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*THE SINGAPORE EXCHANGE SECURITIES TRADING LIMITED (“SGX-ST”) ASSUMES NO RESPONSIBILITY FOR THE CONTENTS OF THIS ANNOUNCEMENT, AND MAKES NO REPRESENTATION AS TO THE CORRECTNESS OF ANY OF THE STATEMENTS OR OPINIONS MADE OR CONTAINED IN THIS ANNOUNCEMENT.*

**Settlement Announcement of the Consent Solicitation**

**Mega Wisdom Global Limited (巨智環球有限公司)**

*(incorporated with limited liability under the laws of the British Virgin Islands)*  
(the “**Issuer**”)

**relating to the 1.00 per cent. Guaranteed Perpetual Notes**

**(ISIN: XS2342977324)**

(the “**Notes**”)

**guaranteed by**

**Fortune Joy Ventures Limited (瑞喜創投有限公司)**

*(incorporated with limited liability under the laws of the British Virgin Islands)*  
(“**Fortune Joy**”)

**and**

**Sino-Ocean Capital Holding Limited (遠洋資本控股有限公司)**

*(incorporated with limited liability under the laws of Hong Kong)*

(“**Sino-Ocean Capital Holding**”, and together with Fortune Joy, the “**Guarantors**” and each a “**Guarantor**”)

Reference is made to the tender offer and consent solicitation memorandum dated 17 July 2024 (the “**Tender Offer and Consent Solicitation Memorandum**”), the notice of meeting dated 17 July 2024 (the “**Notice of Meeting**”) in relation to the Notes, the notice of adjourned meeting dated 8 August 2024 (the “**Notice of Adjourned Meeting**”) and the announcements dated 8 August 2024 and 29 August 2024 made in accordance with “*Tender Offer and Consent Solicitation — Announcements*” in the Tender Offer and Consent Solicitation Memorandum (including made available on the Tender and Consent Website and distributed via the Clearing Systems) in relation to the Tender Offer and Consent Solicitation.

Capitalised terms used but not defined herein shall have the meanings given to them in the Tender Offer and Consent Solicitation Memorandum, the Notice of Meeting or the Notice of Adjourned Meeting.

All documents and materials related to the Consent Solicitation have been made available, subject to eligibility, on the Consent Website: <https://deals.is.kroll.com/sinooceancapital>.

The Issuer is pleased to announce that the Consent Fee and any Ineligible Noteholder Payment have been paid to the relevant Clearing System.

The Issuer further announces that, the Amendment Documentation was executed by the Issuer, the Guarantors, the Trustee and the Agents, as the case may be, on 5 September 2024 (being the Amendment Effective Date) following

the payment of the Consent Fee and any Ineligible Noteholder Payment, and the Proposed Amendments and Waivers have become effective. For the Amended Terms and Conditions of the Notes, please refer to the Schedule hereto.

By Order of the Board  
**MEGA WISDOM GLOBAL LIMITED**  
(巨智環球有限公司)  
**Tang Runjiang**  
*Director*

5 September 2024

**SCHEDULE AMENDED TERMS AND CONDITIONS OF THE NOTES**

## TERMS AND CONDITIONS OF THE NOTES

*The following is the text of the Terms and Conditions of the Notes which (subject to modification and except for the paragraphs in italics) will be endorsed on the Note Certificates (as defined below) issued in respect of the Notes.*

The U.S.\$99,400,000 1.0 per cent. Guaranteed Perpetual Notes (the “**Notes**”) of Mega Wisdom Global Limited (巨智環球有限公司) (the “**Issuer**”) are constituted by, are subject to, and have the benefit of, an amended and restated trust deed dated 5 September 2024 (the “**Amendment Effective Date**”) (as amended, restated, replaced or supplemented from time to time, the “**Trust Deed**”) between the Issuer, Fortune Joy Ventures Limited (瑞喜創投有限公司) (“**Fortune Joy**”) and Sino-Ocean Capital Holding Limited (遠洋資本控股有限公司) (“**Sino-Ocean Capital Holding**”) and together with Fortune Joy, the “**Guarantors**” and each a “**Guarantor**”) and China Construction Bank (Asia) Corporation Limited (中國建設銀行(亞洲)股份有限公司) as trustee (the “**Trustee**”, which expression includes all successors or assigns for the time being trustee or trustees appointed under the Trust Deed) for itself and the Holders (as defined below) and are the subject of an amended and restated agency agreement dated the Amendment Effective Date (as amended, restated, replaced or supplemented from time to time, the “**Agency Agreement**”) between the Issuer, the Guarantor, China Construction Bank (Asia) Corporation Limited (中國建設銀行(亞洲)股份有限公司) as registrar (the “**Registrar**”, which expression includes any successor registrar appointed from time to time in connection with the Notes), China Construction Bank (Asia) Corporation Limited (中國建設銀行(亞洲)股份有限公司) as principal paying agent (the “**Principal Paying Agent**”, which expression includes any successor principal paying agent appointed from time to time in connection with the Notes), as transfer agents named therein (the “**Transfer Agents**”, which expression includes any successor or additional transfer agents appointed from time to time in connection with the Notes), as paying agents named therein (together with the Principal Paying Agent, the “**Paying Agents**”, which expression includes any successor or additional paying agents appointed from time to time in connection with the Notes) and the Trustee. References herein to the “**Agents**” are to the Registrar, the Transfer Agents and the Paying Agents and any reference to an “**Agent**” is to any one of them.

Certain provisions of these Conditions are summaries of the Trust Deed and the Agency Agreement and are subject to their detailed provisions. The Noteholders (as defined below) are bound by, and are deemed to have notice of, all the provisions of the Trust Deed and the Agency Agreement applicable to them. For so long as any Notes are outstanding and upon prior written notice and satisfactory proof of holding and identity to the Principal Paying Agent or, as the case may be, the Trustee, copies of the Trust Deed and the Agency Agreement will be (i) available to the Noteholders during normal business hours being 9:00 a.m. (Hong Kong time) to 3:00 p.m. (Hong Kong time), Monday to Friday other than public holidays with at the corporate trust office for the time being of the Trustee, being at the date hereof 3/F, CCB Tower, 3 Connaught Road Central, Central, Hong Kong and at the Specified Offices (as defined in the Agency Agreement) of each of the Agents, the initial Specified Offices of which are set out below or (ii) sent by the Principal Paying Agent or, as the case may be, the Trustee, to the relevant Noteholders by email (provided the Principal Paying Agent or, as the case may be, the Trustee has been supplied with the relevant documents by the Issuer).

All capitalised terms that are not defined in these terms and conditions (these “**Conditions**”) have the same meanings given to them in the Trust Deed.

