c), or
- (bb) the date of issue of any securities convertible into or exchangeable for Shares which requires an adjustment of the Conversion Downside Price pursuant to Condition 10.5(e), or
- (cc) the day immediately before the date of issue of any Shares which requires an adjustment of the Conversion Downside Price pursuant to Condition 10.5(f), or
- (dd) the date of issue of any rights or warrants which requires an adjustment of the Conversion Downside Price pursuant to Condition 10.5(g),

then (except where such Stock Split gives rise to a retroactive adjustment of the Conversion Downside Price under this Condition 10.5(a)) no adjustment of the Conversion Downside Price in respect of such Stock Split, consolidation of the outstanding Shares and/or re-classification of the Shares shall be made under this Condition 10.5(a), but in lieu thereof an adjustment shall be made under Conditions 10.5(b), (c), (e), (f), (g) or (h), as the case may be, by including in item "NS" (in the case of Condition 10.5(h), "NS1", "NS2" and "NS3") of the formula described therein the aggregate number of additional Shares to be delivered pursuant to such Stock Split, consolidation of the outstanding Shares and/or re-classification of Shares, as the case may be;

- (b) if the Company shall at any time and from time to time after its entry into the Subscription Agreement, grant, issue or offer to the holders of the Shares rights or warrants entitling them to subscribe for or purchase the Shares:
- (i) at a consideration per Share receivable by the Company (determined as provided in Condition 10.6) which is fixed on or prior to the record date mentioned below and is less than 95% of the current market price per Share on such record date; or
  - (ii) at a consideration per Share receivable by the Company (determined as aforesaid) which is fixed after the record date mentioned below and is less than 95% of the current market price per Share on the date in Hong Kong the Company fixes the said consideration,

then the Conversion Downside Price in effect (in a case within (i) above) on the record date for the determination of the Shareholders entitled to receive such rights or warrants or (in a case within (ii) above) on the date the Company fixes the said consideration shall be adjusted in accordance with the following formula:

$$NCDP = OCDP \times \frac{OS + v}{OS + NS}$$

where:

- "NCDP" = the Conversion Downside Price after such adjustment.
- "OCDP" = the Conversion Downside Price before such adjustment.
- "OS" = the number of Shares outstanding (having regard to Condition 10.7) at the close of business in Hong Kong (in a case within (i) above) on such record date or (in a case within (ii) above) on the date the Company fixes the said consideration.
- "NS" = the number of Shares to be issued on exercise of such rights or warrants at the initial subscription or purchase price.
- "v" = the number of Shares which the aggregate consideration receivable by the Company (determined as provided in Condition 10.6) would purchase at such current market price per Share specified in (i) or, as the case may be, (ii) above.

Such adjustment shall become effective (in a case within (i) above) immediately after the record date for the determination of the Shareholders entitled to receive such rights or warrants or (in a case within (ii) above) immediately after the day upon which the Company fixes the said consideration but retroactively to immediately after the record date for the said determination.

If, in connection with a grant, issue or offer to the holders of the Shares of rights or warrants entitling them to subscribe for or purchase the Shares, any such rights or warrants and/or Shares which are not subscribed for or purchased by the persons entitled thereto are offered to and/or subscribed for by others (whether as placees or members of the public or pursuant to underwriting arrangements or otherwise), no further adjustment shall be required or made to the Conversion Downside Price by reason of such offer and/or subscription;

- (c) if the Company shall at any time and from time to time after its entry into the Subscription Agreement, grant, issue or offer to the holders of the Shares rights or warrants entitling them to subscribe for or purchase any securities convertible into or exchangeable for Shares:
- (i) at a consideration per Share receivable by the Company (determined as provided in Condition 10.6) which is fixed on or prior to the record date

mentioned below and is less than 95% of the current market price per Share on such record date; or

- (ii) at a consideration per Share receivable by the Company (determined as aforesaid) which is fixed after the record date mentioned below and is less than 95% of the current market price per Share on the date in Hong Kong the Company fixes the said consideration,

then the Conversion Downside Price in effect (in a case within (i) above) on the record date for the determination of the Shareholders entitled to receive such rights or warrants or (in a case within (ii) above) on the date the Company fixes the said consideration shall be adjusted in accordance with the following formula:

$$NCDP = OCDP \times \frac{OS + v}{OS + NS}$$

where:

"NCDP" and "OCDP" have the meanings ascribed thereto in Condition 10.5(b).

- "OS" = the number of Shares outstanding (having regard to Condition 10.7) at the close of business in Hong Kong (in a case within (i) above) on such record date or (in a case within (ii) above) on the date the Company fixes the said consideration.
- "NS" = the number of Shares to be issued upon conversion or exchange of such convertible or exchangeable securities at the initial subscription or purchase, and conversion or exchange, price or rate following exercise of such rights or warrants.
- "v" = the number of Shares which the aggregate consideration receivable by the Company (determined as provided in Condition 10.6) would purchase at such current market price per Share specified in (i), or, as the case may be, (ii) above.

Such adjustment shall become effective (in a case within (i) above) immediately after the record date for the determination of the Shareholders entitled to receive such rights or warrants or (in a case within (ii) above) immediately after the day upon which the Company fixes the said consideration but retroactively to immediately after the record date for the said determination.

If, in connection with a grant, issue or offer to the holders of the Shares of rights or warrants entitling them to subscribe for or purchase securities convertible into or exchangeable for Shares, any such securities convertible into or exchangeable for Shares which are not subscribed for or purchased by the persons entitled thereto are offered to and/or subscribed for by others (whether as placees or members of the public or pursuant to underwriting arrangements or otherwise), no further adjustment shall be required or made to the Conversion Downside Price by reason of such offer and/or subscription;

- (d) if the Company shall at any time and from time to time after its entry into the Subscription Agreement, distribute to the holders of the Shares evidences of its indebtedness, ordinary shares of the Company (other than the Shares arising from the conversion of the Notes), assets (excluding annual dividends or interim dividends) or rights or warrants to subscribe for or purchase securities (other than those rights and warrants referred to in Conditions 10.5(b) and 10.5(c)), then the Conversion Downside Price in effect on the record date for the determination of the Shareholders entitled to receive such distribution shall be adjusted in accordance with the following formula:-

$$NCDP = OCDP \times \frac{CMP - fmv}{CMP}$$



where:-

"NCDP" and "OCDP" have the meanings ascribed thereto in Condition 10.5(b).

"CMP" = the current market price per Share on the record date for the determination of Shareholders entitled to receive such distribution.

"fmv" = the fair market value (as determined by the Company or, if pursuant to applicable Laws such determination is to be made by application to a court of competent jurisdiction, as determined by such court or by an appraiser appointed by such court, and in any case described in a statement delivered by the Company to the Noteholder) of the portion of the evidences of indebtedness, shares, assets, rights or warrants so distributed applicable to one Share.

