

10 July 2019

KO YO CHEMICAL (GROUP) LIMITED
玖源化工(集團)有限公司

AND

TANG GUOQIANG
湯國強

SUBSCRIPTION AGREEMENT
IN RELATION TO
HK\$987,000,000 5% CONVERTIBLE BONDS

CONTENTS

<u>Clause</u>	<u>Page</u>
1. Interpretation.....	1
2. Subscription and Issue of the CB.....	5
3. Conditions Precedent	5
4. Closing	6
5. Warranties of the Issuer	7
6. WARRANTIES OF THE SUBSCRIBER.....	7
7. Undertakings by the Issuer.....	7
8. Fees, Expenses and Payments.....	8
9. Further Assurance	8
10. Survival.....	8
11. Time	8
12. Confidentiality	8
13. Assignment	8
14. Entire Agreement	8
15. Notices	9
16. Law and Jurisdiction	9
17. Counterparts.....	10
18. Amendment or Waiver.....	10
19. Third Party Rights.....	10
Schedule 1 Representations and Warranties of the Issuer	
Schedule 2 Closing Deliverables of the Issuer	
Schedule 3 Form of the CB instrument	

THIS AGREEMENT is made on 10 July 2019

BETWEEN:

- (1) **TANG GUOQIANG (湯國強)** (holder of PRC Identity Card No. 320423195708152215) of 48 Tian Mu Road, Li Yang City, Jiangsu Province, the PRC (the “**Subscriber**”); and
- (2) **KO YO CHEMICAL (GROUP) LIMITED (玖源化工(集團)有限公司)**, a company with limited liability incorporated under the laws of the Cayman Islands whose registered office is at Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands, with its principal place of business in Hong Kong at Suite No. 02, 31st Floor, Sino Plaza, 255–257 Gloucester Road, Causeway Bay, Hong Kong, the shares of which are listed on the Stock Exchange (stock code: 0827) (the “**Issuer**”).

RECITALS

- (A) As at the date hereof, the Issuer has an authorised share capital of HK\$800,000,000 divided into 8,000,000,000 ordinary shares of HK\$0.1 each, of which 4,298,042,599 Shares have been issued and are fully paid up.
- (B) The Issuer intends to issue, and the Subscriber intends to subscribe for 5% convertible bonds of the Issuer (the “**CB**”) in the aggregate principal amount of HK\$987,000,000 (equivalent to RMB858,690,000) on and subject to the terms and conditions set out in this Agreement.
- (C) The CB will be constituted by a CB Instrument (which will include the Conditions). The CB Instrument, together with other relevant transaction documents as set out in this Agreement (where applicable), will be executed by the Issuer on or before the Closing Date.

IT IS AGREED as follows:

1. **INTERPRETATION**

1.1 **Definitions**

In this Agreement the following expressions have the following meanings:

“**Affiliate**” means, in relation to any person, any other person directly or indirectly Controlling, Controlled by or under common Control with, the first mentioned person, and in the case of any individual, includes any spouse, mother, father, grandmother, grandfather, brother, sister or child of such individual;

“**Agreement**” means this subscription agreement;

“**Board**” means the board of Directors from time to time;

“**Business Day**” means a day on which commercial banks and foreign exchange markets settle payments in Hong Kong, excluding any day in Hong Kong on which a typhoon signal number 8 or above or a “black” rainstorm warning is hoisted;

“**CB Holder(s)**” has the meaning given to such term in the Conditions;

“**CB Instrument**” means the instrument by way of deed poll to be executed by the Issuer creating and constituting the CB (or any part thereof) in the form contained in Schedule 3;

“**CB Certificate**” has the meaning given to such term in the Conditions;

“**CB Register**” has the meaning given to such term in the Conditions;

“**Closing**” means the completion of the subscription for and issue of the CB in accordance with the terms and conditions of this Agreement pursuant to Clause 4;

“**Closing Conditions**” means the conditions set out in Clause 3.1;

“**Closing Date**” means the date which is the third (3rd) Business Day after, and excluding, the date upon which the Closing Conditions in Clause 3.1.6 has been satisfied, or such other date as the parties may agree in writing;

“**Closing Issue Price**” has the meaning given to such term in Clause 2.1;

“**Conditions**” has the meaning given to it in the CB Instrument;

“**Control**” has the meaning given to such term in the Conditions;

“**Conversion Right**” has the meaning given to such term in the Conditions;

“**Conversion Shares**” has the meaning given to such term in the Conditions;

“**Director**” has the meaning given to such term in the Conditions;

“**Encumbrance**” means a mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, other encumbrance or security interest of any kind, or another type of preferential arrangement (including a title transfer or retention arrangement) having similar effect;

“**Event of Default**” has the meaning given to such term in the Conditions;

“**Government Authority**” means any national, provincial, municipal, city or local government or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through share or capital ownership or otherwise, by any of the foregoing;

“**Group**” means the Issuer and its Subsidiaries, and any person (other than an individual) over which either the Issuer or any of its Subsidiaries is able to exercise significant influence (being a person in which (i) it has the right to appoint at least one third of the board of directors or its equivalent, (ii) it has the right to ensure that certain matters are not dealt with whether at shareholder or management level without its consent, and/or (iii) the board of directors or at least one third of the board (or its equivalent) is accustomed to act in accordance with its instructions), in each case from

time to time and “**member of the Group**” and “**Group Company**” shall be construed accordingly;

“**HK\$**” means the dollar unit in the lawful currency of Hong Kong;

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

“**Interest Payment Date**” has the meaning given to such term in the Conditions;

“**Law**” means any provision of any binding law, ordinance, rule, judgment, rule of common law and equity, decree, award, injunction, policies, government approval or other governmental restriction or binding regulation or rule of any Government Authority (including, without limitation, any anti-corruption, anti-money laundering and employment law or regulation);

“**Listing Rules**” means the Rules Governing the Listing of Securities on the Stock Exchange;

“**Long Stop Date**” means 30 April 2020 or such later date as may be agreed by the Subscriber and the Issuer;

“**Notice**” means a notice given pursuant to the terms of this Agreement and shall be given in accordance with Clause 15;

“**Notice of Closing**” means the written notice to be given by the Subscriber to the Issuer during the Subscription Period stating that principal amount of the CB which the Subscriber shall subscribe for;

“**person**” means any individual, firm, corporation, partnership, trust, incorporated or unincorporated association, joint venture, joint stock company, limited liability company, Government Authority or other entity of any kind, and shall include any legal personal representatives, successor (by merger or otherwise) and permitted assigns of such entity;

“**PRC**” means the People’s Republic of China, excluding for the purposes of this Agreement only, Hong Kong, the Macau Special Administrative Region of the People’s Republic of China and Taiwan;

“**RMB**” means Renminbi, the lawful currency of the PRC;

“**Shares**” means the ordinary shares in the share capital of the Issuer which, as at the date of this Agreement, have a par value of HK\$0.1 each;

“**Shareholders**” means the holder(s) of the Share(s);

“**Stock Exchange**” means The Stock Exchange of Hong Kong Limited and its successors in title;

“**Subscription Period**” means the period commencing from the date of this Agreement and ending on 30 April 2020 (or such date as the Issuer and the Subscriber may agree);

“**Subsidiary**” has the meaning given to it in the Conditions;

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

“**Transaction Documents**” means this Agreement, the CB Instrument, the CB Certificates, or any document designated as such by the Issuer and the Subscriber; and

“**Warranties**” means those statements set out in Schedule 1 and “**Warranty**” means any one of them.

1.2 Interpretation

Unless the context otherwise requires or unless otherwise specified herein, in this Agreement:

- 1.2.1 a “**party**” is a reference to a party to this Agreement, and shall be construed so as to include its successors in title and permitted assigns;
- 1.2.2 any reference to any agreement or instrument is a reference to that agreement or instrument as amended or novated;
- 1.2.3 a provision of law is a reference to that provision as amended or re-enacted;
- 1.2.4 a time of day is a reference to Hong Kong time;
- 1.2.5 words denoting the singular number only shall include the plural number also and *vice versa*;
- 1.2.6 words denoting one gender only shall include the other genders;
- 1.2.7 the *ejusdem generis* principle of construction shall not apply to this Agreement, and general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words;
- 1.2.8 references to any action, remedy or method of judicial proceeding for the enforcement of the rights of creditors shall be deemed to include, in respect of any jurisdiction other than Hong Kong, references to such action, remedy or method of judicial proceeding for the enforcement of the rights of creditors available or appropriate in such jurisdiction as shall most nearly approximate to such action, remedy or method of judicial proceeding described or referred to in these presents; and
- 1.2.9 an Event of Default is “continuing” if it has not been cured, remedied or waived.

1.3 Clauses and Schedules

Any reference in this Agreement to a “**Clause**” or a “**Schedule**” is, unless otherwise stated, to a clause hereof or a schedule hereto.

1.4 **Legislation**

Any reference in this Agreement to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been, or may from time to time be, amended or re-enacted.

1.5 **Headings**

Headings and sub-headings are for ease of reference only and shall not affect the construction of this Agreement.

1.6 **Exchange rate**

Unless specifically provided otherwise, if for any purpose an amount expressed in RMB needs to be translated or converted into HK\$ or vice versa, the rate of exchange shall be fixed rate of HK\$1.00 to RMB0.85.

2. **SUBSCRIPTION AND ISSUE OF THE CB**

2.1 Subject to and in accordance with the provisions of this Agreement, the Issuer agrees to issue, and the Subscriber agrees to subscribe for, the CB in the principal amount of HK\$987,000,000 (equivalent to RMB858,690,000) at 100% of their principal amount of the CB (the “**Closing Issue Price**”) in not more five tranches on or before the Long Stop Date, and the principal sum of the Convertible Bonds to be subscribed in each tranche shall not be less than HK\$50,000,000.

2.2 The Company shall within three Business Days following receipt of the Notice of Closing issued by the Subscriber the CB to the Subscriber in the principal amount as stated in the Notice of Closing. For the avoidance of doubt, the aggregate principal amount stated in the Notices of Closing to be issued by the Subscriber shall not be less than HK\$50,000,000 nor exceed the sum of HK\$987,000,000 (equivalent to RMB858,690,000).

3. **CONDITIONS PRECEDENT**

3.1 **Closing Conditions**

The obligations of the Issuer and the Subscriber to effect the Closing shall be conditional upon:

3.1.1 the execution and delivery of the CB Instrument for the aggregate principal amount of HK\$987,000,000 (equivalent to RMB858,690,000) by the respective parties thereto on or before the Closing Date;

3.1.2 on the date of this Agreement and the Closing Date: (a) the representations, warranties, agreements and undertakings of the Issuer in this Agreement being true, accurate and correct in all material respect at, and as if made on, the Closing Date;

3.1.3 on or prior to the Closing Date there shall have been delivered to the order of the Subscriber the documents set out in Schedule 2;

- 3.1.4 the passing of resolutions of the Board approving this Agreement and the transactions contemplated hereunder including the issue of the CBs and allotment and issue of the Conversion Shares upon the exercise of the conversion rights attaching to the CBs;
- 3.1.5 the passing of resolutions of the Shareholders approving this Agreement and the transactions contemplated hereunder including the grant of the specific mandate to the Board to allot and issue the Conversion Shares; and
- 3.1.6 the listing committee of the Stock Exchange having granted approval to the listing of, and the permission to deal in, the Conversion Shares.

3.2 **Non-Fulfilment**

- 3.2.1 The Subscriber may at any time and upon such terms as it thinks fit waive compliance with any of the Closing Conditions in Clause 3.1 (other than Clauses 3.1.5 and 3.1.6) by notice in writing to the Issuer.
- 3.2.2 If the Closing Conditions are not either waived or satisfied, as the case may be, by the Long Stop Date, the parties' obligations under this Agreement shall automatically terminate and no party shall have any claim against the other for costs, damages, compensation or otherwise, save for any claim in respect of antecedent breaches and the liability of the Issuer for the payment of expenses as provided in Clause 8.

4. **CLOSING**

4.1 **Closing**

- 4.1.1 Subject to the satisfaction of all the Closing Conditions (save for Clause 3.1.1, which shall be limit to the amount as stated in the Notice of Closing) or as otherwise waived in accordance with Clause 3.2.1, the Subscriber may issue a Notice of Closing to the Company stating that the Subscriber shall subscribe for certain portion of the principal amount of the CB.
- 4.1.2 Subject to the satisfaction of the Closing Conditions or as otherwise waived in accordance with Clause 3.2.1, Closing of the issue of the CB pursuant to Clause 2.1 shall take place at the principal place of business of the Issuer in Hong Kong or such other place as may be agreed by the Issuer and the Subscriber.

4.2 **Payment for Subscription of the CB**

- 4.2.1 Within three Business Days following the issue of a Notice of Closing, the Subscriber shall, upon receiving all documents mentioned in Clause 3.1 above (as applicable and save for Clause 3.1.1), pay to the Issuer the Closing Issue Price equivalent to the principal amount of the CB as stated in the Notice of Closing.
- 4.2.2 The Issuer confirms that payment of the Closing Issue Price (subject to deduction hereunder) shall fully discharge the Subscriber's payment obligation to the Issuer in connection with the subscription of the CB under this

Agreement. The Closing Issue Price shall be deposited into the account of the Issuer.

5. WARRANTIES OF THE ISSUER

5.1 General

The Issuer represents, warrants and undertakes to the Subscriber that each Warranty is true and accurate in accordance with their terms and not misleading at the date of this Agreement and on the Closing Date by reference to the facts and circumstances as at the Closing Date.