## 1 FORM, DENOMINATION, STATUS AND GUARANTEE

- (a) **Form and denomination:** The Notes are in registered form in the denominations of U.S.\$1.00 (the “**Authorised Denomination**”).
- (b) **Status of the Notes:** The Notes constitute direct, general, unconditional and unsecured obligations of the Issuer which will at all times rank *pari passu* and without any preference among themselves and at least *pari passu* with all other present and future unsecured obligations of the Issuer, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.
- (c) **Guarantee of the Notes:** Each Guarantor has in the Trust Deed unconditionally and irrevocably guaranteed the due and punctual payment of all sums from time to time payable by the Issuer in respect of the Notes. This Guarantee (the “**Guarantee of the Notes**”) constitutes direct, general, unconditional and unsecured obligations of each Guarantor which will at all times rank at least *pari passu* with all other present and future unsecured obligations of such Guarantor, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

*Upon issue, the Notes will be represented by a global note certificate (the “**Global Note Certificate**”) substantially in the form scheduled to the Trust Deed. The Global Note Certificate will be registered in the name of a nominee of, and deposited with, a common depositary for Euroclear Bank SA/NV (“**Euroclear**”) and Clearstream Banking S.A. (“**Clearstream**”) and will be exchangeable for individual Note Certificates (as defined below) only in the circumstances set out therein. The Conditions are modified by certain provisions contained in the Global Note Certificate.*

*Except in the limited circumstances described in the Global Note Certificate, owners of interests in Notes represented by the Global Note Certificate will not be entitled to receive definitive Certificates in respect of their individual holdings of Notes. The Notes are not issuable in bearer form.*

## 2 REGISTER, TITLE AND TRANSFERS

- (a) **Register:** The Registrar will maintain a register (the “**Register**”) in respect of the Notes in accordance with the provisions of the Agency Agreement. In these Conditions, the “**Holder**” of a Note means the person in whose name such Note is for the time being registered in the Register (or, in the case of a joint holding, the first named thereof) and “**Noteholder**” shall be construed accordingly. A certificate (each, a “**Note Certificate**”) will be issued to each Noteholder in respect of its registered holding. Each Note Certificate will be numbered serially with an identifying number which will be recorded in the Register.
- (b) **Title:** The Holder of each Note shall (except as ordered by a court of competent jurisdiction or otherwise required by law) be treated as the absolute owner of such Note 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 Note Certificate relating thereto (other than the endorsed form of transfer) or any notice of any previous loss or theft of such Note Certificate) and no person shall be liable for so treating such Holder. Except as otherwise provided for in the Trust Deed, no person shall have any right to enforce any term or condition of the Notes or the Trust Deed under the Contracts (Rights of Third Parties) Act 1999 but this shall not affect any

right or remedy which exists or is available apart from such Act and is without prejudice to the rights of the Noteholders as contemplated in these Conditions.

- (c) **Transfers:** Subject to paragraphs (f) (*Closed periods*) and (g) (*Regulations concerning transfers and registration*) below, a Note may be transferred upon surrender of the relevant Note Certificate, with the endorsed form of transfer duly completed and executed, at the Specified Office of the Registrar or any Transfer Agent, together with such evidence as the Registrar or (as the case may be) such Transfer Agent may require to prove the title of the transferor and the authority of the individuals who have executed the form of transfer; *provided, however, that* a Note may not be transferred unless the principal amount of Notes transferred and (where not all of the Notes held by a Holder are being transferred) the principal amount of the balance of Notes not transferred are Authorised Denominations. Where not all the Notes represented by the surrendered Note Certificate are the subject of the transfer, a new Note Certificate in respect of the balance of the Notes will be issued to the transferor. No transfer of title to a Note will be valid unless and until entered on the Register.

*Transfers of interests in the Notes evidenced by the Global Note Certificate will be effected in accordance with the rules of the relevant clearing systems.*

- (d) **Registration and delivery of Note Certificates:** Within five business days of receipt by the Registrar or (as the case may be) any Transfer Agent of a duly completed and executed form of transfer, the surrender of a Note Certificate and provision of such evidence as the Registrar or (as the case may be) such Transfer Agent may require in accordance with paragraph (c) (*Transfers*) above, the Registrar will register the transfer in question and deliver a new Note Certificate of a like principal amount to the Notes transferred to each relevant Holder at its Specified Office or (as the case may be) the Specified Office of any Transfer Agent or (at the request and risk of any such relevant Holder) by uninsured mail (airmail if overseas) at the risk of the Holder to the address specified for the purpose by such relevant Holder. In this paragraph, “**business day**” means a day excluding a Saturday, a Sunday or a public holiday on which commercial banks are open for general business (including dealings in foreign currencies) in the city where the Registrar or (as the case may be) the relevant Transfer Agent has its Specified Office.
- (e) **No charge:** The transfer of a Note will be effected without charge by or on behalf of the Issuer, the Registrar or any Transfer Agent but upon (i) payment of such indemnity and/or security and/or pre-funding as the Registrar or (as the case may be) such Transfer Agent may require in respect of any tax or other duty of whatsoever nature which may be levied or imposed in connection with such transfer, (ii) the Registrar or the relevant Transfer Agent (as the case may be) being satisfied in its absolute discretion with the documents of title or identity of the person making the application and (iii) the Registrar or the relevant Transfer Agent (as the case may be) being satisfied that the regulations concerning transfer of the Notes have been complied with.
- (f) **Closed periods:** Noteholders may not require transfers to be registered during the period of 15 days ending on (and including) the due date for any payment of principal or interest in respect of the Notes or after the exercise of the put option in Condition 5(c) (*Redemption for Change of Control*).

- (g) **Regulations concerning transfers and registration:** All transfers of Notes and entries on the Register are subject to the detailed regulations concerning the transfer of Notes scheduled to the Agency Agreement. The regulations may be changed by the Issuer with the prior written approval of the Registrar and the Trustee or by the Registrar with the prior written approval of the Trustee. A copy of the current regulations will be made available for inspection by the Registrar to any Noteholder during normal business hours (being between 9:00 a.m. (Hong Kong time) to 3:00 p.m. (Hong Kong time) from Monday to Friday (other than public holidays)) who requests in writing a copy of such regulations and provides proof of holding and identity satisfactory to the Registrar.

### 3 COVENANTS

- (a) **Compliance Certificate:** So long as any Note remains outstanding, Fortune Joy shall furnish the Trustee a Compliance Certificate (on which the Trustee may rely conclusively as to such compliance) within 14 days of a written request by the Trustee.

- (b) **NDRC Filings:**

Each of the Issuer and Sino-Ocean Capital Holding undertakes to file or cause to be filed with the NDRC within the relevant prescribed timeframes after the Amendment Effective Date the requisite information and documents in respect of the Notes in accordance with the NDRC Administrative Measures (the “**NDRC Filings**”).

The Trustee shall have no obligation to monitor or ensure the completion of or to assist with the NDRC Filings on or before the deadlines referred to above or to verify the accuracy, validity and/or genuineness of any documents in relation to or in connection with the NDRC Filings, and shall not be liable to the Noteholders or any other person for not doing so.

- (c) **Redemption/Purchase Undertaking:**

So long as any Note remains outstanding, if the aggregate amount of the moneys received by Sino-Ocean Capital Holding:

- (i) in respect of the sale, transfer or other disposal after 1 August 2023 (the “**Original Effective Date**”) of any equity interests held by it directly or indirectly in Chengdu Yuanneng; and/or
- (ii) in respect of the repayment after the Original Effective Date by Chengdu Yuanneng of any shareholder loan it owes to Sino-Ocean Capital Holding or any of its Subsidiaries,

exceeds U.S.\$30,000,000 (or its equivalent in any other currency or currencies) (such amount in excess of U.S.\$30,000,000, the “**Excess Proceeds**”), Sino-Ocean Capital Holding shall procure that, as soon as reasonably practicable after each time the Excess Proceeds exceeds U.S.\$200,000, such Excess Proceeds shall be applied towards the redemption (in accordance with these Conditions) or purchase of the Notes then outstanding.