In making a determination of the fair market value of any such rights or warrants, the Company shall consult an independent investment bank or investment adviser licensed by the Hong Kong Monetary Authority (who shall act as an expert) selected by the board of directors of the Company and shall take fully into account the advice received from such bank or adviser. Such adjustment shall become effective immediately after the record date for the determination of the Shareholders entitled to receive such distribution, provided, however, that (i) if such distribution must, under applicable Laws, be approved by a general meeting of Shareholders or a meeting of the board of directors of the Company before being legally made, and if such distribution is so approved after the record date fixed for the determination of the Shareholders entitled to receive such distribution, such adjustment shall, immediately upon such approval being given by such meeting, become effective retroactively to immediately after such record date and (ii) if the fair market value of the evidences of indebtedness, shares, assets, rights or warrants so distributed cannot be determined until after the record date fixed for the determination of the Shareholders entitled to receive such distribution, such adjustment shall, immediately upon such fair market value being determined, become effective retroactively to immediately after such record date;

- (e) if the Company shall at any time and from time to time after its entry into the Subscription Agreement, issue any securities convertible into or exchangeable for the Shares (other than the Notes or in any of the circumstances described in Condition 10.5(c) and Condition 10.5(g)) or where such securities are issued to the vendors of assets being acquired for full value by the Company and the consideration per Share receivable by the Company (determined as provided in Condition 10.6) shall be less than 95% of the current market price per Share on the date in Hong Kong on which the Company fixes the said consideration (or, if the issue of such convertible or exchangeable securities is subject to approval by a general meeting of Shareholders, on the date in Hong Kong on which the board of directors of the Company fixes the consideration to be recommended at such meeting), then the Conversion Downside Price in effect on the date of the issue of such convertible or exchangeable securities shall be adjusted in accordance with the following formula:

$$NCDP = OCDP \times \frac{OS + v}{OS + NS}$$

where:-

"NCDP" and "OCDP" have the meanings ascribed thereto in Condition 10.5(b).

"OS" = the number of Shares outstanding (having regard to Condition 10.7) at the close of business in Hong Kong on the date of such issue.

"NS" = the number of Shares to be issued upon conversion or exchange of such convertible or exchangeable securities at the initial conversion or exchange price or rate.

"v" = the number of Shares which the aggregate consideration receivable by the Company (determined as provided in Condition 10.6) would purchase at such current market price per Share.

Such adjustment shall become effective immediately after the calendar day in Hong Kong corresponding to the calendar day at the place of issue upon which such convertible or exchangeable securities shall be issued;

- (f) if the Company shall at any time and from time to time after its entry into the Subscription Agreement, issue any Shares (other than the Shares issued to shareholders of any corporation which merges into the Company upon such merger in proportion to their shareholding in such corporation immediately prior to such merger and other than the Shares issued on exercise of the conversion rights attaching to the Notes or pursuant to a scrip dividend or pursuant to an exercise of any rights attached to securities the issue of which had given rise to an adjustment under sub-paragraph (e) of this Condition or did not require any adjustment pursuant to these Conditions) and the consideration per Share receivable by the Company (determined as provided in Condition 10.6) shall be less than 95% of the current market price per Share on the date in Hong Kong on which the Company fixes the said consideration (or, if the issue of such Shares is subject to approval by a general meeting of the Shareholders, on the date in Hong Kong on which the board of directors of the Company fixes the consideration to be recommended at such meeting), then the Conversion Downside Price in effect on the date of the issue of such additional Shares shall be adjusted in accordance with the following formula:

$$NCDP = OCDP \times \frac{OS + v}{OS + NS}$$

where:-

"NCDP" and "OCDP" have the meanings ascribed thereto in Condition 10.5(b).

"OS" = the number of Shares outstanding (having regard to Condition 10.7) at the close of business in Hong Kong on the day immediately prior to the date of issue of such additional Shares.

"NS" = the number of additional Shares being issued as aforesaid.

"v" = the number of Shares which the aggregate consideration receivable by the Company (determined as provided in Condition 10.6) would purchase at such current market price per Share.

Such adjustment shall become effective as at the date in Hong Kong on which the Company issues such additional Shares;

- (g) if the Company shall at any time and from time to time after its entry into the Subscription Agreement, issue any rights or warrants to subscribe for or purchase the Shares or securities convertible into or exchangeable for the Shares (other than the Notes and any rights or warrants granted, issued or offered to the holders of the Shares or pursuant to the terms of any securities) and the consideration per Share receivable by the Company (determined as provided in Condition 10.6) shall be less than 95% of the current market price per Share on the date in Hong Kong on which the Company fixes the said consideration (or, if the issue of such rights or warrants is subject to approval by a general meeting of Shareholders, on the date in Hong Kong on which the board of directors of the Company fixes the consideration to be recommended at such meeting), then the Conversion Downside Price in effect on the date of the issue of such rights or warrants shall be adjusted in accordance with the following formula:

$$NCDP = OCDP \times \frac{OS + v}{OS + NS}$$

where:-

"NCDP" and "OCDP" have the meanings ascribed thereto in Condition 10.5(b).

- "OS" = the number of Shares outstanding (having regard to Condition 10.7) at the close of business in Hong Kong on the date of such issue.
- "NS" = the number of Shares to be issued on exercise of such rights or warrants at the initial subscription or purchase price, or upon conversion or exchange of such convertible or exchangeable securities at the initial conversion or exchange price or rate following exercise of such rights or warrants.
- "v" = the number of Shares which the aggregate consideration receivable by the Company (determined as provided in Condition 10.6) would purchase at such current market price per Share on the date in Hong Kong on which the Company fixes such consideration (or the date on which the board of directors of the Company fixes the consideration, as appropriate).

Such adjustment shall become effective immediately after the calendar day in Hong Kong corresponding to the calendar day at the place of issue upon which such rights or warrants shall be issued;

- (h) if the Company shall at any time and from time to time after its entry into the Subscription Agreement, issue securities of a type falling within Conditions 10.5(e), (f) or (g) above which otherwise require an adjustment to the Conversion Downside Price pursuant thereto and the date of issue of such securities, in the case of Condition 10.5(e) or (g), or the day immediately prior to such date of issue, in the case of Condition 10.5(f), (in each case, the "**relevant date**") is also the relevant date in respect of securities of another type or types (including a different tranche or issue of a same type) falling within Conditions 10.5(e), (f) and/or (g) which otherwise require an adjustment to the Conversion Downside Price pursuant thereto (all such securities being hereafter referred to as "**Securities**"), then any adjustment of the Conversion Downside Price shall not be made separately under each such sub-paragraph but in one calculation in accordance with the following formula:

$$NCDP = OCDP \times \frac{OS + v1 + v2 + v3}{OS + NS1 + NS2 + NS3}$$

where:-

"NCDP" and "OCDP" have the meanings ascribed thereto in Condition 10.5(b).