5.2 Warranties independent and separate

Each of the Warranties shall be construed as an independent and separate warranty and shall not be limited or restricted by reference to or inference from the terms of any other Warranty or any other term of this Agreement.

6. WARRANTIES OF THE SUBSCRIBER

6.1 The Subscriber has full power, authority and legal right to enter into this Agreement and to perform its obligations hereunder and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not result in the breach or cancellation or termination of any of the terms or conditions of or constitute a default under any agreement, commitment or other instrument to which the Subscriber is a party or by which the Subscriber may be bound or affected or violate any law or any rule or regulation of any administrative agency or governmental body or any order, writ, injunction or decree of any court, administrative agency or governmental or regulatory body affecting the Subscriber;

6.2 each of the warranties shall be construed as an independent and separate warranty and shall not be limited or restricted by reference to or inference from the terms of any other warranty or any other term of this Agreement; and

7. UNDERTAKINGS BY THE ISSUER

The Issuer undertakes with the Subscriber as follows:

7.1 The Issuer will pay the expenses of the issue of, and all expenses of obtaining listing for, Conversion Shares arising on conversion of the CB.

7.2 The Issuer will keep available and reserve, free from any other pre-emptive or other similar rights, out of its authorised but unissued ordinary Share capital the full number of Shares liable to be issued on conversion of the CB from time to time remaining outstanding and to satisfy in full all other rights of exercise, conversion into or exchange or subscription for Conversion Shares. If at any time the number of authorised but unissued Shares shall not be sufficient to effect the Conversion Rights (as defined in the Conditions) in full, the Issuer shall forthwith take such corporate action as may be necessary to increase its authorised but unissued Shares to such number of Shares as shall be sufficient for such purpose.

7.3 The Issuer shall ensure that the Conversion Shares to be issued upon the conversion of all the CB shall be duly and validly issued as fully-paid and rank at least *pari passu* with all other Shares then outstanding, free and clear of all Encumbrances.

7.4 **Laws and Listing Rules**

The Issuer shall comply with all applicable Law and the applicable requirements of the Stock Exchange in connection with the issue, offering and sale of the CB.

8. **FEES, EXPENSES AND PAYMENTS**

Each Party shall bear its own costs and expenses (including legal fees) in respect of the negotiation, execution and carrying into effect of this Agreement and transactions contemplated thereunder.

9. **FURTHER ASSURANCE**

Each party undertakes to the other parties to execute or procure to be executed all such documents and to do or procure to be done all such other acts and things as may be necessary to give all parties the full benefit of this Agreement.

10. **SURVIVAL**

The provisions of this Agreement shall continue in full force and effect notwithstanding the completion of the arrangements set out herein for the issue of the CB.

11. **TIME**

Any date or period specified herein may be postponed or extended by mutual agreement among the parties but, as regards any date or period originally fixed or so postponed or extended, time shall be of the essence.

12. **CONFIDENTIALITY**

Except as required by Law or the Listing Rules, the terms of the Transaction Documents, and the issue of the CB (the “**Confidential Information**”) are confidential and shall not be disclosed to any third party (except to the senior management personnel of the parties hereto or their Affiliates, investment decision committees, legal advisers, accountants or other professional advisers advising to the parties hereto for the purpose of this Agreement). If any party is required by Law or the Listing Rules to disclose any Confidential Information, it/he shall, before making any such disclosure or filing, to the extent reasonably practicable and permitted by Law or the Listing Rules, consult with the other parties regarding such disclosure and use reasonable efforts to seek confidential treatment for such portions of the disclosure or filing as may be reasonably requested by the other parties.

13. **ASSIGNMENT**

No party hereto shall assign or transfer any of its rights or obligations under this Agreement without the prior consent in writing of the other party to this Agreement.

14. **ENTIRE AGREEMENT**

The Transaction Documents constitute the entire agreement between the parties about the subject matter of such agreements and supersedes all previous agreements, understandings and negotiations on that subject matter.

15. NOTICES

15.1 Addresses for notices

A Notice under or in connection with this Agreement shall be:

15.1.1 in writing and in English; and

15.1.2 delivered personally, sent by courier to the party due to receive the Notice at the address referred to in Clause 15.2 or such other address as a party may specify by notice in writing to the other parties received before the Notice was despatched.

15.2 For the purposes of this Clause 15, a Notice shall be sent to the addresses and for the attention of those persons set out below:

15.2.1 in the case of the Issuer:

Address: Suite No. 02, 31st Floor, Sino Plaza, 255-257 Gloucester Road, Causeway Bay, Hong Kong
Attention: the Board

15.2.2 in the case of the Subscriber:

Address: 48 Tian Mu Road, Li Yang City, Jiangshu Province, the PRC
Attention: TANG Guoqiang

or to such other address as the relevant party may have notified to the other party by not less than 7 days' written notice to the other party before the Notice was despatched.

15.3 Unless there is evidence that it was received earlier, a Notice is deemed given if:

15.3.1 delivered personally, when left at the address referred to in Clause 15.2; or

15.3.2 sent by courier, two (2) Business Days after posting it;

16. LAW AND JURISDICTION

16.1 This Agreement is governed by and shall be construed in accordance with the laws of Hong Kong.

16.2 The courts of Hong Kong have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter, existence, negotiation, validity, termination or enforceability (a "**Dispute**").

16.3 The parties to this Agreement agree that the courts of Hong Kong are the most appropriate and convenient courts to settle a Dispute and accordingly the parties will not:

16.3.1 argue to the contrary; or

16.3.2 take any proceedings relating to a Dispute in any jurisdiction other than Hong Kong.

17. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when so executed shall constitute one and the same binding agreement between the parties.

18. **AMENDMENT OR WAIVER**

No provision of this Agreement may be amended, supplemented, modified or waived, except by a written instrument signed by each party hereto.

19. **THIRD PARTY RIGHTS**

Unless expressly provided to the contrary in this Agreement, a person who is not a party hereto has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce or to enjoy the benefit of any term of this Agreement.

Notwithstanding any term of this Agreement, the consent of any person who is not a party hereto is not required to rescind or vary this Agreement at any time.

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SCHEDULE 1
REPRESENTATIONS AND WARRANTIES OF THE ISSUER

Save as disclosed and made available to the general public, and the Issuer represents, warrants and undertakes to the Subscriber that the following are true, accurate and not misleading in accordance with their terms:

1. Incorporation

Each of the Issuer and its Principal Subsidiaries (i) is duly incorporated and validly existing under the Law of such jurisdiction under which the Issuer and its Principal Subsidiaries respectively are incorporated, (ii) is not in liquidation or receivership; (iii) has full power and authority to own, lease and operate its properties and assets and to conduct its business and is lawfully qualified to do business in those jurisdictions in which business is conducted by it.

2. Authority and legality

2.1 The Issuer has full power and authority to execute, deliver and perform each of the Transaction Documents to which it is a party.

2.2 Each of the Transaction Documents to which each of the Issuer is a party, on execution by all parties thereto, constitutes validly and legally binding obligations of, and is enforceable against the Issuer.

2.3 The CB have been duly authorised by the Issuer and, when duly executed, authenticated, issued and delivered in accordance with this Agreement, the CB will constitute valid, legally binding and enforceable obligations of the Issuer and under the Law of the Cayman Islands and Hong Kong in accordance with their terms, subject to applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and to the provisions hereof and those in the CB Instrument, there are no restrictions on transfer of the CB.

2.4 The Issuer is in all material respects in compliance with and will comply, in all material respects, with all applicable Law and the applicable requirements of the Listing Rules and, in particular, the Issuer is in compliance in all material respects with its disclosure obligations under the Listing Rules and the Issuer will comply with the Listing Rules in connection with the issue of the CB.

2.5 Execution, delivery and performance by the Issuer of any Transaction Document to which it is a party, the issue of the CB, the exercise of the Conversion Rights and the issuance of Conversion Shares pursuant to the conditions of the CB will not result in any breach by the Issuer of any applicable Law or the rules of any stock exchange, or a breach by the Issuer of any constitutive documents, or a breach of any indenture, trust deed, mortgage or other agreement or instrument to which the Issuer is a party or by which it or any of its properties are bound, or result in the creation or imposition of any mortgage, charge, pledge, lien or other security interest on any of the assets or properties of the Issuer.

3. Status and Guarantee

- 3.1 The CB (when issued) will constitute unsubordinated, unconditional and unsecured obligations of the Issuer and will at all times rank *pari passu* without any preference among themselves. The payment obligations of the Issuer under the CB shall, save for such exceptions as may be provided by mandatory provisions of applicable legislation, other than those preferred by statute or applicable law.

4. **Share capital**

- 4.1 Subject to the granting of the approval to the listing of, and the permission to deal in, the Conversion Shares by the listing committee of the Stock Exchange, all corporate approvals and authorisations required by the Issuer in connection with the issuance of any of the Conversion Shares will, at the time the Conversion Rights are exercised in accordance with the Conditions, be obtained and be in full force and effect.
- 4.2 The Conversion Shares will be and are available for issuance at the time the Conversion Rights are exercised pursuant to the terms of the Conditions, and when being issued by the Issuer pursuant to the terms of the Conditions, will be fully paid up and rank *pari passu* in all respects with other Shares in issue on the relevant date of such transfer, including the right to receive all dividends and distributions which may thereafter be declared, made or paid from time to time, will be freely transferable, fully-paid and non-assessable, and will be free and clear of all Encumbrances.
- 4.3 There are no restrictions applicable to the Conversion Shares generally upon the voting or transfer of any of the Conversion Shares pursuant to the Issuer's constitutional documents or pursuant to any agreement or other instrument to which the Issuer is a party or by which the Issuer may be bound.
- 4.4 All of the currently outstanding Shares are duly listed and admitted for trading on the Stock Exchange.

5. **Absence of Default and Conflicts**

Neither the Issuer nor any of its Principal Subsidiaries is in breach, violation of or in default under (nor has any event occurred which, with the giving of notice and/or lapse of time and/or fulfilment of any other requirement, result in a default by the Issuer under):

- (i) its constitutional documents, charter or by-laws or similar organizational documents;
- (ii) any indenture, contract, lease, mortgage, deed of trust, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Issuer or any of its Principal Subsidiaries is a party or by which the Issuer or any of its Principal Subsidiaries is bound or to which any property, right or asset of the Issuer or any of its Principal Subsidiaries is subject; or
- (iii) any Law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority,

except for any such breach, violation or default that could not, individually or in the aggregate, have a Material Adverse Effect.

6. **Taxes/Duties**

No Tax or duty (including any stamp or issuance or transfer tax or duty, any service tax and any tax or duty on capital gains or income, whether chargeable on a withholding basis or otherwise) is assessable or payable in, and no withholding or deduction for any Taxes, duties, assessments or governmental charges of whatever nature is imposed or made for or on account of any income, registration, transfer, service or turnover taxes, customs or other duties or taxes of any kind, levied, collected, withheld or assessed by or within Hong Kong or the Cayman Islands or any other relevant jurisdiction or by any sub-division of or authority therein or thereof having power to impose Tax, in connection with the creation, issue and offering of the CB, the creation of the Security or the execution or delivery of any of the Transaction Documents or the performance of the obligations thereunder.

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SCHEDULE 2
CLOSING DELIVERABLES OF THE ISSUER

On or before the Closing Date or the date of closing for particular tranche of subscription of the CB (as the case may be), the Issuer shall deliver or arrange to be delivered to the Subscriber:

- (a) certified copies (such copies being certified by a director of the Issuer's director or the Issuer's counsel) of the CB Register showing the name of the Subscriber (or its designated nominee) as the holder(s) of the CB or any part thereof (as applicable);
- (b) an original of the CB Instrument or for the relevant principal amount of the CB (as applicable) duly executed;
- (c) original(s) of the Certificate(s) for the CB or any part thereof (as applicable) duly executed by the Issuer in the name of the Subscriber (or its designated nominee) as the holder(s) of the CB or any part thereof (as applicable); and
- (d) a copy of the written approval granted by the Listing Committee of the Stock Exchange regarding the listing of, and a permission to deal in, the Conversion Shares.

SCHEDULE 3
FORM OF THE CB INSTRUMENT

10 July 2019

KO YO CHEMICAL (GROUP) LIMITED
玖源化工(集團)有限公司
as Issuer

INSTRUMENT

constituting

HK\$987,000,000 5% Convertible Bonds
convertible into ordinary shares of
KO YO CHEMICAL (GROUP) LIMITED
玖源化工(集團)有限公司

CONTENTS

<u>CONDITION</u>	<u>PAGE</u>
1. DEFINITIONS AND INTERPRETATION	1
2. FORM AND DENOMINATION	9
3. STATUS	10
4. REGISTER, TITLE AND TRANSFERS	10
5. COVENANTS	12
6. CONVERSION	12
7. ADJUSTMENTS TO THE CONVERSION PRICE	18
8. INTEREST AND FEES	25
9. PAYMENTS	26
10. EVENTS OF DEFAULT	27
11. REDEMPTIONS	27
12. TAXATION	27
13. REPLACEMENT OF CERTIFICATES	28
14. NOTICES	28
15. MEETINGS OF CB HOLDERS, MODIFICATION AND WAIVER	29
16. ENFORCEMENT	29
17. GOVERNING LAW AND JURISDICTION	29
SCHEDULE 1 FORM OF CB CERTIFICATE	31
SCHEDULE 2 FORM OF CONVERSION NOTICE	33
SCHEDULE 3 PROVISIONS FOR MEETINGS OF CB HOLDERS	35

This INSTRUMENT by way of deed poll is executed and delivered on 10 July 2019 by:

KO YO CHEMICAL (GROUP) LIMITED (玖源化工(集團)有限公司), a company with limited liability incorporated under the laws of the Cayman Islands whose registered office is at Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands, with its principal place of business in Hong Kong at Suite No. 02, 31st Floor, Sino Plaza, 255–257 Gloucester Road, Causeway Bay, Hong Kong, the shares of which are listed on the Stock Exchange (stock code: 0827) (the “**Issuer**”).