The Trustee shall not be obliged to monitor or investigate whether a purchase or redemption obligation under this Condition 3(c) (*Redemption/Purchase Undertaking*) is triggered and shall incur no loss or liability to any holder or any other person for

failure by the Issuer to purchase or redeem the Notes in accordance with this Condition 3(c) (*Redemption/Purchase Undertaking*).

(d) *Definitions:*

In these Conditions:

**“Chengdu Yuanneng”** means Chengdu Yuanneng Properties Co., Ltd. (成都远能置业有限公司), a joint-venture company in which Sino-Ocean Capital Holding indirectly holds 50 per cent. equity interest;

**“Compliance Certificate”** means a certificate in English of Fortune Joy signed by its Authorised Signatory (as defined in the Trust Deed) that, having made all reasonable enquiries, to the best knowledge, information and belief of Fortune Joy as at a date (the **“Certification Date”**) not more than seven days before the date of the certificate that:

- (i) no Event of Default (as defined in Condition 8 (*Events of Default*)) or Potential Event of Default has occurred since the Certification Date of the last such certificate or (if none) the date of the Trust Deed or, if such an event had occurred, giving details of it; and
- (ii) each of the Issuer and the Guarantors has complied with all their respective covenants and obligations under the Trust Deed, the Agency Agreement, the Notes and the Guarantee of the Notes or, if such a non-compliance had occurred, giving details of it;

**“Consolidated Fund”** means any of the Issuer’s or the Guarantors’ investment funds (including private equity funds and collective investment trusts) that require consolidation with the Issuer or the relevant Guarantor under generally accepted accounting principles (as amended from time to time);

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

**“NDRC”** means the National Development and Reform Commission of the PRC or its relevant competent local counterpart;

**“NDRC Administrative Measures”** means the Administrative Measures for the Review and Registration of Medium- and Long-Term Foreign Debts of Enterprises (企業中長期外債審核登記管理辦法) issued by the NDRC and effective on 10 February 2023 and any implementation rules, regulations, reports, certificates, circulars, approvals, guidelines or notices in connection therewith as issued by the NDRC from time to time;

**“Person”** means any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having separate legal personality but does not include any Consolidated Fund or any general partner of any investment funds of the Issuer or any Guarantor;

**“Potential Event of Default”** means an event or circumstance which could with the giving of notice, lapse of time, issue of a certificate and/or fulfilment of any other requirement provided for in Condition 8 (*Events of Default*) become an Event of Default;



“**PRC**” means the People’s Republic of China, which for the purposes of these Conditions, shall not include Hong Kong, the Macau Special Administrative Region of the People’s Republic of China and Taiwan; and

“**Subsidiary**” means, in relation to any Person (the “**first Person**”) at any particular time, any other Person (the “**second Person**”):

- (i) where more than 50 per cent. of the issued share capital or other ownership interests (having such voting power to elect such second Person’s directors, managers or trustees) of such second Person is owned and/or controlled by the first Person; or
- (ii) whose financial statements are, in accordance with the applicable law and generally accepted accounting principles (as amended from time to time), consolidated with those of the first Person.

#### 4 INTEREST

- (a) **Interest:** The Notes bear interest from and including 22 June 2021 (the “**Issue Date**”). For the avoidance of doubt, all accrued but unpaid interest on the Notes up to but excluding the Amendment Effective Date (including interest accrued in respect of the period from and including 22 December 2022 to but including 22 June 2023 payable on 22 June 2025 and interest accrued in respect of the period from and including 22 June 2024 to but excluding the Amendment Effective Date) shall be cancelled.

From and including the Amendment Effective Date, subject to Condition 4(c) (*Optional Deferral*), interest on the Notes shall be at the rate of 1 per cent. per annum (the “**Interest Rate**”) and payable on each date falling every three calendar years after the Amendment Effective Date (each, an “**Interest Payment Date**”) in arrear in cash, commencing on 5 September 2027 (the “**First Interest Payment Date**”).

In these Conditions, each period beginning on and including the Amendment Effective 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**”.

- (b) **Interest Payments:** Each Note will cease to bear interest from the due date for redemption unless, upon due presentation, payment of principal is improperly withheld or refused, in which case it will continue to bear interest at the Interest Rate (both before and after judgment) until whichever is the earlier of (a) the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder and (b) the day which is seven days after the Principal Paying Agent or the Trustee, as applicable, has notified the Noteholders that it has received all sums due in respect of the Notes up to such seventh day (except to the extent that there is any subsequent default in payment).
- (c) **Optional Deferral:** Notwithstanding anything to the contrary in these Conditions, the Issuer may, at its sole discretion, elect to defer (in whole or in part) any interest which is otherwise scheduled to be paid on an Interest Payment Date to the next Interest Payment Date by giving notice (an “**Optional Deferral Notice**”) to the Noteholders (in accordance with Condition 14 (*Notices*)) and to the Trustee and the Principal Paying Agent in writing not more than ten business days nor less than five business

days prior to the relevant scheduled Interest Payment Date (a “**Optional Deferral Event**”). Any partial payment of any interest by the Issuer shall be distributed to the Noteholders on a *pro rata* basis based on the outstanding principal amount of the Notes.

In this Condition 4(c) (*Optional Deferral*) and Condition 4(e) (*Satisfaction of Arrears of Interest by Payment*), “**business day**” means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general business (including dealings in foreign currencies) in Hong Kong.

- (d) **Cumulative Deferral:** Any interest deferred pursuant to Condition 4(c) (*Optional Deferral*) shall constitute “**Arrears of Interest**”. The Issuer may, at its sole discretion, elect (in the circumstances set out in Condition 4(c) (*Optional Deferral*)) to defer further (in whole or in part) any Arrears of Interest by complying with the foregoing notice requirement in Condition 4(c) (*Optional Deferral*) applicable to any deferral of an accrued interest. The Issuer is not subject to any limit as to the number of times interest and Arrears of Interest may be deferred pursuant to this Condition 4 (*Interest*). No interest shall accrue on any Arrears of Interest.
- (e) **Satisfaction of Arrears of Interest by Payment:** The Issuer:
  - (i) may satisfy any Arrears of Interest in whole or in part at any time by giving notice of such election to the Noteholders (in accordance with Condition 14 (*Notices*)) and to the Trustee and the Principal Paying Agent in writing not more than ten business days nor less than five business days prior to the relevant payment date specified in such notice (which notice is irrevocable and shall oblige the Issuer to pay the relevant Arrears of Interest on the payment date specified in such notice); and
  - (ii) in any event shall satisfy any outstanding Arrears of Interest in whole, but not in part, on the earliest of:
    - (A) the date of redemption of the Notes in accordance with the redemption events set out in Condition 5 (*Redemption and Purchase*);
    - (B) the date on which the Notes are due and payable in accordance with Condition 8 (*Events of Default*); and
    - (C) a Winding-Up of the Issuer.

Each Guarantor undertakes as a primary obligation to pay all outstanding Arrears of Interest upon a Winding-Up of the Issuer or a Guarantor.