- "OS" = the number of Shares outstanding (having regards to Condition 10.7) at the close of business in Hong Kong on the relevant date.
- "NS1" = the number of Shares to be issued upon conversion or exchange of any convertible or exchangeable securities (included within the Securities) at the initial conversion or exchange price or rate.
- "NS2" = the number of any additional Shares (included within the Securities) being issued.
- "NS3" = the number of Shares to be issued on exercise of any rights or warrants (included within the Securities) at the initial subscription or purchase price, or upon conversion or exchange of any convertible or exchangeable securities at the initial conversion or exchange price or rate following exercise of such rights or warrants.
- "v1" = the number of Shares which the aggregate consideration receivable by the Company for such convertible or exchangeable securities

(determined as provided in Condition 10.6) would purchase at the current market price per Share on the date in Hong Kong on which the Company fixes the said consideration (or, if the issue of such convertible or exchangeable securities is subject to approval by a general meeting of Shareholders, on the date in Hong Kong on which the Board of the Directors of the Company fixes the consideration to be recommended at such meeting).

"v2" = the number of Shares which the aggregate consideration receivable by the Company for the issue of such additional Shares (determined as provided in Condition 10.6) would purchase at the current market price per Share on the date in Hong Kong on which the Company fixes the said consideration (or, if the issue of such Shares is subject to approval by a general meeting of Shareholders, on the date in Hong Kong on which the board of directors of the Company fixes the consideration to be recommended at such meeting).

"v3" = the number of Shares which the aggregate consideration receivable by the Company for the issue of the total number of Shares to be issued on exercise of such rights or warrants and (if applicable) upon conversion or exchange of such convertible or exchangeable securities (determined as provided in Condition 10.6) would purchase at the current market price per Share on the date in Hong Kong on which the Company fixes the said consideration (or, if the issue of such rights or warrants is subject to approval by a general meeting of Shareholders, on the date in Hong Kong on which the board of directors of the Company fixes the consideration to be recommended at such meeting).

Any such adjustment shall become effective immediately after the calendar day in Hong Kong corresponding to the calendar day at the relevant place of issue which is the relevant date.

To avoid doubt, this Condition 10.5(h) does not supersede the provisions of Conditions 10.5(e), (f) and (g); and

- (i) if the Company, at any time and from time to time after its entry into the Subscription Agreement makes a Capital Distribution which does not fall within paragraphs (a) to (h) above, the Conversion Downside Price shall be adjusted by multiplying the Conversion Downside Price in force immediately before such Capital Distribution by the following formula:

$$\frac{X - Y}{X}$$

where:-

"X" is the current market price per Share on the last Business Day preceding the date on which the Capital Distribution is publicly announced; and

"Y" is the fair market value on the date of such announcement, as determined in good faith by an independent investment bank or investment adviser licensed by the Securities Commission selected by the Company, and acting as an expert, of the portion of the Capital Distribution attributable to one Share.

Such adjustment shall become effective on the date that such Capital Distribution is actually made.

- 10.6 For the purposes of any calculation of the consideration receivable pursuant to Conditions 10.5(b), (c), (e), (f), (g) and (h) above, the following provisions shall be applicable:

- (a) in the case of the issue of Shares for cash, the consideration shall be the amount of such cash, PROVIDED THAT in no case shall any deduction be made for any commissions or any expenses paid or incurred by or on behalf of the Company for any underwriting of the issue or otherwise in connection therewith;
- (b) in the case of the issue of Shares for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the board of directors of the Company (and in making such determination the board of directors of the Company shall consult an independent investment bank or investment adviser licensed by the Hong Kong Monetary Authority selected by the board of directors of the Company and approved by the Majority Noteholders (such approval not to be unreasonably withheld or delayed) and shall take fully into account the advice received from such bank or adviser) or, if pursuant to applicable Laws such determination is to be made by application to a court of competent jurisdiction, as determined by such court or an appraiser appointed by such court, irrespective of the accounting treatment thereof;
- (c)
  - (i) in the case of the issue of securities convertible into or exchangeable for Shares, the aggregate consideration receivable by the Company shall be the consideration to be determined in accordance with (a) and (b) above for any such securities plus the additional consideration to be determined in accordance with (a) and (b) above (if any) to be received by the Company upon (and assuming) the conversion or exchange of such securities at the initial conversion or exchange price or rate; and
  - (ii) in the case of the issue of rights or warrants to subscribe for securities convertible into or exchangeable for Shares, the aggregate consideration receivable by the Company shall be the consideration to be determined in accordance with (a) and (b) above (if any) for any such rights or warrants plus the additional consideration to be received by the Company upon (and assuming) the exercise thereof at the initial subscription or purchase price and (if applicable) upon the following conversion or exchange of such securities at the initial conversion or exchange price or rate. The consideration per Share receivable by the Company 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 price or rate (if applicable) following the exercise of such rights or warrants;
- (d) in the case of the issue of rights or warrants to subscribe for or purchase the Shares, the aggregate consideration receivable by the Company shall be deemed to be the consideration (if any) received by the Company for any such rights or warrants plus the additional consideration to be received by the Company upon (and assuming) the exercise of such rights or warrants at the initial subscription or purchase price (the consideration in each case to be determined in the same manner as provided in subparagraphs (a) and (b) above), and the consideration per Share receivable by the Company shall be such aggregate consideration divided by the number of Shares to be issued upon (and assuming) such exercise at the initial subscription or purchase price; and
- (e) if any consideration referred to in the foregoing provisions of this Condition 10.6 is receivable in a currency other than Hong Kong Dollars, such consideration shall, in any case where there is a fixed rate of exchange between Hong Kong Dollars and the relevant currency provided for the purposes of the issue of such Shares or the conversion or exchange of such securities or the exercise of such rights or warrants, be translated into Hong Kong Dollars for the purposes of this Condition 10.6 at such fixed rate of exchange and shall, in all other cases, be so translated at the mean of the exchange rate quotations (being quotations for the cross rate through United States Dollars if no direct rate is quoted) by a financial institution licensed by the Hong Kong Monetary Authority in Hong Kong for buying and selling spot units of the relevant

currency by telegraphic transfer against the Hong Kong Dollar on the date as at which such consideration is required to be calculated.