WHEREAS

- (A) The Issuer has authorised the creation and issue of 5% Convertible Bonds in the aggregate principal amount of HK\$987,000,000 to be constituted by this Instrument.
- (B) The Issuer has determined to execute this Instrument by way of deed poll in order to provide for and to protect the rights and interests of the CB Holders (as defined below).

NOW THIS INSTRUMENT WITNESSES AND IT IS HEREBY DECLARED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Instrument the following expressions have the following meanings:

“**Additional Shares**” has the meaning given to it in Condition 6.7(b) (*Registration*);

“**Authorised Denomination**” has the meaning given to it in Condition 2 (*Form and Denomination*);

“**Board**” means the board of Directors of the Issuer;

“**Business Day**” means a day on which commercial banks and foreign exchange markets settle payments in Hong Kong, excluding any day in Hong Kong on which a typhoon signal number 8 or above or a “black” rainstorm warning is hoisted;

“**Cash Settlement Top-Up**” has the meaning given to it in Condition 6.9(b);

“**Cash Settlement Top-Up Amount**” has the meaning given to it in Condition 6.9(c);

“**CB**” means the non-listed bond created and constituted by this Instrument and any deed poll supplemental hereto and issued with the benefit of and subject to the provision of this Instrument in the principal amount of HK\$987,000,000;

“**CB Certificate**” has the meaning given to it in Condition 2 (*Form and Denomination*);

“**CB Holder**” means a holder of a CB and in whose name such CB is for the time being registered in the CB Register (or, in the case of a joint holding, the first named thereof) and “**CB Holders**” means holders of all outstanding CB;

“**CB Register**” has the meaning given to it in Condition 2 (*Form and Denomination*);

“**Clearing System**” means in relation to Shares listed on the Stock Exchange, the Central Clearing and Settlement System established and operated by Hong Kong Securities Clearing Company Limited;

“**Closing Price**” means, in respect of a Share for any Trading Day, the closing market price published in the daily quotation sheet published by the Stock Exchange for such Trading Day;

“**Conditions**” means the terms and conditions of this Instrument and any reference in this Instrument to a particular numbered Condition shall be construed accordingly;

“**Control**” means the power of a person to secure that the affairs of another person are conducted directly or indirectly in accordance with the wishes of that first person by means of being the beneficial owner of more than 50 per cent. of the voting rights of that other person, or having the right to appoint or remove a majority of the members of or otherwise control the votes at the board of directors (or its equivalent) of that other person, and “**Controlling**” and “**Controlled**” shall be construed accordingly;

“**Conversion Date**” has the meaning given to it in Condition 6.6(d) (*Conversion Date*);

“**Conversion Notice**” means a notice substantially in the form set out in Schedule 2;

“**Conversion Period**” has the meaning given to it in Condition 6.2 (*Conversion Period*);

“**Conversion Price**” has the meaning given to it in Condition 6.3 (*Conversion Price*);

“**Conversion Right**” means the right of CB Holders given to them to convert the CB into fully-paid Shares pursuant to Condition 6.1 (*Conversion Right*);

“**Conversion Shares**” means the Shares issued upon exercise of the Conversion Right;

“**Current Market Price**” means, in respect of a Share on a particular date, the average of the Volume Weighted Average Prices for the five (5) consecutive Trading Days ending on and including the Trading Day immediately preceding such date, provided that if at any time during the said five (5) Trading Day period the Volume Weighted Average Price shall have been based on a price ex-dividend (or ex-any other entitlement) and during some other part of that period the Volume Weighted Average Price shall have been based on a price cum-dividend (or cum-any other entitlement) then:

- (a) if the Shares to be issued or transferred and delivered do not rank for the dividend (or entitlement) in question, the Volume Weighted Average Price(s) on the dates on which the Shares shall have been based on a price cum-dividend (or cum-any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such dividend (or entitlement) per Share; or
- (b) if the Shares to be issued or transferred and delivered rank for the dividend (or entitlement) in question, the Volume Weighted Average Price(s) on the dates

on which the Shares shall have been based on a price ex-dividend (or ex-any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof increased by the Fair Market Value of any such dividend (or entitlement) per Share,

and provided further that if the Volume Weighted Average Price on each of the said five (5) Trading Days shall have been based on a price cum-dividend (or cum-any other entitlement) in respect of a dividend (or other entitlement) which has been declared or announced but the Shares to be issued or transferred and delivered do not rank for that dividend (or other entitlement), the Volume Weighted Average Price(s) on each of such dates shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such dividend (or entitlement) per Share;

“**Day Count Fraction**” has the meaning given to it in Condition 8.3;

“**Default Interest**” has the meaning set out in Condition 8.4;

“**Determined by an Expert**” means determined in good faith by an Expert acting as an expert;

“**Director**” means a director of the Issuer on the Board from time to time;

“**Dispute**” has the meaning given to it in Condition 17.2;

“**Distribution**” means: (i) any distribution of assets in specie by the Issuer for any financial period whenever paid or made, on a per Share basis, and however described (and for these purposes a distribution of assets in specie includes without limitation an issue of Shares or other securities credited as fully or partly paid (other than Shares credited as fully-paid) by way of capitalisation of reserves); and (ii) any cash dividend or distribution including, without limitation, the relevant cash amount of a Scrip Dividend of any kind by the Issuer for any financial period (whenever paid and however described) unless it comprises a purchase or redemption of Shares by or on behalf of the Issuer (or a purchase of Shares by or on behalf of a Subsidiary of the Issuer) where the average purchase or redemption price (before expenses) on any one day in respect of such purchases or redemptions does not exceed 105 per cent. of the Current Market Price of the Shares on that day. In making any such calculation, such adjustments (if any) shall be made as an Expert may determine to be appropriate to reflect (a) any consolidation or subdivision of the Shares, (b) issues of Shares by way of capitalisation of profits or reserves, or any like or similar event or (c) the modification of any rights to dividends of Shares;

“**Encumbrance**” means a mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, other encumbrance or security interest of any kind, or another type of preferential arrangement (including a title transfer or retention arrangement) having similar effect;

“**Event of Default**” has the meaning given to it in Condition 10;

“**Excess Shares**” has the meaning given to it in Condition 6.9(a);

“**Exercise Date**” has the meaning given to it in Condition 6.6(a) (*Deposit of Conversion Notice*);

“**Expert**” means, in relation to any matter to be Determined by an Expert, an independent investment bank of international repute jointly selected by the Issuer and the CB Holders holding more than 50% of the aggregate principal amount of the CB outstanding;

“**Extraordinary Resolution**” has the meaning given to it in Schedule 3;

“**Fair Market Value**” means, with respect to any asset, security, option, warrant or other right on any date, the fair market value of that asset, security, option, warrant or other right as Determined by an Expert, provided that (i) the fair market value of a cash dividend paid or to be paid per Share shall be the amount of such cash dividend per Share determined as at the date of announcement of such dividend; (ii) where options, warrants or other rights are publicly traded in a market of adequate liquidity (as Determined by such Expert) the fair market value of such options, warrants or other rights shall equal the arithmetic mean of the daily Closing Prices of such options, warrants or other rights during the period of five (5) trading days on the relevant market commencing on the first such trading day such options, warrants or other rights are publicly traded;

“**Government Authority**” means any national, provincial, municipal, city or local government or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through share or capital ownership or otherwise, by any of the foregoing;

“**Group**” means the Issuer and its Subsidiaries, and any person (other than an individual) over which either the Issuer or any of its Subsidiaries is able to exercise significant influence (being a person in which (i) it has the right to appoint at least one third of the board of directors or its equivalent, (ii) it has the right to ensure that certain matters are not dealt with whether at shareholder or management level without its consent, and/or (iii) the board of directors or at least one third of the board (or its equivalent) is accustomed to act in accordance with its instructions), in each case from time to time and “**member of the Group**” and “**Group Company**” shall be construed accordingly;

“**HK\$**”, “**Hong Kong Dollar**” or “**Hong Kong dollar**” means the lawful currency of Hong Kong;

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

“**Insolvency Event**”, in relation to any person, means any of the following events:

- (a) such person is (or is deemed by Law or a court to be) insolvent or unable to pay its debts as they fall due or such person without any lawful cause stops, suspends or threatens to stop or suspend payment of its debts;

- (b) any mortgage, charge, pledge, lien or other encumbrance, present or future, created or assumed by such person becomes enforceable and any step is taken to enforce it, including without limitation where an encumbrancer takes possession of the whole or a substantial part of the undertakings, assets or revenues of such person, or an administrator, receiver or liquidator, of such person or the whole or a substantial part of the undertaking, assets or revenues of such person, is appointed (or an application for any such appointment is made except where disputed by such person acting diligently and in good faith and the application for appointment is dismissed within 30 Business Days);
- (c) such person initiating or consenting to proceedings seeking with respect to itself adjudication of bankruptcy or a decree of commencement of composition or reorganisation proposes or makes any agreement for the deferral, rescheduling or other readjustment of all of its debts, proposes or makes a general assignment or an arrangement or composition with or for the benefit of its creditors, or agrees to or declares a moratorium in respect of any of its Indebtedness or any guarantee of any Indebtedness given by it;
- (d) such person ceases, or threatens to cease, to carry on all or any substantial part of its business or operations;
- (e) a resolution is passed or an order is made for the winding up, liquidation or dissolution, judicial management or administration of such person;
- (f) proceedings shall have been initiated against such person under any applicable bankruptcy, reorganisation or insolvency Law and such proceedings have not been discharged or stayed within a period of 30 Business Days;
- (h) an event having a substantially similar or analogous effect to any of the events referred to in paragraphs (a) to (f) above happens under the Laws of any jurisdiction;

“**Interest Payment Date**” has the meaning given to it in Condition 8.1;

“**Internal Rate of Return**” means, in respect of a CB held by a CB Holder, the annual rate based on a 365-day period used to, at any relevant reference point in time, discount the cash flows in respect of the CB to the date of issue of such CB such that the present value of such aggregate cash flows equals zero. In particular, the calculation of the Internal Rate of Return shall take into account (i) cash received by the CB Holder as a result of any redemption of such CB and (ii) all the interest amounts on the principal amount of the CB which have accrued and have been paid pursuant to Condition 8, other than, for the avoidance of doubt, any Default Interest;

“**Issue Date**” means the date on which completion of the Subscription Agreement takes place and the CB is issued in accordance with the Subscription Agreement;

“**Law**” means any provision of any binding law, ordinance, rule, judgment, rule of common law and equity, decree, award, injunction, policies, government approval or other governmental restriction or binding regulation or rule of any Governmental Authority (including, without limitation, any anti-corruption, anti-money laundering and employment law or regulation);

“**Listing Rules**” means the Rules Governing the Listing of Securities on the Stock Exchange;

“**Material Adverse Effect**” means a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or general affairs of the Group taken as a whole;
- (b) the ability of the Issuer to perform its obligations under the Transaction Documents; or
- (c) the validity or enforceability of the Transaction Documents or the rights or remedies of any CB Holder under the Transaction Documents;

“**Maturity Date**” means the date falling on the fifth (5th) anniversary of the Issue Date (the “**Initial Maturity Date**”), provided that, for so long as the Subscriber holds any CB;

“**Notice**” has the meaning given to it in Condition 14;

“**person**” means any individual, firm, corporation, partnership, trust, incorporated or unincorporated association, joint venture, joint stock company, limited liability company, Government Authority or other entity of any kind, and shall include any legal personal representatives, successor (by merger or otherwise) and permitted assigns of such entity;

“**Rate of Interest**” has the meaning given to it in Condition 8.1;

“**Record Date**” means, in respect of any entitlement to receive any dividend or other distribution declared, paid or made, or any rights granted, the record date or other due date for the establishment of such entitlement;

“**Redemption Amount**” means the amount equal to the aggregate of:

- (a) the aggregate principal amount of such outstanding CB held by the relevant CB Holder;
- (b) any accrued but unpaid interest on such outstanding CB on the Maturity Date;
- (c) if the sum of the amounts referred in paragraphs (a) and (b) above falls short of making up (i) an Internal Rate of Return of 10% on the aggregate principal amount of the CB calculated from the Issue Date until the Initial Maturity Date or Updated Maturity Date or (ii) an Internal Rate of Return of 12% on the aggregate principal amount of the CB calculated from the Issue Date until the Further Updated Maturity Date, such additional amount which would make up an Internal Rate of Return of 10% or 12% (as applicable) on the aggregate principal amount of the CB; and
- (d) (in respect of any redemption made pursuant to Condition 11) any Default Interest accrued but unpaid.