Any partial payment of the outstanding Arrears of Interest by the Issuer shall be shared by the Noteholders on a *pro rata* basis based on the outstanding principal amount of the Notes.

In this Condition 4(e), “**Winding-Up**” means a final and effective court order or effective resolution for the winding-up, liquidation or similar proceedings in respect of the Issuer or a Guarantor (as applicable) (except, in any such case, a solvent winding-up solely for the purposes of a reorganisation, reconstruction or amalgamation or the substitution in place of the Issuer or a Guarantor, as the case may be, of a successor in business, the terms of which reorganisation,

reconstruction, amalgamation or substitution have been previously approved by an Extraordinary Resolution).

- (f) **No Default:** Notwithstanding any other provision in these Conditions or in the Trust Deed, the deferral of any interest payment in accordance with this Condition 4 (*Interest*) shall not constitute a default (including, without limitation, an Event of Default under Condition 8 (*Events of Default*)) on the part of the Issuer or the Guarantors under the Notes and the Guarantee or for any other purpose.

- (g) **Interest Calculation:**

If interest is required to be paid in respect of a Note on any date, it shall be calculated by applying the Interest Rate to the principal amount of such Note, multiplying the product by the relevant Day Count Fraction, rounding the resulting figure to the nearest cent (half a cent being rounded upwards), where:

“**Calculation Period**” means the relevant period for which interest is to be calculated from (and including) the first day in such period up to (but excluding) the last day in such period; and

“**Day Count Fraction**” means, in respect of any period, the number of days in the relevant period divided by 360 calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

**Y<sub>1</sub>** is the year, expressed as a number, in which the first day of the Calculation Period falls;

**Y<sub>2</sub>** is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

**M<sub>1</sub>** is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

**M<sub>2</sub>** is the calendar month, expressed as number, in which the day immediately following the last day included in the Calculation Period falls;

**D<sub>1</sub>** is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

**D<sub>2</sub>** is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30.

Neither the Trustee nor any of the Agents shall be responsible for calculating or verifying the amount of interest payable per Note and shall not be liable to the Noteholders or any other person for not doing so.

## 5 REDEMPTION AND PURCHASE

- (a) **No fixed redemption:** The Notes are perpetual notes in respect of which there is no fixed redemption date and the Issuer shall only have the right to redeem them in accordance with the following provisions of this Condition 5 (*Redemption and Purchase*).

- (b) **Redemption for tax reasons:** The Notes may be redeemed at the option of the Issuer in whole, but not in part, at any time, on giving not less than 30 nor more than 60 days' notice to the Noteholders in accordance with Condition 14 (*Notices*) (which notice shall be irrevocable) and in writing to the Trustee and the Principal Paying Agent at their principal amount, together with interest accrued to (but not including) the date fixed for redemption, if, immediately before giving such notice, the Issuer notifies the Trustee that:
- (i) (A) the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 7 (*Taxation*) as a result of any change in, or amendment to, the laws or regulations of the British Virgin Islands or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations (including a holding by a court of competent jurisdiction), which change or amendment becomes effective on or after the Original Effective Date; and (B) such obligation cannot be avoided by the Issuer taking reasonable measures available to it; or
  - (ii) (A) any Guarantor has or (if a demand was made under the Guarantee of the Notes) would become obliged to pay additional amounts as provided or referred to in Condition 7 (*Taxation*) or the Guarantee of the Notes, as the case may be, as a result of any change in, or amendment to, the laws or regulations of the British Virgin Islands, Hong Kong or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations (including a holding by a court of competent jurisdiction), which change or amendment becomes effective on or after the Original Effective Date; and (B) such obligation cannot be avoided by such Guarantor taking reasonable measures available to it,

*provided, however, that* no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer or such Guarantor would be obliged to pay such additional amounts or such Guarantor would be obliged to make such withholding or deduction if a payment in respect of the Notes were then due or (as the case may be) a demand under the Guarantee of the Notes were then made.

Prior to the publication of any notice of redemption pursuant to this paragraph, the Issuer shall deliver to the Trustee (x) a certificate in English signed by an Authorised Signatory of the Issuer stating that the circumstances referred to in (i)(A) and (i)(B) prevail and setting out the details of such circumstances or (as the case may be) a certificate signed by an Authorised Signatory of the relevant Guarantor stating that the circumstances referred to in (ii)(A) and (ii)(B) above prevail and setting out the details of such circumstances and (y) an opinion of independent tax or legal advisers of recognised standing to the effect that the Issuer (or the Guarantor, as the case may be) has or will become obliged to pay such additional amounts as a result of such change or amendment.

The Trustee shall be entitled (but shall not be obliged) to accept and conclusively rely upon (without further investigation or enquiry and without liability to the Issuer, the Guarantors, any Noteholder or any other person) such certificate and opinion as sufficient evidence of the satisfaction of the circumstances set out in (i)(A) and (i)(B) above or (as the case may be) (ii)(A) and (ii)(B) above, in which event it shall be

conclusive and binding on the Noteholders, and the Trustee shall be protected and shall have no liability to the Issuer, the Guarantors, any Noteholder or any other person for so accepting and relying on such certificate or opinion.

Upon the expiry of any such notice as is referred to in this Condition 5(b) (*Redemption for tax reasons*), the Issuer shall be bound to redeem the Notes in accordance with this Condition 5(b) (*Redemption for tax reasons*).

- (c) **Redemption for Change of Control:** At any time following the occurrence of a Change of Control, the Holder of each Note will have the right, at such Holder's option, to require the Issuer to redeem all but not some only of that Holder's Notes on the Change of Control Put Date at 101 per cent. of their principal amount, together with accrued and unpaid interest (if any) up to, but excluding the Change of Control Put Date. To exercise such right, the Holder of the relevant Note must deposit at the Specified Office of any Paying Agent a duly completed and signed notice of redemption, substantially in the form scheduled to the Agency Agreement, obtainable from the Specified Office of any Paying Agent (a "**Put Exercise Notice**"), together with the Note Certificates evidencing the Notes to be redeemed by not later than 30 days following a Change of Control, or, if later, 30 days following the date upon which notice thereof is given to Noteholders by the Issuer in accordance with Condition 14 (*Notices*), the Trustee and the Principal Paying Agent. The "**Change of Control Put Date**" shall be the fourteenth day after the expiry of such period of 30 days as referred to above.

A Put Exercise Notice, once delivered, shall be irrevocable and the Issuer shall redeem the Notes subject to the Put Exercise Notices delivered as aforesaid on the Change of Control Put Date.

The Issuer shall give notice to Noteholders in accordance with Condition 14 (*Notices*), the Trustee and the Principal Paying Agent by not later than 14 days following the first day on which it becomes aware of the occurrence of a Change of Control, which notice shall specify the procedure for exercise by Holders of their rights to require redemption of the Notes pursuant to this Condition 5(c) (*Redemption for Change of Control*).

In this Condition 5(c) (*Redemption for Change of Control*):

A "**Change of Control**" occurs when:

- (i) Sino-Ocean Group ceases to be, directly or indirectly, the single largest holder of the issued share capital of Fortune Joy holding not less than 45 per cent. of the issued share capital of Fortune Joy; or
- (ii) Fortune Joy ceases to directly or indirectly hold 100 per cent. of the issued share capital of Sino-Ocean Capital Holding and the Issuer; and

"**Sino-Ocean Group**" means Sino-Ocean Group Holding Limited (遠洋集團控股有限公司).