- 10.7 If, at the time of computing an adjustment (the "**later adjustment**") of the Conversion Downside Price pursuant to any of Condition 10.5(b) to Condition 10.5(h) (inclusive), the Conversion Downside Price already incorporates an adjustment to reflect the issue of such Shares, rights or warrants to subscribe for or purchase such Shares or other securities convertible into or exchangeable for such Shares, but such Shares are not outstanding at the relevant time for ascertaining the number of outstanding Shares for the purposes of computing the later adjustment, such Shares shall be deemed to be outstanding for the purposes of making such computation to the extent that the number of the Shares so deemed to be outstanding exceeds the actual number of Shares in issue as a result thereof at the time of making such computation.
- 10.8 No adjustment of the Conversion Downside Price shall be required unless such adjustment would result in an increase or decrease in such price of at least one tenth of one Hong Kong Dollar. Any adjustment which by reason of this Condition 10.8 is not required to be made shall be carried forward in any subsequent adjustment. All calculations (including, without limitation, calculations of the Conversion Downside Price, the Conversion Price and the current market price per Share) under this Condition 10 shall be made to the fourth decimal place.
- 10.9 Any reference in Condition 10.5 to the date on which the consideration is "fixed" shall be construed as a reference to the first day on which such consideration in a cash amount can be ascertained, where the consideration is originally expressed by reference to a formula and not then ascertainable in a cash amount.
- 10.10 [Deleted]
- 10.11 Whenever the Conversion Downside Price is adjusted as provided herein, the Company shall promptly notify the Noteholders setting for the Conversion Downside Price after such adjustment and setting forth a brief statement on the fact requiring such adjustment and the effective date thereof, Provided That where a notice has been given of such adjustment pursuant to Condition 10.5, and such notice shall have correctly stated any information required to be given pursuant to this Condition 10.11, then such notice shall, as to such information, satisfy the requirements of this Condition 10.11.
- 10.12 All notices to the Noteholders given by or on behalf of the Company pursuant to Condition 10.3 shall specify the relevant Conversion Downside Price, the aggregate Conversion Redemption Amount payable by the Company to the relevant Noteholder (including the calculation thereof in accordance with the formula set out in Condition 10.4), and the aggregate nominal value of the Notes so redeemed.
- 10.13 All Notes which are redeemed or converted will forthwith be cancelled by the Company and shall not be reissued or resold.

## **11. TAXATION**

- 11.1 All payments of nominal value and interest by the Company in respect of the Notes (including any payment upon redemption pursuant to Condition 10) will be made without withholding of, or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of Hong Kong, or any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by Law. If such withholding or deduction is so required, the Company will pay such additional amounts as may be necessary in order that the net amounts received by the Noteholders after such withholding or deduction shall equal the amounts of nominal value and interest which would have been receivable in respect of the Notes in the absence of such withholding or deduction; except that no such additional amounts shall be payable with respect to any Note:
  - (a) to any Noteholder (or to a third party on behalf of a Noteholder) (i) who is for Hong Kong tax purposes treated as a resident of Hong Kong or a Hong Kong corporation or (ii) who is otherwise subject to such taxes, duties, assessments or governmental charges by reason of him being connected with Hong Kong otherwise than by reason

only of the holding of any Note or the receipt of nominal value or interest in respect of any Note; or

- (b) if the Certificate in respect of such Note is surrendered more than thirty (30) calendar days after the due date for payment **except** to the extent that the holder thereof would have been entitled to such additional amounts on presenting the same for payment as at the expiry of such thirty (30)-day period; or
- (c) payment is prohibited under the Laws at the material time.

11.2 Without prejudice to the Company's obligation to pay such additional amounts as aforesaid, the Company may request the Noteholders to comply with any reporting requirements under applicable Hong Kong Law to enable such Noteholders to be treated as non-residents of Hong Kong or non-Hong Kong corporations for Hong Kong tax purposes. The Noteholders may comply with any such request if it is reasonable.

11.3 Any reference in this Condition to nominal value or interest shall be deemed also to refer to any additional amounts which may be payable under this Condition.

## 12. EVENTS OF DEFAULT

12.1 For so long as there are any Notes outstanding, if any of the following events (each, an **"Event of Default"**) occur:

- (a) for so long as there are any Notes outstanding, any of the approvals, consents and/or waivers required to be obtained by the Company under the Subscription Agreement are not obtained when it is required to be obtained or are amended, withdrawn, revoked, rescinded or cancelled;
- (b) where any of the approvals required to be obtained by the Company under the Subscription Agreement were obtained subject to any conditions which were required to be fulfilled, such conditions were not fulfilled when it is required to be fulfilled;
- (c) there is a default in any payment by the Company pursuant to the Terms and Conditions and such default is not remedied by the Company within seven (7) Business Days from the due date of such payment;
- (d) there is default by the Company in the performance or observance of any covenant, condition, provision or obligation (including the performance of its obligations to allot and issue Shares arising from the conversion of the Notes as and when the Noteholders exercise its Conversion Rights in accordance with the Terms and Conditions) contained in the Notes and on its part to be performed or observed (other than the covenant to pay the nominal value and interest in respect of any of the Notes) and such default continues for the period of seven (7) Business Days following the service by any Noteholder on the Company of notice requiring the same to be remedied;
- (e) any other notes, debentures, bonds or other instruments of indebtedness or any other loan indebtedness having an aggregate outstanding amount of over HKD100,000,000 only or the equivalent in any other currency or currencies (hereinafter collectively called **"Indebtedness"**) of the Company or any of the Subsidiaries become or becomes prematurely repayable following a default in respect of the terms thereof which shall not have been remedied, or steps are taken to enforce any security therefor, or the Company or any of the Subsidiaries defaults in the repayment of any such Indebtedness at the maturity thereof or at the expiration of any applicable grace period therefor or any guarantee of or indemnity in respect of any Indebtedness of others having an aggregate outstanding amount of over HKD100,000,000 given by the Company or any of the Subsidiaries shall not be honoured when due and called upon;
- (f) a resolution is passed or an order of a court of competent jurisdiction is made that the Company be wound up or dissolved (otherwise than for the purposes of or pursuant to a consolidation, amalgamation, merger, reconstruction or reorganisation that is

approved by the Shareholders, as the case may be, and upon which the continuing corporation effectively assumes the entire obligations of the Company, as the case may be, under the Notes);