“**Registration Date**” has the meaning given to it in Condition 6.7(c);

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

“**Relevant Exercise Date**” has the meaning given to it in Condition 6.9(c);

“**Scrip Dividend**” means any Shares issued in lieu of the whole or any part of any Relevant Cash Dividend being a dividend which the Shareholders concerned would or could otherwise have received (and for the avoidance of doubt, to the extent that an adjustment is made under Condition 7.3 (*Distribution*) in respect of the Relevant Cash Dividend, no adjustment is to be made for the amount by which the Current Market Price of the Shares exceeds the Relevant Cash Dividend or part thereof for which an adjustment is already made under Condition 7.2(ii));

“**Shareholders**” mean holders of the Shares;

“**Shares**” means the ordinary shares of HK\$0.1 each in the share capital of the Issuer or shares of any class or classes resulting from any sub-division, consolidation, re-classification or reconstruction of those shares, which as between themselves have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation or dissolution of the Issuer;

“**Share Option Scheme**” means the share option scheme of the Issuer pursuant to which Shares are or shall be issued, offered, exercised, allotted, appropriated, modified or granted to or for the benefit of eligible participants such as directors (including executive and non-executive directors) and employees (full time or part time) of the Issuer or any Subsidiary of the Issuer, and any advisors, consultants, distributors, contractors, suppliers, agents, customers, business partners, joint venture business partners, promoters, service providers to the Issuer or its Subsidiary, who in the sole discretion of the Issuer, has contributed or will contribute to the Issuer or any Subsidiary of the Issuer;

“**Specific Mandate**” means the specific mandate to be sought from the shareholders of the Issuer, pursuant to which the shareholders of the Issuer would grant to the directors of the Issuer at the extraordinary general meeting of the Issuer to issue and allot the Conversion Shares;

“**Specified Office**” means Suite 02, 31/F, Sino Plaza, Causeway Bay, Hong Kong or such other office as may be elected and notified to the CB Holders by the Issuer from time to time;

“**Stock Exchange**” means The Stock Exchange of Hong Kong Limited and its successors in title;

“**Subscriber**” means TANG GUOQIANG (湯國強), holder of PRC Identity Card number 320423195708152215) of 48 Tian Mu Road, Li Yang City, Jiangsu Province, the PRC;

“**Subscription Agreement**” means the agreement dated 10 July 2019 and entered into between the Issuer and the Subscriber in respect of the subscription of the CB;

“**Subsidiary**” means, in respect of any person, any entity under the Control of such Person and any company or business entity which at any time has its accounts consolidated with those of that person or which, under Hong Kong law or any other applicable law, regulations or the Hong Kong Financial Reporting Standards or such other applicable generally accepted accounting principles from time to time, should have its accounts consolidated with those of that person;

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

“**Trading Day**” means a day when the Stock Exchange (or in respect of any other security, the relevant stock exchange or securities market), is open for dealing business, provided that if no Closing Price is reported for one or more consecutive dealing days such day or days will be disregarded in any relevant calculation and shall be deemed not to have been dealing days when ascertaining any period of dealing days;

“**Transaction Documents**” means this Instrument, a CB Certificate and the Subscription Agreement;

“**Unpaid Sum**” means any sum due and payable but unpaid by the Issuer under the CB;

“**Volume Weighted Average Price**” means, in respect of a Share on any Trading Day, the order book volume-weighted average price of a Share published by or derived from Bloomberg (or any successor service) page HK Equity VAP (Ticker: 827) or such other source as shall be determined to be appropriate by the CB Holders (failing which an Expert) on such Trading Day, provided that on any such Trading Day where such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of a Share in respect of such Trading Day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Trading Day on which the same can be so determined;

“**Year**” has the meaning given to it in Condition 8.1.

- 1.2 any reference to any party shall be construed so as to include its successors in title, permitted assigns and transferees;
- 1.3 any reference to any agreement or instrument is a reference to that agreement or instrument as amended, supplemented or novated from time to time;
- 1.4 “**assets**” includes present and future properties, revenues and rights of every description;
- 1.5 “**Indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.6 “**regulation**” includes any regulation, rule, official directive, order, request, code of practice or guideline (whether or not having the force of Law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

- 1.7 “**repay**”, “**redeem**” and “**pay**” shall each include both the others and “**repaid**”, “**repayable**” and “**repayment**”, “**redeemed**”, “**redeemable**” and “**redemption**” and “**paid**”, “**payable**” and “**payment**” shall be construed accordingly and “**repay**” (or any derivative form thereof) shall, subject to any contrary indication, be construed to include “prepay” (or, as the case may be, the corresponding derivative form thereof);
- 1.8 a provision of Law is a reference to that provision as amended or re-enacted from time to time;
- 1.9 a time of day is a reference to Hong Kong time;
- 1.10 words denoting the singular number only shall include the plural number also and *vice versa*;
- 1.11 words denoting one gender only shall include the other genders;
- 1.12 references to schedules, appendices, conditions, clauses, sub-clauses, paragraphs and sub-paragraphs shall be construed as references to the schedules and appendices to the documents in which they appear respectively and to the conditions, clauses, sub-clauses, paragraphs and sub-paragraphs in the documents in which they appear respectively and, unless otherwise stated, reference to sub-clauses are references to sub-clauses of the clause in which the reference appears; and references to a “**Condition**” or a “**Schedule**” shall be construed as references to a condition or schedule to this Instrument, respectively;
- 1.13 references to any action, remedy or method of judicial proceeding for the enforcement of the rights of creditors shall be deemed to include, in respect of any jurisdiction other than Hong Kong, references to such action, remedy or method of judicial proceeding for the enforcement of the rights of creditors available or appropriate in such jurisdiction as shall most nearly approximate to such action, remedy or method of judicial proceeding described or referred to in these presents;
- 1.14 an Event of Default is “**continuing**” if it has not been cured, remedied or waived;
- 1.15 unless specifically provided otherwise, if for any purpose an amount expressed in RMB needs to be translated or converted into HK\$ or vice versa, the rate of exchange shall be fixed rate of HK\$1.00 to RMB0.85; and
- 1.16 references to any issue or offer or grant to Shareholders “**as a class**” or “**by way of rights**” shall be taken to be references to an issue or offer or grant to all or substantially all Shareholders, other than Shareholders by reason of the Law of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such issue or offer or grant.

2. **FORM AND DENOMINATION**

The CB is issued in registered form in the denomination of HK\$10,000,000 each (an “**Authorised Denomination**”). A CB certificate, in the form or substantially in the form set out in Schedule 1 (Form of CB Certificate), (each a “**CB Certificate**”) shall be issued to each CB Holder in respect of its registered holding of CB. Each CB and each CB Certificate shall be numbered serially with an identifying number which shall

be recorded on the relevant CB Certificate and in the register of CB Holders (the “**CB Register**”) kept by the Issuer.

3. **STATUS**

3.1 **Status of the CB**

The CB shall constitute unsubordinated and unconditional obligations of the Issuer and shall at all times rank *pari passu* and without any preference or priority among themselves, subject to these Conditions. The payment obligations of the Issuer under the CB shall, save for such exceptions as may be provided by provisions of applicable legislation, at all times rank at least equally with all of its other present and future unsecured and unsubordinated obligations.

4. **REGISTER, TITLE AND TRANSFERS**

4.1 **CB Register**

The Issuer shall keep and maintain a register in respect of the CB at the Specified Office and to enter in the CB Register:

- (a) the name and address of each CB Holder for the time being;
- (b) the principal amount of the CB held by each CB Holder and the Conversion Price as adjusted in accordance with these Conditions from time to time;
- (c) the date on which the name of each CB Holder is entered in the CB Register in respect of the CB registered in its name; and
- (d) the date on which each CB is converted and/or transferred and/or redeemed pursuant to these Conditions.

Any change in the name or address of any CB Holder shall be notified to the Issuer by the CB Holder within seven (7) Business Days following such change by notice in accordance with Condition 14 (*Notices*), following which the Issuer shall update the CB Register accordingly. Each CB Holder or any person authorised by a CB Holder shall be entitled at all times during normal office hours between 9:00 a.m. and 3:00 p.m. upon two (2) Business Days’ notice to inspect the CB Register and to take copies of or extracts from it.

4.2 **Title**

Title to the CB passes only by transfer and registration in the CB Register. Each CB Holder shall (except as otherwise required by applicable Laws or as ordered by a court of competent jurisdiction) be treated as the absolute owner of such CB(s) registered under its name for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein, any writing on the CB Certificate relating thereto (other than the endorsed form of transfer) or any loss or theft of such CB Certificate). Every subsequent CB Holder shall be recognised by the Issuer as entitled to its CB free from any equity, set off or cross claim on the part of the Issuer against the original or any intermediate holder of such CB.

4.3 Transfers, Redemption and Conversion

Subject to Condition 4.6 (*Closed periods*), a CB may only be transferred, redeemed or converted:

- (a) in the case of a transfer, upon surrender at the Specified Office of the CB Certificate issued in respect of that CB with the endorsed form of transfer (in the form set out in the Second Schedule to the CB Certificate) duly completed and signed by the CB Holder or his attorney duly authorised in writing. The transferor shall be deemed to remain the CB Holder of the relevant CB until the name of the transferee is entered in the CB Register in respect of the CB;
- (b) in the case of a conversion, in accordance with the requirements under Condition 6 (*Conversion*); and
- (c) in the case of a redemption, in accordance with the requirements under Condition 11 (*Redemptions*),

provided, however, that a CB may not be transferred, redeemed or converted unless the principal amount of CB transferred, redeemed or converted is an Authorised Denomination, except where the transfer, redemption or conversion relates to a CB Holder's entire holding of CB. Where not all the CB represented by the surrendered CB Certificate are the subject of the transfer, redemption or conversion, a new CB Certificate in respect of the balance of the CB shall be issued and delivered to the transferor in Hong Kong by or on behalf of the Issuer within five (5) Business Days of the surrender of that CB Certificate.

The Issuer shall promptly record any transfer, redemption or conversion made in accordance with these Conditions in the CB Register.

4.4 Registration and Delivery of CB Certificates

Within five (5) Business Days of the surrender of a CB Certificate in accordance with Condition 4.3 (*Transfers, Redemption and Conversion*), the Issuer shall register the transfer in question and make available for collection a new CB Certificate in respect of the principal amount of the CB transferred to each relevant holder at the Specified Office or (at the request of any such relevant holder) by uninsured mail at the risk of the holder entitled to the CB to the Hong Kong address specified for the purpose by such relevant holder.

4.5 No Charge

The transfer, redemption or conversion of a CB shall be effected without charge by or on behalf of the Issuer subject to payment (or the giving of such indemnity as the Issuer may require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

4.6 Closed Periods

No CB Holder may require the transfer of a CB to be registered:

- (a) during the period of seven (7) Business Days ending on (and including) the dates for payment of any principal or premium (if any) pursuant to these Conditions; and
- (b) after a Conversion Notice has been delivered with respect to such CB, unless an Event of Default shall occur under Condition 10 (*Events of Default*).

5. COVENANTS

5.1 For so long as any CB remains outstanding and convertible, the Issuer undertakes that, except as approved by an Extraordinary Resolution of the CB Holders:

- (a) it shall use its best endeavours to maintain the listing of its issued Shares on the Stock Exchange;
- (b) it shall obtain and maintain the listing on the Stock Exchange of all Conversion Shares issued upon conversion of the CB, and it shall pay all the expenses in relation to the issue of and obtaining a listing for the Conversion Shares on the Stock Exchange;
- (c) it shall keep available and reserve, free from pre-emptive or other rights, out of its authorised but unissued ordinary Share capital, such number of Shares as would be required to be issued upon conversion of all the CB from time to time remaining outstanding and to satisfy in full all other rights of exercise, conversion into or exchange or subscription for Shares. If at any time the number of authorised but unissued Shares shall not be sufficient to effect the Conversion Rights in full, the Issuer shall forthwith take such corporate action as may be necessary to increase its authorised but unissued Shares to such number of Shares as shall be sufficient for such purpose;
- (d) it will not in any way modify the rights attaching to the Shares with respect to voting, dividends or liquidation;
- (e) it will not make any offer, issue, grant or distribute or take any action the effect of which would be to reduce the Conversion Price below the par value of the Shares of the Issuer, provided always that the Issuer shall not be prohibited from purchasing its Shares to the extent permitted by Law;
- (f) it shall 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 conversion of any CB could not, under any applicable Law or the Listing Rules then in effect, be legally issued as fully-paid; and
- (g) it shall ensure that all Conversion Shares to be issued upon the conversion of all the CB shall be duly and validly issued as fully-paid, rank at least *pari passu* with all other Shares then outstanding, and free and clear of all Encumbrance.

6. CONVERSION

6.1 Conversion Right

Each CB Holder has the right to convert the principal amount of the CB into fully-paid Shares to be issued by the Issuer and listed and traded on the Stock Exchange at the CB Holder's election at any time during the Conversion Period (the "**Conversion Right**").

6.2 **Conversion Period**

The "**Conversion Period**" in respect of any CB shall be the period beginning on, and including the Issue Date and ending on, and including, 5:00 p.m. on the day which is five (5) Trading Days before the Maturity Date,

provided, however, that:

- (a) if the Issuer shall default in making payment in full in respect of any CB which shall have been called or put for redemption on the date fixed for redemption thereof, any CB is not redeemed on the Maturity Date in accordance with Condition 11.1 (*Redemption at Maturity*), or any CB has become due and payable prior to the Maturity Date by reason of the occurrence of an Event of Default, the Conversion Right attaching to such CB will revive and/or will continue to be exercisable, and the relevant Conversion Period shall continue up to and including 5:00 p.m. on the date upon which the full amount of the moneys payable in respect of such CB has been duly received by the CB Holder in accordance with Condition 11 (*Redemptions*), and any CB in respect of which the CB Certificate and Conversion Notice (as defined below) are deposited for conversion prior to such date shall be converted on the relevant Conversion Date (as defined below) notwithstanding that the full amount of the moneys payable in respect of such CB shall have been received by the CB Holders before such Conversion Date or that the Conversion Period may have expired before such Conversion Date;
- (b) in any such case, if the last day of the Conversion Period would otherwise be a day which is not a Business Day, the last day of the Conversion Period shall be the immediately preceding Business Day; and
- (c) the conversion of the CBs (i) does not trigger any mandatory offer obligations under Rule 26 of the Takeovers Code on the part of the holders of the CBs which exercised the conversion rights, namely more than 30% (or such other percentage as stated in Rule 26 of the Takeovers Code in effect from time to time) of the then issued share capital of the Company or otherwise pursuant to other provisions of the Takeovers Code; and (ii) does not reduce the public float of the Shares to less than 25% (or any given percentage as required by the Listing Rules) of the issued Shares.