- (d) **Redemption at the option of the Issuer:** The Notes may be redeemed at the option of the Issuer, in whole or in part, at any time, on giving not less than 15 days' nor more than 30 days' irrevocable notice to the Noteholders in accordance with Condition 14 (*Notices*) (which notice shall be irrevocable) and in writing to the Trustee and the Principal Paying Agent at their principal amount together in each

case with interest accrued to (but not including) the date fixed for redemption. In the case of a partial redemption of Notes, the Notes shall be redeemed by the Issuer as far as practicable on a *pro rata* basis based on their outstanding aggregate principal amount. Upon the expiry of any such notice as is referred to in this Condition 5(d) (*Redemption at the option of the Issuer*), the Issuer shall be bound to redeem the Notes in accordance with this Condition 5(d) (*Redemption at the option of the Issuer*).

- (e) **Notices of redemption:** If there is more than one notice of redemption given in respect of any Note (which shall include any notice given by the Issuer pursuant to Condition 5(b) (*Redemption for tax reasons*) or Condition 5(d) (*Redemption at the option of the Issuer*) and any Put Exercise Notice given by a Noteholder pursuant to Condition 5(c) (*Redemption for Change of Control*)), the notice given first in time shall prevail and in the event of two notices being given on the same date, the first to be given shall prevail.
- (f) **No other redemption:** The Issuer shall not be entitled to redeem the Notes otherwise than as provided in Conditions 5(b) (*Redemption for tax reasons*) to 5(d) (*Redemption at the option of the Issuer*) above.
- (g) **Purchase:** The Issuer, the Guarantors or any of their respective Subsidiaries may at any time purchase Notes in the open market or otherwise and at any price.
- (h) **Cancellation:** All Notes so redeemed or purchased by the Issuer, the Guarantors or any of their respective Subsidiaries may be cancelled and any Notes so cancelled may not be reissued or resold.
- (i) **No duty to monitor:** None of the Trustee or any of the Agents shall be obliged to take any steps to ascertain whether a Potential Event of Default or Event of Default or Change of Control has occurred or to monitor the occurrence of any Potential Event of Default or Event of Default or Change of Control, and shall not be liable to the Noteholders or any other person for not doing so.
- (j) **Calculations:** Neither the Trustee nor any of the Agents shall be responsible for calculating or verifying the calculations of any amount payable under any notice of redemption or have a duty to verify the accuracy, validity and/or genuineness of any documents in relation to or in connection thereto and shall not be liable to the Noteholders or any other person for not doing so.

## 6 PAYMENTS

- (a) **Principal:** Payments of principal and premium (if any) shall be made by wire transfer to a U.S. dollar registered account maintained by the payee and (in the case of redemption) upon surrender (or, in the case of part payment only, endorsement) of the relevant Note Certificates at the Specified Office of any Paying Agent.
- (b) **Interest:** Payments of interest shall be made by wire transfer to a U.S. dollar registered account maintained by the payee and (in the case of interest payable on redemption) upon surrender (or, in the case of part payment only, endorsement) of the relevant Note Certificates at the Specified Office of any Paying Agent.

For the purposes of this Condition 6 (*Payments*), a Noteholder's "**registered account**" means the U.S. dollar account maintained by or on behalf of it with a bank, details of which appear on the Register at the close of business on the Record Date (as defined below).

*So long as the Global Note Certificate is held on behalf of Euroclear and Clearstream or any other clearing system, each payment in respect of the Global Note Certificate will be made to the person shown as the holder in the Register at the close of business of the relevant clearing system on the Clearing System Business Day before the due date for such payments, where “Clearing System Business Day” means a weekday (Monday to Friday, inclusive) except 25 December and 1 January.*

- (c) **Payments subject to fiscal laws:** All payments in respect of the Notes are subject in all cases to (i) any applicable fiscal or other laws and regulations in the place of payment, but without prejudice to the provisions of Condition 7 (*Taxation*) and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the “**Code**”) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or (without prejudice to the provisions of Condition 7 (*Taxation*)) any law implementing an intergovernmental approach thereto. No commissions or expenses shall be charged to the Noteholders in respect of such payments.
- (d) **Payments on business days:** Where payment is to be made by wire transfer to a U.S. dollar account, payment instructions (for value the due date, or, if the due date is not a business day, for value the next succeeding business day) will be initiated: (i) (in the case of payments of principal and premium (if any) and interest payable on redemption) on the later of the due date for payment and the day on which the relevant Note Certificate is surrendered (or, in the case of part payment only, endorsed) at the Specified Office of a Paying Agent and (ii) (in the case of payments of interest payable other than on redemption) on the due date for payment; and in either case of (i) and (ii), if the day is not a business day, the next business day. A Noteholder 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. In this paragraph, “**business day**” means any day other than a Saturday, a Sunday or a public holiday on which banks are open for general business (including dealings in foreign currencies) in New York City, Hong Kong and, in the case of surrender (or, in the case of part payment only, endorsement) of a Note Certificate, in the place in which the Note Certificate is surrendered (or, as the case may be, endorsed).
- (e) **Partial payments:** If the Principal Paying Agent makes a partial payment in respect of any Note, the Issuer shall procure that the amount and date of such payment are noted on the Register and, in the case of partial payment upon presentation of a Note Certificate, that a statement indicating the amount and the date of such payment is endorsed on the relevant Note Certificate.
- (f) **Record date:** Each payment in respect of a Note will be made to the person shown as the Holder in the Register at the close of business in the place of the Registrar’s Specified Office on the fifteenth day before the due date for such payment (the “**Record Date**”).

## 7 TAXATION

All payments of principal, premium (if any) and interest in respect of the Notes by or on behalf of the Issuer or any Guarantor shall be made free and clear of, and without set-off, or counterclaim and without withholding or deduction for or on account of, any present or future

taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of the British Virgin Islands, Hong Kong or any political subdivision thereof or any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or governmental charges is required by law. In that event the Issuer or (as the case may be) the relevant Guarantor shall pay such additional amounts as will result in receipt by the Noteholders after such withholding or deduction of such amounts as would have been received by them had no such withholding or deduction been required, except that no such additional amounts shall be payable in respect of any Note:

- (a) held by a Holder which is liable to such taxes, duties, assessments or governmental charges in respect of such Note by reason of its having some connection with the jurisdiction by which such taxes, duties, assessments or charges have been imposed, levied, collected, withheld or assessed other than the mere holding of the Note; or
- (b) where (in the case of a payment of principal or interest on redemption) the relevant Note Certificate is surrendered for payment more than 30 days after the Relevant Date except to the extent that the relevant Holder would have been entitled to such additional amounts if it had surrendered the relevant Note Certificate on the last day of such period of 30 days.

In these Conditions, “**Relevant Date**” means whichever is the later of (1) the date on which the payment in question first becomes due and (2) if the full amount payable has not been received in New York City by the Principal Paying Agent or the Trustee on or prior to such due date, the date on which (the full amount having been so received) notice to that effect has been given to the Noteholders.