- (g) a resolution is passed or an order of a court of competent jurisdiction is made that any Subsidiary be wound up or dissolved (otherwise than (i) for the purposes of or pursuant to a consolidation, amalgamation, merger, reconstruction or reorganisation (other than as described in (ii) below) the terms of which have previously been approved in writing by the Majority Noteholders, (ii) for the purposes of or pursuant to a consolidation, amalgamation, merger or reconstruction with or into the Company or another Subsidiary of the Company, or (iii) by way of a voluntary winding up or dissolution where there are surplus assets in such Subsidiary and such surplus assets attributable to the Company and/or any Subsidiary are distributed to the Company and/or such Subsidiary);
- (h) an encumbrancer takes possession or a receiver is appointed of the whole or a material part of the assets or undertaking of the Group;
- (i) (i) the Company or any Subsidiary without any lawful cause stops payment (within the meaning of any applicable bankruptcy or insolvency Law) or is unable to pay its debts as and when they fall due (within the meaning of any applicable bankruptcy or insolvency Law) or (ii) the Company or any Subsidiary (otherwise than for the purposes of such a consolidation, amalgamation, merger, reconstruction or reorganisation as is referred to in paragraphs (g) or (h) above) ceases or through an official action of the board of directors of the Company or any Subsidiary, as the case may be, threatens to cease to carry on its business, and such action has a material adverse effect on the Group;
- (j) proceedings shall have been initiated against the Company or any Subsidiary under any applicable bankruptcy, reorganisation or insolvency Law and such proceedings have not been discharged or stayed within a period of fourteen (14) Business Days thereof;
- (k) the Company or any Subsidiary shall initiate or consent to proceedings seeking with respect to itself adjudication of bankruptcy or insolvency, or a decree of commencement of composition or reorganisation or other similar procedures, or the appointment of an administrator or other similar official under any applicable bankruptcy, reorganisation or insolvency Law or make a general assignment for the benefit of, or enter into any composition with, its creditors, and such action has a material adverse effect on the Group;
- (l) a distress, execution or seizure before judgment is levied or enforced upon or sued out against a part of the property of the Company or any Subsidiary, which is material in its effect upon the operations of either the Company or such Subsidiary, as the case may be, and is not discharged within fourteen (14) Business Days thereof;
- (m) the delisting of the Shares on the Main Board or a suspension of trading of such Shares on the Main Board for a period of five (5) consecutive Business Days or more save for suspension caused by administrative or technical error not due to the Company or trading halts made at the request of the Company for corporate announcements or circular(s) pending clearance by HKEx or other regulatory or governmental bodies;
- (n) the ratio of Borrowings to Net Worth exceeds ten (10) times;
- (o) the Net Worth is less than HKD50,000,000;
- (p) for so long as there are any Notes outstanding the Company engages in any transaction with any hedge fund operating or originating from any part of the world; or
- (q) any credit facilities granted to the Company or any of its Subsidiaries are withdrawn, terminated or suspended for any reason whatsoever, and such action has a material adverse effect on the Group,



then any Note may, by notice in writing (the “**Relevant Notice**”) given to the Company by the Noteholder thereof, be declared immediately due and payable whereupon it shall become immediately due and payable at 118% of its nominal value, together with accrued interest as set out in Condition 6, without further formality (the “**Default Redemption Amount**”). Interests shall accrue on the Default Redemption Amount on a daily basis at the rate of 3.0% per month (the “**Default Interest**”) commencing from the Business Day immediately following the date of the Relevant Notice up to and including the date on which the Noteholder receives full payment of the Default Redemption Amount, together with accrued Default Interest.

- 12.2 For the purposes of Condition 12.1(e), any Indebtedness which is in a currency other than Hong Kong Dollars shall be translated into Hong Kong Dollars at the spot rate for the sale of Hong Kong Dollars against the purchase of the relevant currency in the Hong Kong foreign exchange market quoted by the Hong Kong Monetary Authority on any day when it requests such a quotation for such purposes.

For the purposes of this Condition 12:

“**Accounts**” means the audited consolidated accounts of the Company for the year ended 31 December 2022 and thereafter the most recent unaudited interim accounts of the Company as announced to HKEx;

“**Borrowings**” means, without duplication, at any time, as stated in the Accounts (i) all obligations of the Company or any of its Subsidiaries for borrowed money, (ii) all obligations of such person evidenced by the Notes, notes or other similar instruments, (iii) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such person as lessee which are capitalised in accordance with the accounting principles under which the Accounts are prepared, (v) all obligations of such person to purchase securities or other property that arise out of or in connection with the sale of the same or substantially similar securities or property, (vi) all non-contingent obligations of such person to reimburse any bank or other person in respect of amounts paid under a letter of credit or similar instrument and (vii) all borrowings of others guaranteed by the Company or any of its Subsidiary;

“**Net Worth**” means, at any time, as stated in the Accounts, the consolidated net asset value of the Company; and

“**Subsidiary**” means a company more than 50% of the outstanding voting stock of which is now or hereafter owned by the Company, by one or more other Subsidiaries or by the Company and one or more other Subsidiaries (and, for this purpose, “**voting stock**” means stock or shares having voting power for the election of directors, managers or trustees of such company, other than stock or shares having such power by reason of the happening of a contingency).

### 13. REPLACEMENT OF CERTIFICATES

Should any Certificate be lost, stolen, destroyed, mutilated or defaced, it may be replaced by the Company, upon payment by the claimant of the expenses incurred in connection therewith and on such terms as to evidence and indemnity (which shall require, *inter alia*, that, if the allegedly lost, stolen or destroyed Certificate is subsequently deposited for conversion into Shares, or if such Certificate is subsequently surrendered for redemption or is subsequently repurchased by the Company or any Subsidiary, there shall be paid to the Company on demand the principal amount of such Notes represented by such Certificate) as the Company may reasonably require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

### 14. NOTICES

- 14.1 All notices to the Noteholders will be valid if sent to them by express courier or by email at their respective addresses or email addresses (as appropriate) in the Company's register of Noteholders. Such notices shall be deemed to have been given to the Noteholders in the case of express courier, at the time of delivery, and in the case of email, at the time of despatch (provided that the Company retains a mechanical or electronically generated confirmation of the successful transmission of such email transmission). The Company shall give notice to

Noteholders in accordance with this paragraph of any change in the correspondence details of the Company.

14.2 Every Noteholder shall register with the Company an address and email address to which notices can be sent and if any Noteholder shall fail to do so, may be given to such Noteholder by sending the same in any of the manners hereinbefore mentioned to his last known place of business or email address or, if there be none, by posting up the same for three (3) days at the Designated Office for the time being of the Company.

14.3 All notices delivered to the Company shall be in writing in English and shall be communicated to the address and/or email address of the Company and addressed for the attention of the relevant person as specified below:

|               |   |                                                                                               |
|---------------|---|-----------------------------------------------------------------------------------------------|
| Address       | : | Unit 14, 18/F, Seapower Tower, Concordia Plaza No. 1, Science Museum Road, Kowloon, Hong Kong |
| Email Address | : | kennyc@kingstonemining.com                                                                    |
| Attention     | : | Mr. Kenny Cheung                                                                              |

## 15. MODIFICATION AND NON-WAIVER

### 15.1 Modification

Any modification by the Company of the Notes (including these Terms and Conditions) or any waiver or authorisation of any breach or proposed breach by the Company of the Notes requires the written approval of the Majority Noteholders.

### 15.2 Non-Waiver

The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of this Agreement shall not be construed as a waiver or relinquishment of future compliance therewith, and said terms, conditions and provisions shall remain in full force and effect. No waiver of any term or condition of this Agreement on the part of either party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such party.