6.3 **Conversion Price**

The price at which the Conversion Shares shall be issued upon exercise of a Conversion Right (the "**Conversion Price**") shall initially be HK\$0.141 per Share subject to any adjustment, from time to time, in accordance with Condition 7 (*Adjustments to the Conversion Price*).

6.4 **Conversion Ratio**

The number of Shares to be issued upon exercise of a Conversion Right attaching to any CB shall be determined by dividing the principal amount of the CB by the Conversion Price in effect on the Conversion Date. If more than one CB held by the same holder is converted at any one time by the same holder, the number of Shares to be issued upon such conversion will be calculated on the basis of the aggregate principal amount of the CB to be converted.

6.5 Fractions of a Share

Fractions of a Share shall not be issued on exercise of Conversion Rights. However, if more than one CB is to be converted at any one time by the same CB Holder such that the Shares to be issued upon conversion thereof are to be registered in the same name, the number of Shares which shall be issued upon conversion thereof shall be calculated on the basis of the aggregate principal amount of the CB so to be converted, and rounded down to the nearest whole number of Shares. Notwithstanding the foregoing, in the event of a consolidation or reclassification of Shares by operation of Law or otherwise which reduces the number of Shares outstanding, the Issuer will upon conversion of CB pay in cash in HK dollars a sum equal to such portion of the principal amount of the CB evidenced by the CB Certificate deposited in connection with the exercise of Conversion Rights, aggregated as provided in Conditions 6.4 (*Conversion Ratio*) and 6.5 (*Fractions of a Share*), as corresponds to any fraction of a Share not issued as a result of such consolidation or re-classification aforesaid, provided that such sum exceeds HK\$100.00. Any such sum shall be paid not later than five (5) Business Days after the relevant Conversion Date by transfer to a HK dollar account maintained by the payee with a bank in Hong Kong, in accordance with instructions given by the relevant CB Holder in the Conversion Notice.

6.6 Procedure for Conversion

- (a) *Deposit of Conversion Notice:* To exercise the Conversion Right attaching to any CB, the CB Holder must complete, execute and deposit at the CB Holder's own expense during normal business hours between 9:00 a.m. and 3:00 p.m. on any Business Day (such date, the "**Exercise Date**") during the Conversion Period at the Specified Office a Conversion Notice, together with the CB Certificate in respect of such CB and confirmation that any amounts required to be paid by the CB Holder have been so paid.
- (b) A Conversion Notice once deposited shall not be withdrawn without the consent in writing of the Issuer.
- (c) *Conversion Expenses:* The Issuer shall pay all stamp, issue, registration or other similar taxes and duties (including any interests and penalties thereon or in connection therewith) and all other expenses arising on the allotment and issue of the Conversion Shares on conversion of the CB and delivery to or to the order of the converting CB Holder (either physically or through the Clearing System) and any expenses of obtaining and maintaining a listing for such Conversion Shares on the Stock Exchange.
- (d) *Conversion Date:* The conversion date in respect of a CB (the "**Conversion Date**") shall be the Trading Day immediately following the Exercise Date.

6.7 Registration

- (a) Subject to Condition 6.9 (*Cash Settlement Top Up*) as soon as practicable, and in any event not later than seven (7) Business Days after the Conversion Date, the Issuer shall, in the case of CB converted on exercise of the Conversion Right and in respect of which a duly completed Conversion Notice has been delivered and the relevant CB Certificate deposited as required by Condition 6.6(a) (*Deposit of Conversion Notice*), register the person or persons designated for the purpose in the Conversion Notice or otherwise notified in writing by the relevant CB Holder as holder(s) of the relevant number of Conversion Shares in the Issuer's register of members and shall, if the CB Holder has also requested in the Conversion Notice or otherwise notified in writing by the relevant CB Holder, take all necessary actions to procure that the Conversion Shares are delivered through the Clearing System; or, if so requested in the relevant Conversion Notice or otherwise notified in writing by the relevant CB Holder, shall make a certificate or certificates in respect of the Conversion Shares available for collection at the office of the Issuer's share registrar in Hong Kong (which shall be Unions Registrars Limited at Suites 3301-04, 33/F, Two Chinachem Exchange Square, 338 King's Road, North Point, Hong Kong unless otherwise notified to CB Holders in accordance with Condition 14 (*Notices*)), or, if so requested in the relevant Conversion Notice or otherwise notified in writing by the relevant CB Holder, shall cause its share registrar to deliver by ordinary mail at the request of such person such certificate or certificates to the person and at the place specified in the Conversion Notice or otherwise notified in writing by the relevant CB Holder, together (in either case) with any other securities, property or cash required to be delivered upon conversion and such assignments and other documents (if any) as may be required by Law to effect the transfer thereof, in which case a single share certificate shall be issued in respect of all Shares issued on conversion of the CB subject to the same Conversion Notice and which are to be registered in the same name.
- (b) If the Conversion Date in relation to the conversion of any CB shall be after the record date for any issue, distribution, grant, offer or other event as gives rise to the adjustment of the Conversion Price pursuant to Condition 7 (*Adjustments to the Conversion Price*), but before the relevant adjustment becomes effective (the "**Relevant Effective Date**") under the relevant Condition (a "**Retroactive Adjustment**"), upon the relevant adjustment becoming effective the Issuer shall procure the issue to the converting CB Holder (or in accordance with the instructions contained in the Conversion Notice or otherwise notified in writing by the relevant CB Holder (subject to applicable exchange control or other Laws)), such additional number of Conversion Shares (if any) (the "**Additional Shares**") as, together with the Conversion Shares issued or to be issued on conversion of the relevant CB, is equal to the number of Conversion Shares which would have been required to be issued on conversion of such CB if the relevant adjustment to the Conversion Price had been made and become effective on or immediately after the relevant record date and in such event and in respect of such Additional Shares references in this Condition 6.7 (*Registration*) to the Conversion Date shall be deemed to refer to the Relevant

Effective Date (notwithstanding that the Relevant Effective Date falls after the end of the Conversion Period).

- (c) The person or persons designated for that purpose in the Conversion Notice or otherwise notified in writing by the relevant CB Holder shall become the holder of record of the number of Conversion Shares issuable upon conversion with effect from the date he is or they are registered as such in the Issuer's register of members (the "**Registration Date**"). Save as set out in these Conditions, a holder of Shares issued on conversion of the CB shall not be entitled to any rights on the record date for which precedes the relevant Registration Date. Upon delivery of the Conversion Shares in full satisfaction of the Conversion Right of any converting CB Holder and the completion of such registration in accordance with this Condition 6.7 (*Registration*), the right of such converting CB Holder to repayment of the principal of the CB so converted shall extinguish.

6.8 Rights arising on Conversion

- (a) *Rights in respect of Shares issued upon conversion:* Conversion Shares issued upon exercise of Conversion Rights shall be delivered with full title, shall be fully-paid, free from any Encumbrance and, subject as provided in Conditions 6.8(b) (*Dividends and other distributions*) and 6.8(d) (*Voting rights*) and to any mandatory provisions of applicable Law:
 - (i) such Conversion Shares shall rank *pari passu* in all respects with all other Shares in issue on the Conversion Date;
 - (ii) such Conversion Shares shall be duly listed, and be admitted to trading, on the Stock Exchange, and shall be freely transferrable, subject to applicable Laws including the applicable rules of the Stock Exchange; and
 - (iii) the holders of such Conversion Shares shall be treated by the Issuer as Shareholders for all purposes with effect from and including the Conversion Date.
- (b) *Dividends and other distributions:* Conversion Shares issued upon exercise of Conversion Rights shall (subject to any mandatory provisions of applicable Law) rank *pari passu* in respect of Distributions declared, paid or made, or rights granted, with all other Shares in issue on the Conversion Date except that such Conversion Shares shall not rank for any dividend or other distribution declared, paid or made on, or rights granted in respect of, the Shares for which the Record Date precedes the Conversion Date.
- (c) If the record date for the payment of any dividend or other distribution in respect of the Shares is on or after the Conversion Date in respect of any CB, but before the Registration Date (disregarding any Retroactive Adjustment of the Conversion Price referred to in Condition 6.7(b) prior to the time such Retroactive Adjustment shall have become effective), the Issuer will calculate and pay to the converting CB Holder or his designee an amount in US dollars (the "**Equivalent Amount**") equal to the Fair Market Value of such dividend

or other distribution to which he would have been entitled had he on that record date been such a shareholder of record and will 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 days thereafter. The Equivalent Amount shall be paid by transfer to a US dollar account maintained by the payee with a bank in Hong Kong, in accordance with instructions given by the relevant CB Holder in the Conversion Notice or otherwise notified in writing by the relevant CB Holder.

- (d) *Voting rights:* Shares issued upon exercise of Conversion Rights shall (subject to any mandatory provisions of applicable Law) rank *pari passu* in respect of voting rights with all other Shares in issue on the Conversion Date except that they shall not rank for any voting rights where the entitlement to voting rights accrues to Shareholders by reference to a Record Date which precedes the Conversion Date.

6.9 Cash Settlement Top Up

- (a) This Condition 6.9 (*Cash Settlement Top Up*) applies if, as a result of an adjustment of the Conversion Price under Condition 7 (*Adjustments to the Conversion Price*), Additional Shares are issuable upon a CB Holder's exercise of its Conversion Right in relation to any CB and following which the total number of Conversion Shares issuable upon such exercise would otherwise exceed the then maximum number of Shares that the Issuer may issue at that time pursuant to the General Mandate (such excess Shares, the "**Excess Shares**").
- (b) For the avoidance of doubt, the cash settlement top-up pursuant to this Condition 6.9 (*Cash Settlement Top Up*) (the "**Cash Settlement Top-Up**") shall apply only in respect of the Excess Shares.
- (c) Within the same Business Day as the date on which the Issuer receives a Conversion Notice from the CB Holder in respect of the proposed exercise of Conversion Right by a CB Holder as referred to in Condition 6.9(c) (such date being the "**Relevant Exercise Date**"), the Issuer shall send a written notice in writing in accordance with Condition 14 (*Notices*) to such CB Holder, setting out:
 - (i) the principal amount of the CB in respect of which the Conversion Right has been exercised;
 - (ii) the principal amount of the CB in respect which the Cash Settlement Top-Up applies; and
 - (iii) the amount of cash settlement sum payable by the Issuer to such CB Holder, being an amount arrived at by multiplying (a) the number of Excess Shares; by (b) the Current Market Price on the Relevant Exercise Date (the "**Cash Settlement Top-Up Amount**").
- (d) The Issuer shall pay the Cash Settlement Top-Up Amount by transfer of funds for same day value no later than five (5) Business Days immediately following

the Relevant Exercise Date to the bank account of the relevant exercising CB Holder as notified by such CB Holder to the Issuer.

7. ADJUSTMENTS TO THE CONVERSION PRICE

The Conversion Price will be subject to adjustment as follows:

- 7.1 *Consolidation, Subdivision, Re-denomination or Re-classification:* If and whenever there shall be an alteration to the nominal value of the Shares as a result of consolidation, subdivision, re-denomination or re-classification, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such alteration by the following fraction:

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

Where:

A = is the nominal amount of one Share immediately after such alteration; and

B = is the nominal amount of one Share immediately before such alteration.

Such adjustment shall become effective on the date the alteration takes effect.

- 7.2 *Capitalisation of Profits or Reserves:*

- (i) If and whenever the Issuer shall issue any Shares credited as fully-paid to the Shareholders by way of capitalisation of profits or reserves including, Shares paid up out of distributable profits or reserves and/ or share premium account (except any Scrip Dividend) and which would not have constituted a Distribution, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such issue by the following fraction:

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

Where:

A = is the aggregate nominal amount of the issued Shares immediately before such issue; and

B = is the aggregate nominal amount of the issued Shares immediately after such issue.

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

- (ii) In the case of an issue of Shares by way of a Scrip Dividend where the Current Market Price on the date of announcement of the terms of such issue of Shares multiplied by the number of Shares issued exceeds the amount of the Relevant Cash Dividend or the relevant part thereof and which would not have constituted

a Distribution, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the issue of such Shares by the following fraction:

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

Where:

A = is the aggregate nominal amount of the issued Shares immediately before such issue;

B = is the aggregate nominal amount of Shares issued by way of such Scrip Dividend multiplied by a fraction of which (i) the numerator is the amount of the whole, or the relevant part, of the Relevant Cash Dividend and (ii) the denominator is such Current Market Price of the Shares issued by way of Scrip Dividend in respect of each existing Share in lieu of the whole, or the relevant part, of the Relevant Cash Dividend; and

C = is the aggregate nominal amount of Shares issued by way of such Scrip Dividend;

or by making such other adjustment as an Expert shall certify to the CB Holder is fair and reasonable.