Any reference in these Conditions to “**principal**” or “**interest**” shall be deemed to include any additional amounts in respect of principal or interest (as the case may be) which may be payable under this Condition 7 (*Taxation*) or any undertaking given in addition to or in substitution of this Condition 7 (*Taxation*) pursuant to the Trust Deed.

If the Issuer or any Guarantor becomes subject at any time to any taxing jurisdiction other than the British Virgin Islands or Hong Kong, references in these Conditions to the British Virgin Islands or Hong Kong shall be construed as references to the British Virgin Islands, Hong Kong and/or such other jurisdiction.

Neither the Trustee nor any Agent shall be responsible for paying any tax, duty, assessment, charges, withholding or other payment referred to in this Condition 7 (*Taxation*) or for determining whether such amounts are payable or the amount thereof, and none of them shall be responsible or liable for any failure by the Issuer, the Guarantors, any Noteholder or any third party to pay such tax, duty, assessment, charges, withholding or other payment in any jurisdiction or to provide any notice or information to the Trustee or any Agent that would permit, enable or facilitate the payment of any amount under or in respect of the Notes without deduction or withholding for or on account of any tax, duty, assessment, charges, withholding or other payment imposed by or in any jurisdiction.

## 8 EVENTS OF DEFAULT

If any of the following events (each, an “**Event of Default**”) occurs and is continuing, then the Trustee at its sole and absolute discretion may and, if so requested in writing by Holders of at least one quarter of the aggregate principal amount of the outstanding Notes or if so



directed by an Extraordinary Resolution, shall (subject to receipt of satisfactory security, indemnity and/or pre-funding by the Trustee) give written notice to the Issuer declaring the Notes to be immediately due and payable, whereupon they shall become immediately due and payable at their principal amount together with accrued interest without further action or formality:

- (a) **Non-payment when due:** the Issuer (i) fails to pay any amount of principal in respect of the Notes on the due date for payment thereof within 30 days of the due date for payment thereof, or (ii) fails to pay any amount of interest in respect of the Notes within 45 days of the due date for payment thereof (and for the avoidance of doubt and notwithstanding any other provision in these Conditions or in the Trust Deed, the deferral of any interest payment in accordance with Condition 4 (*Interest*) shall not constitute an Event of Default); or
- (b) **Breach of other obligations:** the Issuer or any Guarantor defaults in the performance or observance of any of its other obligations under or in respect of the Notes or the Trust Deed (other than where it gives rise to a right of redemption pursuant to Condition 5(c) (*Redemption for Change of Control*)) and such default (i) is incapable of remedy or (ii) being a default which is capable of remedy remains unremedied for 60 days after the Trustee has given written notice thereof to the Issuer and the Guarantors; or
- (c) **Unsatisfied judgment:** one or more judgment(s) or order(s) from which no further appeal or judicial review is permissible under applicable law for the payment of an amount in excess of U.S.\$50,000,000 (or its equivalent in any other currency or currencies), whether individually or in aggregate, is rendered against the Issuer, any Guarantor or any Material Subsidiary and continue(s) unsatisfied and unstayed for a period of 60 days after the date(s) thereof or, if later, the date therein specified for payment; or
- (d) **Security enforced:** a secured party takes possession, or a receiver, manager or other similar officer is appointed, of the whole or a substantial part of the undertaking, assets and revenues of the Issuer, any Guarantor or any Material Subsidiary and such possession or appointment continues for a period of 60 days after the date thereof; or
- (e) **Winding up, etc.:** (i) an order is made or an effective resolution is passed for the winding up, liquidation or dissolution of the Issuer, any Guarantor or any Material Subsidiary or (ii) the Issuer, any Guarantor or any Material Subsidiary ceases or threatens to cease to carry on all or any substantial part of its business (otherwise than, in the case of a Material Subsidiary (A) for the purposes of or pursuant to an amalgamation, reorganisation or restructuring (x) whilst solvent, (y) whereby the undertaking and assets of such Material Subsidiary are transferred to or otherwise vested in the Issuer, any Guarantor or any Subsidiary of any Guarantor, or (z) on terms approved by an Extraordinary Resolution of the Noteholders or (B) pursuant to a disposal of such Subsidiary or any of its assets on an arm's length basis where the assets (whether in cash or otherwise) resulting from such disposal is vested in the Issuer, any Guarantor or any Subsidiary of any Guarantor); or
- (f) **Analogous event:** any event occurs which under the laws of any relevant jurisdiction has an analogous effect to any of the events referred to in paragraphs (c) (*Unsatisfied judgment*) to (e) (*Winding up, etc.*) above; or

- (g) **Failure to take action, etc.:** any action, condition or thing at any time required to be taken, fulfilled or done in order (i) to enable the Issuer and the Guarantors lawfully to enter into, exercise their respective rights and perform and comply with their respective obligations under and in respect of the Notes and the Trust Deed, (ii) to ensure that those obligations are legal, valid, binding and enforceable and (iii) to make the Note Certificates and the Trust Deed admissible in evidence in the courts of the British Virgin Islands is not taken, fulfilled or done; or
- (h) **Unlawfulness:** it is or will become unlawful for the Issuer or any Guarantor to perform or comply with any of its obligations under or in respect of the Notes or the Trust Deed; or
- (i) **Guarantee not in force:** the Guarantee of the Notes is not (or is claimed by any Guarantor not to be) in full force and effect.

In these Conditions, “**Material Subsidiary**” means any Subsidiary of Fortune Joy:

- (a) whose gross revenue (consolidated in the case of a Subsidiary which itself has consolidated Subsidiaries) or whose gross assets (consolidated in the case of a Subsidiary which itself has consolidated Subsidiaries) represent not less than 5 per cent. of the consolidated gross revenue, or, as the case may be, the consolidated gross assets of Fortune Joy and its Subsidiaries taken as a whole, all as calculated respectively by reference to the latest audited or reviewed financial statements (consolidated or, as the case may be, unconsolidated) of the Subsidiary and the then latest audited or reviewed consolidated financial statements of Fortune Joy, provided that:
  - (i) in the case of a Subsidiary acquired after the end of the financial period to which the then latest audited or reviewed consolidated financial statements of Fortune Joy relate for the purpose of applying each of the foregoing tests, the reference to Fortune Joy’s latest audited or reviewed consolidated financial statements shall be deemed to be a reference to such audited or reviewed financial statements as if such Subsidiary had been shown therein by reference to its then latest relevant audited or reviewed financial statements, adjusted as deemed appropriate by the auditor for the time being, after consultation with the Fortune Joy;
  - (ii) if at any relevant time in relation to Fortune Joy or any Subsidiary no financial statements are prepared and audited, its gross revenue and gross assets (consolidated, if applicable) shall be determined on the basis of pro forma consolidated financial statements (consolidated, if applicable) prepared for this purpose; and
  - (iii) if the financial statements of any Subsidiary (not being a Subsidiary referred to in proviso (i) above) are not consolidated with those of Fortune Joy, then the determination of whether or not such Subsidiary is a Material Subsidiary shall be based on a pro forma consolidation of its financial statements (consolidated, if appropriate) with the consolidated financial statements (determined on the basis of the foregoing) of Fortune Joy; or
- (b) to which is transferred all or substantially all of the business, undertaking and assets of another Subsidiary which immediately prior to such transfer is a Material Subsidiary, whereupon (x) in the case of a transfer by a Material Subsidiary, the

transferor Material Subsidiary shall immediately cease to be a Material Subsidiary; and (y) the transferee Subsidiary shall immediately become a Material Subsidiary, provided that on or after the date on which the relevant financial statements for the financial period current at the date of such transfer are published, whether such transferor Subsidiary or such transferee Subsidiary is or is not a Material Subsidiary shall be determined pursuant to the provisions of sub-paragraph (a) above.