## 16. GOVERNING LAW AND SUBMISSION TO JURISDICTION

16.1 These Terms and Conditions shall be governed by and construed in accordance with the Laws of Hong Kong.

16.2 Any dispute, controversy, difference or claim arising out of or relating to this Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“**SIAC**”) in accordance with the Arbitration Rules of the SIAC (“**SIAC Rules**”) for the time being in force, which rules are deemed to be incorporated by reference to this Condition 16.2. The Parties hereby agree that any arbitration commenced pursuant to this Condition 16.2 shall be conducted in accordance with the Expedited Procedure set out in Rule 5.2 of the SIAC Rules. The Tribunal shall consist of one (1) arbitrator to be appointed by the Parties. The seat of arbitration shall be Singapore and the arbitration shall be conducted wholly in the English language. The arbitrator will be entitled to include in its decision a determination as to the payment of the costs and expenses of the arbitrator, the administrative costs of the arbitrator, the legal fees incurred by the Parties, the cost and expenses of witnesses and all other costs and expenses necessarily incurred in the opinion of the arbitrator in order to properly settle the dispute.

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**SCHEDULE 4****PART A – CONVERSION MECHANICS**

Terms used herein are as defined in the terms and conditions of the Notes (the "**Conditions**"). This schedule is subject to the more detailed provisions of the Conditions.

| <b>Action</b>                                                                                                                                                                                                                | <b>Timing<sup>(1)</sup></b>                                                         | <b>Responsibility</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-----------------------|
| 1 Noteholder exercises Conversion Right by email to the Company of a completed Conversion Notice and relevant Note Certificates                                                                                              | By 3.30 pm Hong Kong time on the Conversion Date                                    | Noteholder            |
| 2 Company to acknowledge receipt of the Conversion Notice by email to the sender of the Conversion Notice                                                                                                                    | By 5.30 pm Hong Kong time on the Conversion Date                                    | Company               |
| 3 Company to deliver the allotment advice or instructions to issue the Conversion Shares to its share registrars and transfer agent in Hong Kong                                                                             | By 5.30 pm Hong Kong time within one (1) Business Day following the Conversion Date | Company               |
| 4 Company to deliver or cause to be delivered such delivery to be in accordance with normal practice for settlement of transactions on the HKEx, together with such other securities, property to be delivered on conversion | By 5.30 pm within three (3) Business Days following the Conversion Date             | Company               |

**Note:**

(1) All times stated is Hong Kong Standard Time.

*[The remaining portion of this page has been intentionally left blank]*

**PART B – FORM OF CONVERSION NOTICE****CHINA KINGSTONE MINING HOLDINGS LIMITED**

Bermuda Company Registration Number (51756), Hong Kong Stock Code (1380)  
(the "Company")

**Issue of registered 2.0% redeemable convertible notes amounting in aggregate to a sum of up to HKD200,000,000 (the "Notes") pursuant to the amended and restated subscription agreement dated \_\_\_\_\_ entered into between the Company, Advance Opportunities Fund VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund) and Advance Opportunities Fund I (as subsequently amended, modified and/or supplemented) (the "Subscription Agreement").**

**CONVERSION NOTICE**

(To be sent via email)

To: **China Kingstone Mining Holdings Limited** (the "Company")

I/We\*, by or on behalf of the holder or beneficial owner of the Notes (the "**Notes**") specified below, hereby elect to convert such Notes into ordinary shares of the Company (the "**Conversion Shares**") in accordance with Condition 8 of the terms and conditions of the Notes.

1. Tranche Number : \_\_\_\_\_
- Sub-tranche Number : \_\_\_\_\_
- Issue Number : \_\_\_\_\_
- Total nominal value of Notes to be converted : \_\_\_\_\_
- Outstanding nominal value of Notes prior to conversion : \_\_\_\_\_
- Outstanding nominal value of Notes post conversion : \_\_\_\_\_
- Conversion Price :

The three consecutive closing prices per Company's share selected are as follows:-

|   | Share Price | Date |
|---|-------------|------|
| X |             |      |
| Y |             |      |
| Z |             |      |

Conversion Price =  $\frac{X+Y+Z}{3} \times 0.90$  \_\_\_\_\_ =

Conversion Downside Price\*\* =

2. Total number of Conversion Shares to be converted:

Nominal value of Notes delivered ÷ applicable Conversion Price \_\_\_\_\_  
=

3. Name(s), address(es) and signature(s) of person(s) in whose name(s) the Conversion Shares required to be delivered on conversion are to be registered and in denomination of the share certificate(s):

Name :

Address :

Denomination of share certificates:

We hereby instruct for the shares certificates to be delivered to:

**[CGS-CIMB Securities (Hong Kong) Limited**

Unit 2808B-2811, 28/F Wing On Centre, 111 Connaught Road Central

Sheung Wan, Hong Kong

Attn: Settlement Team]

Signature :

4. I/We\* hereby request that the Shares (or other securities) required to be delivered upon conversion be delivered to the Securities Account below (for broker's action only):

CCASS No.:

BIC:

A/C No:

A/C Name:

**Further Credit to:**

Account Name:

Account Number:

Broker Name:

5. We hereby request that any cash amount (or property) required to be delivered upon conversion be despatched (at our risk and expense) to the person whose name and address is given below in the manner specified below:-

Name:

Address:

Manner:

6. I/We\* hereby declare that all approvals, consents and authorisations (if any) required by the laws to which I am/we are\* subject and to be obtained by me/us\* prior to the said conversion have been obtained and are in full force and effect and that any applicable condition thereto has been complied with by me/us\*.
7. We hereby confirm that we are the sole and absolute beneficial and legal owner of the Notes to be converted; and have not executed any transfer in respect of the Notes to be converted whether in blank or otherwise; and none of the Notes to be converted have been transferred, charged, lent, deposited or otherwise dealt with in any manner affecting my/our\* absolute title (legal and beneficial) to the Notes to be converted.
8. The Company has notified the Noteholder that the Company's register of the Shareholders will be closed on the following dates:

*[the remaining portion of this page has been intentionally left blank]*

If the Noteholder is a corporation:

The Common Seal of the )  
 Noteholder was hereunto  
 affixed in the presence of: )  
 )

|          |                      |       |
|----------|----------------------|-------|
| _____    | _____                | _____ |
| DIRECTOR | DIRECTOR / SECRETARY | DATE  |

**Notes:**

- (i) This Conversion Notice will be void unless the introductory details, Sections 1, 2, 3, 4 and (if applicable) 7 are completed.
- (ii) Please note Conditions 8.9 to 8.11 of the Notes with respect to the conditions which must be fulfilled before the Notes specified above will be treated as effectively eligible for conversion.
- (iii) Despatch of securities or property will be made at the risk and expense of the converting Noteholder and the converting Noteholder will be required to prepay the expenses of, and submit any necessary documents required in order to effect, despatch in the manner specified.
- (iv) You must have a valid CCASS Account maintained with the Hong Kong Securities Clearing Company Limited.
- (v) No certificates will be issued to you as a result of any conversion of the Notes.
- (vi) In converting the Notes, compliance must be made with any exchange control or other statutory requirements for the time being applicable.