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

7.3 *Distributions*: If and whenever the Issuer shall pay or make any Distribution to the Shareholders (except to the extent that the Conversion Price falls to be adjusted under Condition 7.2 (*Capitalisation of Profits or Reserves*)), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such Distribution by the following fraction:

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

Where:

A = is the Current Market Price of one Share on the date on which the Distribution is publicly announced; and

B = is the Fair Market Value on the date of such announcement of the portion of the Distribution attributable to one Share.

Such adjustment shall become effective on the date that such Distribution is actually made or if a record date is fixed therefor, immediately after such record date.

In making any calculation pursuant to this Condition 7.3 (*Distributions*), such adjustments (if any) shall be made as an Expert may consider appropriate to reflect (a) any consolidation or subdivision of the Shares, (b) issues of Shares by way of

capitalisation of profits or reserves, or any like or similar event, (c) the modification of any rights to dividends of Shares or (d) any change in the fiscal year of the Issuer.

- 7.4 *Rights Issues of Shares or Options over Shares:* If and whenever the Issuer shall issue Shares to all or substantially all Shareholders as a class by way of rights, or issue or grant to all or substantially all Shareholders as a class by way of rights, options, warrants or other rights to subscribe for, purchase or otherwise acquire any Shares, in each case at less than 85 per cent. of the Current Market Price per Share on the date of the announcement of the terms of the issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such issue or grant by the following fraction:

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

Where:

- A = is the number of Shares in issue immediately before such announcement;
- B = is the number of Shares which the aggregate amount (if any) payable for the Shares issued by way of rights or for the options or warrants or other rights issued or granted by way of rights and for the total number of Shares comprised therein would subscribe for, purchase or otherwise acquire at such Current Market Price per Share; and
- C = is the aggregate number of Shares issued or, as the case may be, comprised in the issue or grant.

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

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

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

Where:

- A = is the Current Market Price of one Share on the date on which such issue or grant is publicly announced; and

B = is the Fair Market Value on the date of such announcement of the portion of the rights attributable to one Share.

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

7.6 *Issues at less than Current Market Price:* If and whenever the Issuer shall issue (otherwise than as mentioned in Condition 7.4 (*Rights Issues of Shares or Options over Shares*)) any Shares (other than Shares issued on the exercise of Conversion Rights or on the exercise of any other rights of conversion into, or exchange or subscription for, Shares) or issue or grant (otherwise than as mentioned in Condition 7.4 (*Rights Issues of Shares or Options over Shares*)) options, warrants or other rights to subscribe for, purchase or otherwise acquire Shares in each case at a price per Share which is less than 85 per cent. of the Current Market Price on the date of announcement of the terms of such issue, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such issue by the following fraction:

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

Where:

A = is the number of Shares in issue immediately before the issue of such additional Shares or the grant of such options, warrants or other rights to subscribe for, purchase or otherwise acquire any Shares;

B = is the number of Shares which the aggregate consideration (if any) receivable for the issue of such additional Shares would purchase at such Current Market Price per Share; and

C = is the number of Shares in issue immediately after the issue of such additional Shares.

References to additional Shares in the above formula shall, in the case of an issue by the Issuer of options, warrants or other rights to subscribe or purchase Shares, mean such Shares to be issued assuming that such options, warrants or other rights are exercised in full at the initial exercise price on the date of issue or grant of such options, warrants or other rights.

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

7.7 *Other Issues at less than Current Market Price:* Save in the case of an issue of securities arising from a conversion or exchange of other securities in accordance with the terms applicable to such securities themselves falling within this Condition 7.7 (*Other Issues at less than Current Market Price*), if and whenever the Issuer or any of its Subsidiaries (otherwise than as mentioned in Condition 7.4 (*Rights Issues of Shares or Options over Shares*)), Condition 7.5 (*Rights Issues of Other Securities*) or Condition 7.6 (*Issues at less than Current Market Price*), or (at the direction or request of or pursuant to any

arrangements with the Issuer or any of its Subsidiaries) any other company, person or entity shall issue any securities (other than the CB) which by their terms of issue carry rights of conversion into, or exchange or subscription for, Shares to be issued by the Issuer upon conversion, exchange or subscription at a consideration per Share which is less than 85 per cent. of the Current Market Price on the date of announcement of the terms of issue of such securities, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such issue by the following fraction:

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

Where:

- A = is the number of Shares in issue immediately before such issue;
- B = is the number of Shares which the aggregate consideration receivable by the Issuer for the Shares to be issued on conversion or exchange or on exercise of the right of subscription attached to such securities would purchase at such Current Market Price per Share; and
- C = is the maximum number of Shares to be issued on conversion or exchange of such securities or on the exercise of such rights of subscription attached thereto at the initial conversion, exchange or subscription price or rate.

Such adjustment shall become effective on the date of issue of such securities.

- 7.8 *Modification of Rights of Conversion etc.:* If and whenever there shall be any modification of the rights of conversion, exchange or subscription attaching to any such securities as are mentioned in Condition 7.7 (*Other Issues at less than Current Market Price*) (other than in accordance with the terms of such securities) so that the consideration per Share (for the number of Shares available on conversion, exchange or subscription following the modification) is reduced and is less than 85 per cent. of the Current Market Price on the date of announcement of the proposals for such modification, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before such modification by the following fraction:

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

Where:

- A = is the number of Shares in issue immediately before such modification;
- B = is the number of Shares which the aggregate consideration receivable by the Issuer for the Shares to be issued on conversion or exchange or on exercise of the right of subscription attached to the securities so modified would purchase at such Current Market Price per Share or, if lower, the existing conversion, exchange or subscription price of such securities; and
- C = is the maximum number of Shares to be issued on conversion or exchange of such securities or on the exercise of such rights of subscription attached thereto at the modified conversion, exchange or subscription price or rate but giving

credit in such manner as an Expert considers appropriate (if at all) for any previous adjustment under this Condition 7.8 (*Modification of Rights of Conversion etc.*) or Condition 7.7 (*Other Issues at less than Current Market Price*).

Such adjustment shall become effective on the date of modification of the rights of conversion, exchange or subscription attaching to such securities.

7.9 *Other Events*: If the Issuer determines that an adjustment should be made to the Conversion Price as a result of one or more events or circumstances not referred to in this Condition 7 (*Adjustments to the Conversion Price*), the Issuer shall, at the Issuer's expense, consult an Expert to determine as soon as practicable what adjustment (if any) to the Conversion Price is fair and reasonable to take account thereof, if the adjustment would result in a reduction in the Conversion Price, and the date on which such adjustment should take effect and upon such determination by the Expert such adjustment (if any) shall be made and shall take effect in accordance with such determination, provided that where the events or circumstances giving rise to any adjustment pursuant to this Condition 7 (*Adjustments to the Conversion Price*) have already resulted or will result in an adjustment to the Conversion Price or where the events or circumstances giving rise to any adjustment arise by virtue of events or circumstances which have already given rise or will give rise to an adjustment to the Conversion Price, such modification (if any) shall be made to the operation of the provisions of this Condition 7 (*Adjustments to the Conversion Price*) as may be advised by the Expert to be in its opinion appropriate to give the intended result. Notwithstanding the foregoing, the per Share value of any such adjustment shall not exceed the per Share value of the dilution in the Shareholders' interest in the Issuer's equity caused by such events or circumstances.

7.10 *Provisions Relating to Changes in Conversion Price*

- (a) *Minor adjustments*: On any adjustment, the resultant Conversion Price, if not an integral multiple of one Hong Kong cent, shall be rounded down to the nearest Hong Kong cent. No adjustment shall be made to the Conversion Price if such adjustment (rounded down if applicable) would be less than one per cent. of the Conversion Price then in effect. Any adjustment not required to be made, and/or any amount by which the Conversion Price has been rounded down, shall be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment shall be made on the basis that the adjustment not required to be made had been made at the relevant time and/or, as the case may be, that the relevant rounding down had not been made. Notice of any adjustment shall be given by the Issuer to the CB Holders in accordance with Condition 14 (*Notices*) promptly in writing after the determination thereof.
- (b) *Decision of an Expert*: If any doubt shall arise as to whether an adjustment falls to be made to the Conversion Price or as to how an adjustment to the Conversion Price under Conditions 7.1 to 7.9 should be made, and following consultation between the Issuer, the CB Holders and an Expert, a written opinion of such Expert in respect thereof shall be conclusive and binding on the Issuer and the CB Holders, save in the case of manifest error. Notwithstanding the foregoing, the per Share value of any such adjustment shall not exceed the per Share value of the dilution in the Shareholders' interest in the Issuer's equity caused by such

events or circumstances. The costs and expenses of the Expert shall be borne by the Issuer.

- (c) *Minimum Conversion Price*: Notwithstanding the provisions of this Condition 7 (Adjustments to the Conversion Price), the Issuer undertakes that: (a) the Conversion Price shall not in any event be reduced to below the nominal or par value of the Shares as a result of any adjustment hereunder unless under applicable Law then in effect the CB may be converted at such reduced Conversion Price into legally issued, fully-paid and non-assessable Shares; and (b) it shall not take any action, and shall procure that no action is taken, that would otherwise result in an adjustment to the Conversion Price to below such nominal or par value or any minimum level permitted by applicable Law.
- (d) *Reference to "fixed"*: Any references herein to the date on which a consideration is "fixed" shall, where the consideration is originally expressed by reference to a formula which cannot be expressed as an actual cash amount until a later date, be construed as a reference to the first day on which such actual cash amount can be ascertained.
- (e) *Multiple events*: Where more than one event which gives or may give rise to an adjustment to the Conversion Price occurs within such a short period of time that in the opinion of an Expert, the foregoing provisions would need to be operated subject to some modification in order to give the intended result, such modification shall be made to the operation of the foregoing provisions as may be advised by such Expert to be in its opinion appropriate in order to give such intended result.
- (f) *Upward/downward adjustment*: No adjustment involving an increase in the Conversion Price will be made, except in the case of a consolidation or reclassification of the Shares as referred to in Condition 7.1 (*Consolidation, Subdivision, Re-denomination or Re-classification*) above. The Issuer may at any time and for a specified period of time only, following notice being given to the CB Holders in accordance with Condition 14 (*Notices*), reduce the Conversion Price, subject to Condition 7.10(c) (*Minimum Conversion Price*).
- (g) *Notice of Change in Conversion Price*: The Issuer shall give notice to the CB Holders in accordance with Condition 14 (*Notices*) of any change in the Conversion Price. Any such notice relating to a change in the Conversion Price shall set forth the event giving rise to the adjustment, the Conversion Price prior to such adjustment, the adjusted Conversion Price and the effective date of such adjustment.
- (h) *Employees' Share Option Plans and Existing Convertible Bonds*: Notwithstanding any provision of this Condition 7 (*Adjustments to the Conversion Price*), no adjustment shall be made to the Conversion Price where (a) Shares or other securities (including rights, warrants or options) are issued, offered, exercised, allotted, appropriated, modified or granted to or for the benefit of employees and/or former employees (including directors and/or former directors) of the Issuer or any Subsidiary of the Issuer or such other eligible participants pursuant to the Share Option Scheme which is in compliance with the Listing Rules, or (b) Shares or other securities are issued

upon exercise of the conversion rights attaching to the convertible bonds or any securities issued by the Issuer before the Issue Date.

8. INTEREST AND FEES

- 8.1 The CB bear interest from (and including) the Issue Date at the rate of 4% per annum (the “**Rate of Interest**”) payable annually in arrears in equal instalments of HK\$10,000,000 per Authorised Denomination on the last day of every year from the Issue Date (each, an “**Interest Payment Date**”), subject to Condition 9 (*Payments*).

For the purpose of Condition 8.1, a “**Year**” means a period starting on one day in a calendar year and ending on the numerically corresponding day in the next calendar year, except that:

- (a) subject to paragraph (c) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if the Issue Date is the last Business Day of a calendar month, that period shall end on the last Business Day of the calendar month in which that period is to end,

The above rules will only apply to the last Month of any period.

- 8.2 Each CB shall cease to bear interest where:

- (a) the Conversion Right in respect of such CB has been exercised, from and including the Interest Payment Date immediately preceding the Conversion Date, or if none, the Issue Date subject to conversion of the relevant CB in accordance with the provisions of Condition 6 (*Conversion*); or
- (b) where the CB has been fully repaid, purchased and cancelled or redeemed in accordance with these Conditions, from the day on which all sums due in respect of such CB up to that day are received by or on behalf of the relevant CB Holder.

- 8.3 If interest is required to be calculated for a period of less than a complete Interest Period (as defined below), the relevant “**Day Count Fraction**” will be determined on the basis of a 365-day year and, in the case of an incomplete year, the number of days elapsed.

In these Conditions, the period beginning on and including the Issue Date and ending on but excluding the first Interest Payment Date and each successive period beginning on and including an Interest Payment Date and ending on but excluding the next succeeding Interest Payment Date is called an “**Interest Period**”.

Interest in respect of any CB shall be calculated per Authorised Denomination. The amount of interest payable per Authorised Denomination for any period shall, save as provided above in relation to equal instalments, be equal to the product of the Rate of

Interest, the Authorised Denomination and the Day Count Fraction (determined in the same manner as stated above in this Condition 8 (*Interest and Fees*)) for the relevant period, rounding the resulting figure to the nearest cent (half a cent being rounded upwards).

8.4 **Default interest**

If the Issuer fails to pay any amount payable by it under any CB on its due date, interest shall accrue on the Unpaid Sum from the due date to the date of actual payment at a rate which is two per cent. (2%) per annum higher than the Rate of Interest subject to a maximum rate of 20% per annum (the “**Default Interest**”). Any interest accruing under this Condition 8.4 shall be immediately due and payable by the Issuer on demand of any CB Holder, such instruction shall specify the date from which the Default Interest is accrued.