A certificate in English signed by an Authorised Signatory of Fortune Joy and addressed to the Trustee that in his/her opinion (making such adjustments (if any) as they shall deem appropriate) a Subsidiary is or is not or was or was not at any particular time or during any particular period a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on the Issuer, the Guarantors, the Trustee, the Agents and the Noteholders and the Trustee shall be entitled to conclusively rely upon each such certificate without further investigation or verification and without liability to the Noteholders or any other person for such reliance.

## **9 PRESCRIPTION**

Claims for principal and interest on redemption shall be prescribed and become void unless the relevant Note Certificates are surrendered for payment within ten years of the appropriate Relevant Date in the case of principal (or premium) and five years of the Relevant Date in the case of interest.

## **10 REPLACEMENT OF NOTE CERTIFICATES**

If any Note Certificate is lost, stolen, mutilated, defaced or destroyed, it may be replaced at the Specified Office of the Registrar or any Transfer Agent, subject to all applicable laws and stock exchange requirements or other relevant authority requirement, upon payment by the claimant of the fees, costs and expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity, pre-funding and otherwise as the Issuer, the Registrar or the relevant Transfer Agent (as the case may be) may reasonably require. Mutilated or defaced Note Certificates must be surrendered before replacements will be issued.

## **11 TRUSTEE AND AGENTS**

Under the Trust Deed, the Trustee is entitled to be indemnified and/or provided with security and/or pre-funded to its satisfaction and relieved from responsibility in certain circumstances, including without limitation provisions relieving it from taking proceedings to enforce repayment unless first indemnified and/or secured and/or pre-funded to its satisfaction, and to be paid its fees, costs, expenses, indemnity payments and other amounts in priority to the claims of the Noteholders. In addition, the Trustee (and its affiliates) and the Agents are entitled (i) to enter into business transactions with the Issuer, any Guarantor and/or any entity relating (directly or indirectly) to the Issuer or any Guarantor without accounting for any profit, and to act as trustee for the Holders of any other securities issued by or relating to, the Issuer and any entity related to the Issuer, (ii) to exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transactions or, as the case may be, any such trusteeship without regard to the interests of, or consequences for, the Noteholders and (iii) to retain and not be liable to account for any profit made or any other amount or benefit received thereby or in connection therewith.

None of the Trustee or any of the Agents shall be responsible for the performance (financial or otherwise) by the Issuer or the Guarantors and any other person appointed by the Issuer or the Guarantors in relation to the Notes of the duties and obligations on their part expressed in respect of the same and, unless it has written notice from the Issuer or the Guarantors to the contrary, the Trustee and each Agent shall assume that the same are being duly performed. None of the Trustee or any Agent shall be liable to the Issuer, the Guarantors, any Noteholder or any other person for any action taken by the Trustee or such Agent in accordance with the instructions of the Noteholders. The Trustee shall be entitled to rely on any direction, request or resolution of Noteholders given by Holders of the requisite principal amount of Notes outstanding or passed at a meeting of Noteholders convened and held in accordance with the Trust Deed. Neither the Trustee nor any of the Agents shall be under any obligation to monitor or ascertain whether any Event of Default or Potential Event of Default has occurred or monitor compliance by the Issuer or any Guarantor with the provisions of the Trust Deed or these Conditions and shall not be liable to Noteholders, the Issuer or the Guarantors or any other person for not doing so.

In the exercise of its powers, rights, functions, authorities and discretions under these Conditions and the Trust Deed, the Trustee will have regard to the interests of the Noteholders as a class and shall not have regard to the interest and will not be responsible for any consequence for individual Holders of Notes as a result of any circumstances particular to individual Holders of Notes, including but not limited to, such Holders being connected in any way with a particular territory or taxing jurisdiction.

The Trustee may rely, without liability to Noteholders, or act (or refraining from acting) on a report, confirmation, opinion or certificate or any advice of any lawyers, accountants, financial advisers, financial institution or any other expert, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee may accept and shall be entitled to conclusively rely (without liability and without further investigation or enquiry) or act (or refraining from acting) on any such report, confirmation, opinion or certificate or advice and such report, confirmation, opinion or certificate or advice shall be binding on the Issuer, the Guarantors and the Noteholders.

Each Noteholder shall be solely responsible for making and continuing to make its own independent appraisal and investigation into the financial condition, creditworthiness, condition, affairs, status and nature of the Issuer and/or the Guarantors, and the Trustee shall not at any time have any responsibility for the same and each Noteholder shall not rely on the Trustee in respect thereof. In acting under the Agency Agreement and in connection with the Notes, the Agents act solely as agents of the Issuer, the Guarantors and (to the extent provided therein) the Trustee and do not assume any obligations towards or relationship of agency or trust for or with any of the Noteholders.

In considering the interests of the Holders of Notes while title to the Notes is registered in the name of a nominee of the common depositary, the Trustee shall be entitled to conclusively rely upon and/or refer to any information made available to it by the clearing systems as to the identity (either individually or by category) of its participants or persons who hold interests through such participants with entitlements to such Notes and may consider such interests as if such accountholders were the Holders of such Notes. The Trustee may call for any certificate or other document to be issued by the relevant clearing system as to the principal amount of Notes evidenced by the Global Note Certificate standing to the account of any person. Any such certificate or other document shall be conclusive and

binding for all purposes. The Trustee shall not be liable to any Holder of the Notes, the Issuer, the Guarantors or any other person by reason of having accepted as valid or not having rejected any certificate or other document to such effect purporting to be issued by the relevant clearing system and subsequently found to be forged or not authentic or not to be correct.

The initial Agents and their initial Specified Offices are listed below. The Issuer and the Guarantors reserve the right (with the prior approval of the Trustee) at any time to vary or terminate the appointment of any Agent and to appoint a successor registrar or principal paying agent and additional or successor paying agents and transfer agents; *provided, however, that* the Issuer and the Guarantors shall at all times maintain a principal paying agent and a registrar.

Notice of any change in any of the Agents or in their Specified Offices shall promptly be given by the Issuer to the Noteholders and the Trustee (in accordance with Condition 14 (*Notices*)).