*\*Delete as appropriate*

*\*\* to be deleted if not applicable*

*[The remaining portion of this page has been intentionally left blank]*

**SCHEDULE 5**

**FORM OF DRAWDOWN NOTICE**

**CHINA KINGSTONE MINING HOLDINGS LIMITED**

Bermuda Company Registration Number (51756), Hong Kong Stock Code (1380)  
(the "Company")

**Issue of registered 2.0% redeemable convertible notes amounting in aggregate to a sum of up to HKD200,000,000 (the "Notes") pursuant to the amended and restated subscription agreement dated \_\_\_\_\_ entered into between the Company, Advance Opportunities Fund VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund) and Advance Opportunities Fund I (as subsequently amended, modified and/or supplemented) (the "Subscription Agreement").**

**DRAWDOWN NOTICE**  
**(To be sent by email only)**

From: **China Kingstone Mining Holdings Limited**

To: **Advance Opportunities Fund VCC**  
**(acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund)**

**Advance Opportunities Fund I**

Cc: **[Subscriber's Appointee]**

[DATE]

*Capitalised terms used in this Drawdown Notice and not defined herein have the meaning given to them in the Subscription Agreement.*

1. Pursuant to [Clause 2.1 / Clause 2.2]\* of the Subscription Agreement, as mutually agreed, we will issue the [T1 / T2] at the Note Issue Price and you will subscribe for [ST01 of T1 / ST01 of T2]\* on [\*date\*] being the agreed Closing Date.
2. We confirm that the Administrative Fee of 5.5% of the aggregate principal amount of [ST01 of T1 / ST01 of T2]\* which is payable to Advance Capital Partners Pte. Ltd. pursuant to Clause 5.1(b) of the Subscription Agreement shall be deducted from the subscription monies payable to us for the subscription of [ST01 of T1 / ST01 of T2].
3. The payment details of the respective payees and the amount payable for the drawdown are set out in Schedule 1 (attached herein to this notice).

Yours Faithfully,  
For and on behalf of  
**China Kingstone Mining Holdings Limited**

\_\_\_\_\_  
Name:

Designation:

*\*To be deleted if not applicable*

## SCHEDULE 6

### ALLOCATION NOTICE

#### CHINA KINGSTONE MINING HOLDINGS LIMITED

Bermuda Company Registration Number (51756), Hong Kong Stock Code (1380)  
(the "Company")

Issue of registered 2.0% redeemable convertible notes amounting in aggregate to a sum of up to HKD200,000,000 (the "Notes") pursuant to the amended and restated subscription agreement dated \_\_\_\_\_ entered into between the Company, Advance Opportunities Fund VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund) and Advance Opportunities Fund I (as subsequently amended, modified and/or supplemented) (the "Subscription Agreement").

#### ALLOCATION NOTICE (To be sent by email only)

From: **Advance Opportunities Fund VCC**  
(acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund)

**Advance Opportunities Fund I**

To: **China Kingstone Mining Holdings Limited**

Cc: **The Subscriber's Appointee**

[DATE]

Capitalised terms used in this Allocation Notice and not defined herein have the meaning given to them in the Subscription Agreement.

Pursuant to Clause 2.1/2.2\* of the Subscription Agreement, kindly issue the following sub-tranche(s) of Notes in accordance with the terms of the Subscription Agreement, to the Subscribers in the following proportion:

|                                                         |   |                                                                                                                     |                                     |
|---------------------------------------------------------|---|---------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| <b>Subscriber:</b>                                      | : | <b>Advance Opportunities Fund VCC</b><br>(acting on behalf and for the account of AOF Hong Kong Opportunities Fund) | <b>Advance Opportunities Fund I</b> |
| <b>Tranche Number</b>                                   | : |                                                                                                                     |                                     |
| <b>Sub-Tranche(s) Number</b>                            | : |                                                                                                                     |                                     |
| <b>Aggregate principal amount of Notes to be issued</b> | : |                                                                                                                     |                                     |

Yours Faithfully,

For and on behalf of  
**Advance Opportunities Fund VCC**  
(acting on behalf and for the account of AOF Hong Kong Opportunities Fund)

For and on behalf of  
**Advance Opportunities Fund I**

\_\_\_\_\_  
Name:  
Designation:

\_\_\_\_\_  
Name:  
Designation:

\* Delete as appropriate.



## SCHEDULE 7

### AUTHORISATION NOTICE

To:

**China Kingstone Mining Holdings Limited**  
Unit 14, 18/F, Seapower Tower  
Concordia Plaza No. 1, Science Museum Road  
Kowloon, Hong Kong

Attn: Mr. Kenny Cheung

**[Name of Subscriber's Appointee]**  
[Address]

Attn:

**ADVANCE OPPORTUNITIES FUND VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund)\* / ADVANCE OPPORTUNITIES FUND I\***  
**AUTHORISATION NOTICE**

We refer to the amended and restated subscription agreement dated \_\_\_\_\_ (the "**Subscription Agreement**") between China Kingstone Mining Holdings Limited (the "**Company**"), Advance Opportunities Fund VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund) and Advance Opportunities Fund I.

In accordance with Clause 2.6 of the Subscription Agreement, we hereby give notice that [name of the *Subscriber's Appointee*] will be, with effect from [date] (the "**Effective Date**"), our authorised agent for the purposes of the Subscription Agreement, and shall unless and until we instruct otherwise in writing, be regarded as the "**Subscriber's Appointee**" for the purposes of the Subscription Agreement.

Accordingly, any act undertaken by the Subscriber's Appointee for and on behalf of the Subscriber in respect of any matters or terms set out in the Subscription Agreement shall have the same force and effect as if performed by the Subscriber from the Effective Date. We hereby confirm that we shall release the Company from all claims that the Subscriber may have against the Company arising from the Company's reliance on this Authorisation Notice.

Pursuant to Clause 5.1(b) of the Subscription Agreement, all Administrative Fee payable under the terms and conditions of the Subscription Agreement commencing from (and in including) the Effective Date shall be payable to Advance Capital Partners Pte. Ltd., until and unless otherwise notified in writing by us.

For and on behalf of

**ADVANCE OPPORTUNITIES FUND VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund)\* / ADVANCE OPPORTUNITIES FUND I\***

.....

Name:  
Designation:

*\* To be deleted if inapplicable*

## SCHEDULE 8

### LETTER OF UNDERTAKING

*[to be issued on the letterhead of China Kingstone Mining Holdings Limited]*

Date:

To:

**ADVANCE OPPORTUNITIES FUND VCC**

**(acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund)**

77 Robinson Road  
#06-03 Robinson 77  
Singapore 068896

Attn: Mr. Tan Choon Wee

**ADVANCE OPPORTUNITIES FUND I**

Cricket Square, Hutchins Drive  
PO Box 2681, Grand Cayman  
KY1-1111, Cayman Islands

Attn: Mr. Tan Choon Wee

Dear Sirs,

### LETTER OF UNDERTAKING

We refer to the amended and restated subscription agreement dated \_\_\_\_\_ (“**Subscription Agreement**”) between China Kingstone Mining Holdings Limited (Bermuda Company Registration Number: 51756, Hong Kong Stock Code: 1380)(the “**Company**”), Advance Opportunities Fund VCC (acting for and on behalf of and for the account of AOF Hong Kong Opportunities Fund) (“**AOF VCC**”) and Advance Opportunities Fund I (“**AOF I**”) (AOF VCC and AOF I shall collectively be referred to as, the “**Subscribers**” and each, a “**Subscriber**”).