9. **PAYMENTS**

9.1 **Payments**

Payments of principal, premium (if any), interest, Cash Settlement Top-Up Amount, Redemption Amount and any other amounts under these Conditions shall be made by transfer to a Hong Kong dollar account of the relevant CB Holder with a bank in Hong Kong (details of which are set out in the CB Register). Any amendments to be made to a paying instruction shall be notified to the Issuer no later than five (5) Business Days prior to such due date for payment. Payments of principal will only be made after surrender of the relevant CB Certificate at the Specified Office.

9.2 **Payments subject to applicable Laws**

All payments in respect of the CB are subject in all cases to any applicable Laws in the place of payment, but without prejudice to the provisions of Condition 12 (*Taxation*) no commissions or expenses shall be charged to the CB Holders in respect of such payments.

9.3 **Payments on Business Days**

Where payment is to be made by transfer to a Hong Kong dollar account, payment instructions (for value on the due date, or, if the due date is not a Business Day, for value the next succeeding Business Day) shall be initiated on the Maturity Date. A CB Holder shall not be entitled to any interest or other payment in respect of any delay in payment resulting from the due date for a payment not being a Business Day or if the CB Holder is late in surrendering its CB Certificate.

9.4 **Record date**

Each payment in respect of a CB shall be made to the person shown as the holder in the CB Register at the opening of business on the due date for such payment.

9.5 **Prescription**

Claims in respect of amounts due in respect of the CB will become prescribed unless made within 10 years from the relevant date of payment in respect thereof.

10. EVENTS OF DEFAULT

If any of the following events (each an “**Event of Default**”) occurs and is continuing, the CB Holders of not less than 66⅔ per cent. in principal amount of the CB then outstanding may (i) give notice to the Issuer that the CB are, and they shall immediately become, due and repayable at their Redemption Amount together with accrued but unpaid interest (if any) to the date of payment (subject as provided below and without prejudice to the right of CB Holders to exercise the Conversion Right in respect of their CB in accordance with Condition 6 (*Conversion*)) and the Issuer shall pay the Default Interest in accordance with Condition 8.4, if:

- (a) *Non-payment*: the Issuer fails to pay any amount of principal or premium (if any) in respect of the CB or any Transaction Document on the due date for payment thereof or fails to pay any amount of interest or any other amount in respect of or in connection with the CB or that Transaction Document on the due date for payment thereof.

save if an Event of Default that had occurred has subsequently ceased to be continuing, the CB will cease to be immediately due or repayable as a result of the occurrence of that Event of Default pursuant to this Condition 10 (*Events of Default*).

11. REDEMPTIONS

11.1 Redemption at Maturity

- (a) Unless previously redeemed, converted or purchased and cancelled as provided in these Conditions, the Issuer shall, subject to receipt of the relevant CB Certificate, redeem all the outstanding CB held by a CB Holder on the Maturity Date at an amount equal to the Redemption Amount.
- (b) Such CB Holder shall return its CB Certificate to the Issuer on the Maturity Date.

11.2 Settlement

Subject to delivery by the CB Holder of the CB Certificate(s), the Issuer shall pay to the CB Holders who are redeeming the CB in accordance with Condition 11 (*Redemptions*) the relevant Redemption Amount on the Maturity Date by transfer of funds for same day value.

11.3 Cancellation

All CB redeemed by the Issuer or in respect of which the Conversion Rights have been exercised in full by the CB Holder (and in respect of which the Issuer has complied in full with its obligations pursuant to these Conditions) shall be cancelled forthwith and may not be reissued or resold.

12. TAXATION

- 12.1 All payments made by the Issuer under or in respect of the Transaction Documents or the CB shall be made free from any restriction or condition and be made without deduction or withholding for or on account of any present or future Taxes, duties,

assessments or governmental charges of whatever nature imposed, levied, collated, withheld or assessed by or on behalf of Hong Kong, the Cayman Islands, or any political subdivision thereof or any authority thereof or therein having power to impose Tax, unless deduction or withholding of such Taxes, duties, assessments or governmental charges is compelled by Law of the relevant jurisdiction. In such event, the Issuer shall pay such additional amounts as shall result in the receipt by the CB Holders of net amounts after such deduction or withholding equal to the amounts which would otherwise have been receivable by them had no such deduction or withholding been required.

- 12.2 References in these Conditions to principal, premium (if any), interests and redemption amounts and other amounts payable under these Conditions shall be deemed also to refer to any additional amounts which may be payable under this Condition or any undertaking or covenant given in addition thereto or in substitution therefor pursuant to the Transaction Documents.
- 12.3 If the Issuer is or becomes subject at any time to any Tax jurisdiction other than Hong Kong or the Cayman Islands, references in these Conditions to Hong Kong, the or Cayman Islands shall be construed as references to Hong Kong or the Cayman Islands (as the case may be) and/or such other jurisdiction.

13. **REPLACEMENT OF CERTIFICATES**

If any CB Certificate is mutilated, defaced, destroyed, stolen or lost, it may be replaced free of charge at the Specified Office on such terms as to evidence as the Issuer may require, and subject to the Issuer being indemnified by the CB Holder for all claims and losses which may arise in connection with such mutilation, defacement, loss or destruction of the certificate. Mutilated or defaced CB Certificates must be surrendered before replacements shall be issued.

14. **NOTICES**

14.1 A **Notice** under or in connection with the CB shall be:

- (a) in writing and in English; and
- (b) delivered personally, sent by courier to the party due to receive the Notice at the address referred to in Condition 14.2 or such other facsimile number, address or e-mail address as a party may specify by notice in writing to the other parties received before the Notice was despatched.

14.2 For the purposes of this Condition 14.2, a Notice shall be sent to the addresses and for the attention of those persons set out below:

- (a) in the case of the Issuer:

Address: Suite No. 02, 31st Floor, Sino Plaza, 255-257 Gloucester Road, Causeway Bay, Hong Kong
Attention: the Board

- (b) in the case of any CB Holder, the address in the CB Register:

or to such other address, facsimile number or e-mail address as the relevant party may have notified to the other by not less than five (5) days' written notice to the other party before the Notice was dispatched.

- 14.3 Notwithstanding anything to the contrary herein, all notices to CB Holders shall be validly given if mailed to them at their respective addresses in the Register maintained by the Issuer. Any such notice shall be deemed to have been given on the later of the date(s) of such publication(s) and the seventh day after being so mailed, as the case may be.

15. **MEETINGS OF CB HOLDERS, MODIFICATION AND WAIVER**

- 15.1 Schedule 3 contains provisions for convening meetings of CB Holders to consider matters affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions. Such a meeting may be convened by CB Holders holding not less than one-tenth of the aggregate principal amount of the outstanding CB. The quorum for any meeting convened to consider an Extraordinary Resolution will be person(s) holding or representing more than 50 per cent. of the aggregate principal amount of the outstanding CB or, at any adjourned such meeting, person(s) being or representing CB Holders whatever the principal amount of the CB held or represented, unless the business of such meeting includes consideration of proposals, inter alia, (a) to modify the due date for any payment in respect of the CB or the dates on which interest is payable in respect of the CB, (b) to reduce or cancel the amount of principal, interest or premium or Equivalent Amount payable in respect of the CB or changing the method of calculation of interest, (c) to change the currency of payment of the CB, (d) to modify (except by an adjustment to the Conversion Price in accordance with Condition 7 (*Adjustments to the Conversion Price*)) or cancel any of the Conversion Rights, (e) to modify the provisions concerning the quorum required at any meeting of the CB Holders or the majority required to pass an Extraordinary Resolution, or (f) to amend any of the foregoing reserved matters, in which case the necessary quorum will be two or more persons holding or representing not less than 66 $\frac{2}{3}$ per cent., or at any adjourned meeting not less than 25 per cent., in principal amount of the CB for the time being outstanding. Any Extraordinary Resolution duly passed shall be binding on all CB Holders (whether or not they were present at the meeting at which such resolution was passed).

- 15.2 A Written Resolution (as defined in Schedule 3) shall be as valid and effective as a duly passed Extraordinary Resolution. Such Written Resolution may be contained in one document or several documents in the same form, each signed by or on behalf of one or more CB Holders.

16. **ENFORCEMENT**

The CB Holders shall not institute any proceedings against the Issuer unless approved by an Extraordinary Resolution.

17. **GOVERNING LAW AND JURISDICTION**

- 17.1 The CB and the Transaction Documents are governed by and shall be construed in accordance with the Laws of Hong Kong.

- 17.2 The courts of Hong Kong have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the CB and the Transaction Documents or their subject matter, existence, negotiation, validity, termination or enforceability (a “**Dispute**”).
- 17.3 Subject to Condition 17.4, the Issuer agrees that the courts of Hong Kong are the most appropriate and convenient courts to settle a Dispute and accordingly the Issuer shall not:
- (a) argue to the contrary; or
 - (b) take any proceedings relating to a Dispute in any jurisdiction other than Hong Kong.
- 17.4 This Condition 17 (*Governing Law and Jurisdiction*) is for the benefit the CB Holders only. As a result, the CB Holders shall not be prevented from taking proceedings relating to a Dispute (“**Proceedings**”) in any other courts with jurisdiction nor from contending that such courts are appropriate and convenient. To the extent allowed by Law, the CB Holders may take:
- (a) proceedings in any other court; and
 - (b) concurrent proceedings in any number of jurisdictions.

**SCHEDULE 1
FORM OF CB CERTIFICATE**

**KO YO CHEMICAL (GROUP) LIMITED
玖源化工(集團)有限公司**

("Issuer")

(incorporated in the Cayman Islands with limited liability)

**HK\$[*] 5% Convertible Bonds
("CB")**

ISSUED pursuant and subject to and with the benefit of an instrument by way of deed poll dated 10 July 2019 and executed by the Issuer, and the appendices thereto (as from time to time modified in accordance with the terms thereof and expressed to be supplemental thereto) constituting the CB ("**Instrument**").

THIS IS TO CERTIFY that the undermentioned person is the registered holder of the CB represented by this certificate.

FOLIO NO.	CB HOLDER	CERTIFICATE NO.	ISSUE NO.	DATE OF ISSUE DAY-MONTH-YEAR	PRINCIPAL AMOUNT

For value (including, without limitation, any non-cash consideration) received, the Issuer promises to pay the person who appears at the relevant time on the register of CB Holders as holder of the CB in respect of which this Certificate is issued such amount or amounts as shall become due in respect of such CB and otherwise to comply with the terms and conditions of the Instrument. This certificate is evidence of entitlement only. Only the duly registered holder is entitled to payments on CB in respect of which this certificate is issued.

The Instrument and each other Transaction Document (together with the Articles of Association of the Issuer) are and shall be held by the Issuer and kept at the Specified Office and copies thereof shall be available to the CB Holder on request. CB Holder shall be deemed to have notice of all the provisions contained in each of the Transaction Documents.

By accepting delivery of this certificate, the person who is the registered holder of the CB represented by this certificate acknowledges that it agrees to be bound by the terms and conditions of the Instrument.

This certificate is governed by and shall be construed in accordance with the laws of Hong Kong.

Capitalised terms used in this certificate, unless a contrary intention appears, shall have their respective meanings as contained in the Instrument (and any instruments supplemental thereto).

GIVEN under the common seal of **KO YO CHEMICAL (GROUP) LIMITED** 玖源化工
(集團)有限公司 this _____ day of _____ 2019.

Name:

Title:

SCHEDULE 2
FORM OF CONVERSION NOTICE

KO YO CHEMICAL (GROUP) LIMITED

玖源化工(集團)有限公司

(the “Issuer”)

*(incorporated with limited liability under
the laws of the Cayman Islands)*

HK\$[*]

Convertible Bonds due 2024

(the “CB”)

CONVERSION NOTICE

(Please read the notes overleaf before completing this Notice.)

Name: _____

Date: _____

Address: _____

Signature: _____

To: **KO YO CHEMICAL (GROUP) LIMITED 玖源化工(集團)有限公司**

Words and expressions used in the instrument dated [*] 2019 (as amended and/or supplemented from time to time) and entered into by the Issuer and certain other parties to constitute the CB (the “**Instrument**”) and the terms and conditions of the CB as scheduled therein (the “**CB Conditions**”) have the same meanings when used in this notice.

I/We, by or on behalf of the holder or beneficial owner of the CB specified below, hereby elect to convert such CB into ordinary shares of the Issuer (the “**Shares**”) in accordance with CB Condition 6 (*Conversion*) of the terms and conditions of the CB.

1. Total principal amount and certificate number(s) of CB to be converted:

Total principal amount to be converted: _____

Certificate number(s) of CB: _____

2. Conversion Price: _____

3. Total number of Shares to be issued: _____

Principal amount of CB to be converted ÷ Conversion Price = _____

4. Issue and despatch of the certificate(s) for the Shares

- (i) The certificate(s) for the Shares be issued to the person whose name and address is given below:

Name:

Address:

- (ii) The certificate(s) for the Shares be despatched to the person whose name and address is given below and in the manner specified below:

Name:

Address:

Manner of despatch:

I/We agree that the Conversion Shares are issued subject to the memorandum of association and the bye-laws of the Issuer and agree to become [a] member(s) of the Issuer.