## **12 MEETINGS OF NOTEHOLDERS; MODIFICATION AND WAIVER; SUBSTITUTION**

- (a) **Meetings of Noteholders:** The Trust Deed contains provisions for convening meetings (including by way of teleconference or video conference call) of Noteholders to consider matters relating to the Notes, including the modification of any provision of these Conditions, the Trust Deed or the Agency Agreement. Any such modification may be made if sanctioned by an Extraordinary Resolution. Such a meeting may be convened by the Issuer or by the Trustee and shall be convened by the Trustee upon the request in writing of Noteholders holding not less than one-tenth of the aggregate principal amount of the outstanding Notes subject to the Trustee being indemnified and/or secured and/or pre-funded to its satisfaction by such Holders. The quorum at any meeting convened to vote on an Extraordinary Resolution will be two or more persons holding or representing one more than half of the aggregate principal amount of the outstanding Notes or, at any adjourned meeting, two or more persons being or representing Noteholders whatever the principal amount of the Notes held or represented; *provided, however, that* certain proposals (including any proposal to change any date fixed for payment of principal, premium or interest in respect of the Notes, to reduce the amount of principal, premium or interest payable on any date in respect of the Notes, to alter the method of calculating the amount of any payment in respect of the Notes on redemption or the date for any such payment, to effect the exchange, conversion or substitution of the Notes for, or the conversion of the Notes into, shares, notes or other obligations or securities of the Issuer, the Guarantors, or any other person or body corporate formed or to be formed, to change the currency of payments under the Notes, to amend the terms of the Guarantee of the Notes or to change the quorum requirements relating to meetings or the majority required to pass an Extraordinary Resolution (each, a **"Reserved Matter"**)) may only be sanctioned by an Extraordinary Resolution passed at a meeting of the Noteholders at which two or more persons holding or representing not less than three-quarters or, at any adjourned meeting, one quarter of the aggregate principal amount of the outstanding Notes form a quorum. Any Extraordinary Resolution duly passed at any such meeting shall be binding on all the Noteholders, whether present or not.

In addition, a resolution (i) in writing signed by or on behalf of the Noteholders, who for the time being are entitled to receive notice of a meeting of the Noteholders under the Trust Deed, holding not less than 75 per cent. in principal amount of the Notes outstanding, or (ii) passed by Electronic Consent (as defined in the Trust Deed) will take effect as if it were an Extraordinary Resolution. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Noteholders. A resolution passed in writing and/or by Electronic Consent will be binding on all Noteholders whether or not they participated in such resolution.

*So long as the Notes are represented by the Global Note Certificate, Extraordinary Resolution includes a consent given by way of electronic consents through the relevant clearing system(s) by or on behalf of all the Noteholders of not less than 75 per cent. in aggregate principal amount of the Notes for the time being outstanding.*

- (b) **Modification and waiver:** The Trustee may (but shall not be obliged to), without the consent of the Noteholders, agree to any modification of these Conditions, the Trust Deed or the Agency Agreement (other than in respect of a Reserved Matter) which is, in the sole and absolute opinion of the Trustee not be materially prejudicial to the interests of the Noteholders and to any modification of the Notes, the Trust Deed or the Agency Agreement which is of a formal, minor or technical nature or is to correct a manifest error or to comply with any mandatory provision of law or with any rule or procedure of the relevant clearing system. In addition, the Trustee may (but shall not be obliged to), without the consent of the Noteholders, authorise or waive any proposed breach or breach of the Notes, the Trust Deed or the Agency Agreement (other than a proposed breach or breach relating to the subject of a Reserved Matter) if, in the sole and absolute opinion of the Trustee, the interests of the Noteholders will not be materially prejudiced thereby.

Any such authorisation, waiver or modification shall be binding on the Noteholders and unless the Trustee agrees otherwise, any such authorisation, waiver or modification shall be notified by the Issuer to the Noteholders as soon as practicable thereafter.

- (c) **Substitution:** The Trust Deed contains provisions under which any Guarantor may, with the consent of the Noteholders, assume the obligations of the Issuer as principal debtor under the Trust Deed and the Notes provided that certain conditions specified in the Trust Deed are fulfilled.

No Noteholder shall, in connection with any substitution, be entitled to claim any indemnification or payment in respect of any tax consequence thereof for such Noteholder except to the extent provided for in Condition 7 (*Taxation*) (or any undertaking given in addition to or substitution for it pursuant to the provisions of the Trust Deed).

## 13 ENFORCEMENT

The Trustee may at any time, at its own sole and absolute discretion and without notice, take any such steps and/or actions and/or institute such proceedings against the Issuer or the Guarantors as it thinks fit to enforce its rights under the Trust Deed or the Agency Agreement in respect of the Notes, but it shall not be bound to do so unless:

- (a) it has been so requested in writing by the Holders of at least one quarter of the aggregate principal amount of the outstanding Notes or has been so directed by an Extraordinary Resolution; and
- (b) it has been indemnified and/or provided with security and/or pre-funding to its satisfaction.

The Trustee shall incur no liability to the Issuer, the Guarantors, the Noteholders or any other person for taking or refraining from taking such action. No Noteholder may proceed directly against the Issuer or any Guarantor unless the Trustee, having become bound to do so, fails to do so within a reasonable time and such failure is continuing.

## 14 NOTICES

Notices to the Noteholders will be sent to them by uninsured mail at their respective addresses on the Register. Any such notice shall be deemed to have been given on the fourth day (being a day other than a Saturday, a Sunday or a public holiday) after the date of mailing.

*Until such time as any definitive certificates are issued and so long as the Global Note Certificate is held on behalf of Euroclear and Clearstream, any notice to the Noteholders shall be validly given by the delivery of the relevant notice to Euroclear and Clearstream, for communication by the relevant clearing system to entitled accountholders in substitution for notification as required by the Conditions and shall be deemed to have been given on the date of delivery to such clearing system.*

## 15 GOVERNING LAW AND JURISDICTION

- (a) **Governing law:** The Notes, the Trust Deed and the Agency Agreement and any non-contractual obligations arising out of or in connection with the Notes, the Trust Deed and the Agency Agreement are governed by, and construed in accordance with, English law.
- (b) **Jurisdiction:** Each of the Issuer, the Guarantors and the Trustee has in the Trust Deed and the Agency Agreement (i) agreed that the courts of Hong Kong shall have exclusive jurisdiction to settle any dispute arising out of or in connection with the Notes, the Trust Deed or the Agency Agreement (including any non-contractual obligation arising out of or in connection therewith) and accordingly any legal action or proceedings arising out of or in connection with the Notes, the Trust Deed, the Agency Agreement may be brought in such courts (the “**Proceedings**”); (ii) agreed that those courts are the most appropriate and convenient courts to bring the Proceedings to and, accordingly, that it will not argue that any other courts are more appropriate or convenient; and (iii) to the extent that it may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process, and to the extent that in any such jurisdiction there may be attributed to itself or its assets or revenues such immunity (whether or not claimed), agreed not to claim and irrevocably waived such immunity to the full extent permitted by the laws of such jurisdiction.
- (c) **Service of Process:** Each of the Issuer and Fortune Joy has designated Sino-Ocean Capital Holding at Suite 601, One Pacific Place, 88 Queensway, Hong Kong to accept service of any process on its behalf in Hong Kong. If Sino-Ocean Capital Holding ceases to have a place of business in Hong Kong, it shall forthwith appoint

an agent to accept service of process in Hong Kong and deliver to the Principal Paying Agent a copy of the agent's acceptance of that appointment within 30 days of it ceasing to have a place of business in Hong Kong. Nothing herein shall affect the right to serve process in any other manner permitted by law.

- (d) **Waiver of Immunity:** Each of the Issuer and the Guarantors have waived any right to claim sovereign or other immunity from jurisdiction or execution and any similar defence, and have irrevocably consented to the giving of any relief or the issue of any process, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgement made or given in connection with any Proceedings.