1. Unless otherwise provided or defined in this Letter of Undertaking, all terms and/or expressions defined or construed and/or references used in this Letter of Undertaking shall bear the same meanings and construction as those defined and construed in the Subscription Agreement.
2. *Undertaking.* The Company hereby confirms, acknowledges, undertakes and covenants that:
  - (a) it shall pay a cancellation fee of SGD100,000.00 (“**Cancellation Fee**”) to the Subscribers (who shall be entitled at their discretion to jointly notify the Company to apportion payment of the Cancellation Fee in such proportion to each Subscriber) in the event the Closing Date of ST01 of T1 does not take place for any reason whatsoever, except in a case where the Authority Approvals, consents and/or waivers for T1 are not obtained prior to the T1 Fulfilment Date. To avoid doubt, the acceptance of the Cancellation Fee by the Subscribers is in addition to and without prejudice to all other rights or remedies available to it, including the right to claim damages which may have accrued prior to termination and shall not be applicable once the Notes has been drawn down;
  - (b) it shall pay SGD30,000 (and applicable tax and disbursements) to the Subscribers’ legal fees, of which SGD30,000 has been paid prior to the date of this Letter of Undertaking. The balance if not already paid upon the signing of this Subscription Agreement, (i) shall be payable on the Closing Date of ST01 of T1; and (ii) shall remain payable even if the Subscription Agreement is terminated for any reason whatsoever including the case whereby the Authority Approvals, consents and/or waivers are not obtained prior to the T1 Fulfilment Date;

- (c) it shall pay a compensation fee in an aggregate sum of SGD100,000.00 ("**Compensation Fee**") to the Subscribers (who shall be entitled at their discretion to jointly notify the Company to apportion payment of the Compensation Fee in such proportion to each Subscriber) in the event that the Agreement is terminated due to the occurrence of the events set out in Clause 9.1 except in the case whereby the Agreement is terminated due to an (i) an event pursuant to Clauses 9.1(b) or 9.1(e)(ii) and (ii) a breach of the Conditions;
  - (d) it has strict liability to pay the monies above within three (3) Business Days from the Subscribers' written demand; and
  - (e) it shall not contest, challenge, dispute or otherwise take any action, directly or indirectly, any claims made by any Subscriber against it for monies payable under this Letter of Undertaking.
- 3. *Non-Waiver.* The failure of the Subscribers to insist upon the strict performance of the provisions of this Letter of Undertaking shall not be construed as a waiver or relinquishment of future compliance therewith and said provisions shall remain in full force and effect. No waiver of any provision of this Letter of Undertaking on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party.
- 4. *Conflict or Inconsistencies.* In the event of any conflict or inconsistency between the terms, conditions and provisions of the Subscription Agreement, and the provisions of this Letter of Undertaking, the provisions of this Letter of Undertaking will prevail.
- 5. *Privity of Contract.* Save for (i) the Subscribers' professional advisors (ii) the Subscriber's Appointees and their professional advisors pursuant to Paragraph 3(b), a person who is not a party to this Letter of Undertaking has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce any provision in this Letter of Undertaking.
- 6. *Representations and Warranties.* The Company hereby represents, warrants, undertakes and covenants to and with the Subscribers and their respective successor(s) in to title, with the intent that the provisions under this Letter of Undertaking shall have full force and effect as at the date of this Letter of Undertaking, that it has full power, authority and capacity to enter into and perform this Letter of Undertaking and this Letter of Undertaking will, when executed, constitute its valid and legally binding obligations enforceable in accordance with its terms, except for obligations that are preferred by mandatory provisions of applicable Laws.
- 7. *Indemnities.* The Company undertakes to the Subscribers (and if applicable, the Subscriber's Appointee) for themselves and for each of their respective officers, employees and agents (each, together with the Subscribers (and if applicable, the Subscriber's Appointee), an "**Indemnified Person**") to fully indemnify and keep fully indemnified on demand each Indemnified Person from and against any and all liabilities, losses, claims, costs, charges and expenses of any nature whatsoever (including without limitation legal expenses on a full indemnity basis) which any Indemnified Person may incur or sustain from or in consequence of the Company's covenants contained in this Letter of Undertaking not being correct or fully complied with and its misrepresentation or any of the representations, warranties, undertakings. Such indemnity shall extend to include all charges and expenses which any of the Indemnified Persons may incur in investigating, disputing or defending any claim or action or other proceedings in respect of which the Company is held liable to indemnify under this paragraph 7. Provided however the Company shall not have any obligation to any Indemnified Person under this paragraph 7 for any indemnity arising from the negligence or wilful misconduct of such Indemnified Person.
- 8. *Governing law and jurisdiction.* This Letter of Undertaking shall be governed by and construed in accordance with the Laws of Hong Kong. In relation to any legal action or proceeding arising out of or in connection with this Letter of Undertaking, the parties shall submit to the non-exclusive jurisdiction of the courts of Hong Kong.

Yours faithfully,

For and on behalf of

**China Kingstone Mining Holdings Limited**

(Bermuda Company Registration Number: 51756, Hong Kong Stock Code: 1380)

.....  
**Name:**

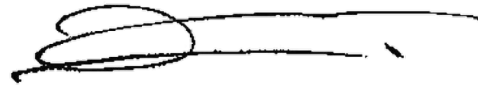
**Designation:**

## The Company

SIGNED by  
**MS. ZHANG, CUIWEI**  
for and on behalf of  
**CHINA KINGSTONE MINING HOLDINGS LIMITED**  
(Bermuda Company Registration Number: 51756,  
Hong Kong Stock Code: 1380)

AOF VCC

SIGNED BY )  
**MR. TAN CHOON WEE** )  
for and on behalf of )  
**ADVANCE OPPORTUNITIES FUND VCC** )  
(acting on behalf of and for the account of )  
**AOF Hong Kong Opportunities Fund)** )  
(UEN: T22VC0307) )

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal stroke.

AOF I

SIGNED BY

**MR. TAN CHOON WEE**

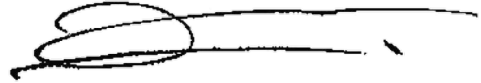
for and on behalf of

**ADVANCE OPPORTUNITIES FUND I**

**(Cayman Islands Company Registration Number**

**308364)**

)  
)  
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)  
)  
)

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal stroke and a small upward tick at the end.