Notes:

- (i) Despatch of share certificates or other securities or property shall be made at the risk and expense of the converting CB Holder and the converting CB Holder shall be required to prepay the expenses of, and submit any necessary documents required in order to effect, despatch in the manner specified.
- (ii) If an adjustment contemplated by the terms and conditions of the CB is required in respect of a conversion of CB where additional Shares are to be issued, certificates for the additional Shares deliverable pursuant to such adjustment (together with any other securities, property or cash) shall be delivered or despatched in the same manner as the Shares, other securities, property and cash previously issued pursuant to the relevant Conversion Notice.

SCHEDULE 3
PROVISIONS FOR MEETINGS OF CB HOLDERS

1. **Definitions**

In this Schedule, the following expressions have the following meanings:

“**Chairman**” means, in relation to any Meeting, the individual who takes the chair in accordance with paragraph 6 (*Chairman*);

“**Extraordinary Resolution**” means a resolution passed at a Meeting duly convened and held in accordance with this Schedule by a majority of not less than $66\frac{2}{3}$ of the votes cast;

“**Form of Proxy**” means, in relation to any Meeting, a document in the English language available from the Issuer signed by a CB Holder or, in the case of a corporation, executed under its seal or signed on its behalf by a duly authorised officer and delivered to the Issuer not later than 48 hours before the time fixed for such Meeting, appointing a named individual or individuals to vote in respect of the CB held by such CB Holder;

“**Meeting**” means a meeting of CB Holders (whether originally convened or resumed following an adjournment);

“**Proxy**” means, in relation to any Meeting, a person appointed to vote under a Form of Proxy other than:

- (a) any such person whose appointment has been revoked and in relation to whom the Issuer has been notified in writing of such revocation by the time which is 48 hours before the time fixed for such Meeting; and
- (b) any such person appointed to vote at a Meeting which has been adjourned for want of a quorum and who has not been re-appointed to vote at the Meeting when it is resumed;

“**Relevant Fraction**” means:

- (a) for all business other than voting on an Extraordinary Resolution, 10%;
- (b) for voting on any Extraordinary Resolution other than one relating to a Reserved Matter, one more than 50%; and
- (c) for voting on any Extraordinary Resolution relating to a Reserved Matter, $66\frac{2}{3}$ %;

provided, however, that, in the case of a Meeting which has resumed after adjournment for want of a quorum, it means:

- (i) for all business other than voting on an Extraordinary Resolution relating to a Reserved Matter, the fraction of the aggregate principal amount of the outstanding CB represented or held by the Voters actually present at the Meeting; and

(ii) for voting on any Extraordinary Resolution relating to a Reserved Matter, 25%;

“**Reserved Matter**” means any proposal (i) to modify the due date for any payment in respect of the CB or the dates on which interest is payable in respect of the CB, (ii) to reduce or cancel the amount of principal, interest or premium or Equivalent Amount payable in respect of the CB or changing the method of calculation of interest, (iii) to change the currency of payment of the CB, (iv) to modify (except by an adjustment to the Conversion Price in accordance with Condition 7 (*Adjustments to the Conversion Price*)) or cancel any of the Conversion Rights, (v) to modify the provisions concerning the quorum required at any meeting of the CB Holders or the majority required to pass an Extraordinary Resolution, (vi) to amend any of the foregoing reserved matters or (vii) to amend this definition;

“**Voter**” means, in relation to any Meeting, a Proxy or (subject to paragraph 3 (*Record Date*)) a CB Holder; *provided, however*, that, subject to paragraph 3 (*Record Date*) any CB Holder which has appointed a Proxy under a Form of Proxy shall not be a “**Voter**” except to the extent that such appointment has been revoked and the Issuer notified in writing of such revocation at least 48 hours before the time fixed for such Meeting;

“**Written Resolution**” means a resolution in writing signed by or on behalf of holders of not less than 66 $\frac{2}{3}$ % of the aggregate principal amount of the CB outstanding who for the time being are entitled to receive notice of a Meeting in accordance with the provisions of this Schedule in lieu of a Meeting, whether contained in one document or several documents in the same form, each signed by or on behalf of one or more such holders of the CB;

“**24 hours**” means a period of 24 hours including all or part of a day (disregarding for this purpose the day upon which such Meeting is to be held) upon which banks are open for business in both the place where the relevant Meeting is to be held and in the Specified Office and such period shall be extended by one period or, to the extent necessary, more periods of 24 hours until there is included as aforesaid all or part of a day upon which banks are open for business as aforesaid; and

“**48 hours**” means 2 consecutive periods of 24 hours.

2. **Issue of Forms of Proxy**

Any CB Holder may obtain an uncompleted and unexecuted Form of Proxy from the Issuer.

3. **Record Date**

The Issuer may fix a record date for the purposes of any Meeting or any resumption thereof following its adjournment for want of a quorum *provided* that such record date is not more than 10 days prior to the time fixed for such Meeting or (as the case may be) its resumption. The person in whose name a CB is registered in the Register on the record date at close of business in the city in which the Issuer has its Specified Office shall be deemed to be the holder of such CB for the purposes of such Meeting and notwithstanding any subsequent transfer of such CB or entries in the Register.

4. **Convening of meeting**

The Issuer or a CB Holder may convene a Meeting at any time

5. **Notice**

At least 21 days' notice (exclusive of the day on which the notice is given and of the day on which the relevant Meeting is to be held) specifying the date, time and place of the Meeting shall be given to the CB Holders (with a copy to the Issuer). The notice shall set out the full text of any resolutions to be proposed unless the CB Holders agree that the notice shall instead specify the nature of the resolutions without including the full text and a CB Holder may appoint a Proxy by executing and delivering a Form of Proxy to the Specified Office of the Issuer, in either case until 48 hours before the time fixed for the Meeting.

6. **Chairman**

An individual (who may, but need not, be a CB Holder) nominated in writing by the CB Holders may take the chair at any Meeting but, if no such nomination is made or if the individual nominated is not present within 15 minutes after the time fixed for the Meeting, those present shall elect one of themselves to take the chair failing which, the Issuer may appoint a Chairman. The Chairman of an adjourned Meeting need not be the same person as was the Chairman of the original Meeting.

7. **Quorum**

The quorum at any Meeting shall be at least two Voters representing or holding not less than the Relevant Fraction of the aggregate principal amount of the outstanding CB; *provided, however*, that so long as at least the Relevant Fraction of the aggregate principal amount of the outstanding CB is represented by the CB Certificates, a single Voter appointed in relation thereto or being the holder of the CB represented thereby shall be deemed to be two Voters for the purpose of forming a quorum.

8. **Adjournment for want of quorum**

If within 15 minutes after the time fixed for any Meeting a quorum is not present, then:

- (a) in the case of a Meeting requested by CB Holders, it shall be dissolved; and
- (b) in the case of any other Meeting (unless the Issuer and the CB Holders otherwise agree), it shall be adjourned for such period (which shall be not less than 14 days and not more than 42 days) and to such place as the Chairman determines (with the approval of the CB Holders); *provided, however*, that:
 - (i) the Meeting shall be dissolved if the Issuer and the CB Holders together so decide; and
 - (ii) no Meeting may be adjourned more than once for want of a quorum.

9. **Adjourned Meeting**

The Chairman may, with the consent of, and shall if directed by, any Meeting adjourn such Meeting from time to time and from place to place, but no business shall be

transacted at any adjourned Meeting except business which might lawfully have been transacted at the Meeting from which the adjournment took place.

10. Notice following adjournment

Paragraph 5 (*Notice*) shall apply to any Meeting which is to be resumed after adjournment for want of a quorum save that:

- (a) 10 days' notice (exclusive of the day on which the notice is given and of the day on which the Meeting is to be resumed) shall be sufficient; and
- (b) the notice shall specifically set out the quorum requirements which will apply when the Meeting resumes.

It shall not be necessary to give notice of the resumption of a Meeting which has been adjourned for any other reason.

11. Participation

The following may attend and speak at a Meeting:

- (a) Voters;
- (b) representatives of the Issuer and the CB Holders;
- (c) the financial advisers of the Issuer and the CB Holders;
- (d) the legal counsel to the Issuer and the CB Holders and such advisers;
- (e) the Issuer; and
- (f) any other person approved by the Meeting or the CB Holders.

12. Show of hands

Every question submitted to a Meeting shall be decided in the first instance by a show of hands. Unless a poll is validly demanded before or at the time that the result is declared, the Chairman's declaration that on a show of hands a resolution has been passed, passed by a particular majority, rejected or rejected by a particular majority shall be conclusive, without proof of the number of votes cast for, or against, the resolution. Where there is only one Voter, this paragraph shall not apply and the resolution will immediately be decided by means of a poll.

13. Poll

A demand for a poll shall be valid if it is made by the Chairman, the Issuer, the CB Holders or one or more Voters representing or holding not less than one fiftieth of the aggregate principal amount of the outstanding CB. The poll may be taken immediately or after such adjournment as the Chairman directs, but any poll demanded on the election of the Chairman or on any question of adjournment shall be taken at the Meeting without adjournment. A valid demand for a poll shall not prevent the continuation of the relevant Meeting for any other business as the Chairman directs.

14. **Votes**

Every Voter shall have:

- (a) on a show of hands, one vote; and
- (b) on a poll, one vote in respect of each HK\$10,000,000 in aggregate face amount of the outstanding CB represented or held by him.

In the case of a voting tie the Chairman shall have a casting vote.

15. **Validity of Votes by Proxies**

Any vote by a Proxy in accordance with the relevant Form of Proxy shall be valid even if such Form of Proxy or any instruction pursuant to which it was given has been amended or revoked, *provided* that the Issuer has not been notified in writing of such amendment or revocation by the time which is 24 hours before the time fixed for the relevant Meeting. Unless revoked, any appointment of a Proxy under a Form of Proxy in relation to a Meeting shall remain in force in relation to any resumption of such Meeting following an adjournment; *provided, however*, that no such appointment of a Proxy in relation to a Meeting originally convened which has been adjourned for want of a quorum shall remain in force in relation to such Meeting when it is resumed. Any person appointed to vote at such a Meeting must be re-appointed under a Form of Proxy to vote at the Meeting when it is resumed.

16. **Powers**

A Meeting shall have power (exercisable only by Extraordinary Resolution), without prejudice to any other powers conferred on it or any other person:

- (a) to approve any Reserved Matter;
- (b) to approve any proposal by the Issuer for any modification, abrogation, variation or compromise of any provisions of this Instrument or the Conditions or any arrangement in respect of the obligations of the Issuer under or in respect of the CB;
- (c) to approve the substitution of any person for the Issuer (or any previous substitute) as principal obligor under the CB;
- (d) to waive any breach or authorise any proposed breach by the Issuer of its obligations under or in respect of this CB or any act or omission which might otherwise constitute an Event of Default under the CB;
- (e) to give any other authorisation or approval which under this CB is required to be given by Extraordinary Resolution; and
- (f) to appoint any persons as a committee to represent the interests of the CB Holders and to confer upon such committee any powers which the CB Holders could themselves exercise by Extraordinary Resolution.

17. **Extraordinary Resolution binds all CB Holders**

An Extraordinary Resolution shall be binding upon all CB Holders, whether or not present at such Meeting, and each of the CB Holders shall be bound to give effect to it accordingly. Notice of the result of every vote on an Extraordinary Resolution shall be given to the CB Holders and the Issuer (with a copy to the Issuer and the CB Holders) within 14 days of the conclusion of the Meeting.

Any duty derived from any principle of law or equity that would otherwise have the effect of requiring the CB Holders to exercise their powers to vote for or against an Extraordinary Resolution or any other resolution contemplated by the Conditions, for the benefit or in the interests of any group or class of CB Holders as a whole and not merely individual CB Holders, is excluded to the fullest extent permitted by law.

18. **Minutes**

Minutes of all resolutions and proceedings at each Meeting shall be made. The Chairman shall sign the minutes, which shall be *prima facie* evidence of the proceedings recorded therein. Unless and until the contrary is proved, every such Meeting in respect of the proceedings of which minutes have been summarised and signed shall be deemed to have been duly convened and held and all resolutions passed or proceedings transacted at it to have been duly passed and transacted.

19. **Written Resolution**

A Written Resolution shall take effect in lieu of a Meeting or notice of a Meeting as if it were an Extraordinary Resolution.

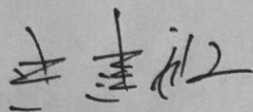
20. **Further regulations**

Subject to all other provisions contained in this Instrument, the CB Holders may without the consent of the Issuer or the CB Holders prescribe such further regulations regarding the holding of Meetings of CB Holders and attendance and voting at them as the CB Holders may in their sole discretion determine.

IN WITNESS WHEREOF this Instrument has been executed as a deed by the parties hereto and is intended to be and is hereby delivered on the date first before written.

The Issuer

EXECUTED as a DEED)
for and on behalf of)
KO YO CHEMICAL (GROUP) LIMITED)
玖源化工(集團)有限公司)
in the presence of:)



Director

IN WITNESS WHEREOF this Agreement has been entered into the day and year first before written.

SIGNED by)
for and on behalf of)
KO YO CHEMICAL (GROUP) LIMITED)
玖源化工(集團)有限公司)
in the presence of:)



SIGNED by)
for and on behalf of)
TANG GUOQIANG 湯國強)
in the presence of:)
)

IN WITNESS WHEREOF this Agreement has been entered into the day and year first before written.

SIGNED by)
for and on behalf of)
KO YO CHEMICAL (GROUP) LIMITED)
玖源化工(集團)有限公司)
in the presence of:)

SIGNED by)
for and on behalf of)
TANG GUOQIANG 湯國強)
in the presence of:)

