

**Dated 7<sup>th</sup> April 2006**

**HAYWOOD INVESTMENTS LIMITED**

**and**

**XIYANG INTERENATIONAL LIMITED**

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**UNDERWRITING AGREEMENT**

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**MASON CHING & ASSOCIATES**  
**Lawyers**  
**1803, 18<sup>th</sup> Floor, World-Wide House**  
**19 Des Vocux Road, Central, Hong Kong**

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**DATE:** 7<sup>th</sup> April 2006

**PARTIES:**

- (1) **HAYWOOD INVESTMENTS LIMITED**, a company incorporated in the Cayman Islands whose registered office is situate at Uglan House, P.O. Box 309, George Town, Grand Cayman, Cayman Islands (the "**Company**"); and
- (2) **XIYANG INTERNATIONAL LIMITED**, a company incorporated in Hong Kong, whose registered office is at Suite 2206, Office Tower, Convention Plaza, 1 Harbour Road, Wan Chai, Hong Kong (the "**Underwriter**").

**RECITALS:**

- (A) As at the date hereof, the Company has an authorised share capital of HK\$10,000,000 divided into 400,000,000 Shares, of which 160,000,000 Shares have been issued and are fully paid up or credited as fully paid up and are listed and traded on the Stock Exchange.
- (B) Pursuant to a resolution of the board of directors of the Company passed on 7<sup>th</sup> April 2006, the Company is intending to offer the Offer Shares for subscription by the Qualifying Shareholders at the Subscription Price payable in full on acceptance and otherwise on the terms and subject to the conditions set out in this Agreement and the Open Offer Documents.
- (C) The offer of the Offer Shares for subscription as aforesaid will be made by the issue of the Open Offer Documents to the Qualifying Shareholders.
- (D) The Underwriter will, as at the Posting Date, beneficially own 42,710,400 Shares and has agreed irrevocably to accept and subscribe for its full entitlement to 21,355,200 Offer Shares under the Open Offer.
- (E) Application will be made to the Stock Exchange for the grant (subject to allotment) of listing of and permission to deal in the Offer Shares.
- (F) The Underwriter has agreed to underwrite the issue by the Company of the Offer Shares on the terms and subject to the conditions hereinafter set out.

**TERMS AGREED:**

**1. Definitions and Interpretation**

- 1.1 In this Agreement, where the context so admits, the following words and expressions shall have the following meanings:

**"Acceptance Date"**


10 July 2006 or such other date as the Underwriter may agree in writing with the



	Company;
<b>“Announcement”</b>	the press announcement by the Company to be dated on or about 21 April 2006 concerning the Open Offer, a final draft (subject to such amendments as the Company may consider appropriate) of which is attached hereto and marked “A” for identification purpose;
<b>“associate”</b>	the meaning attributed to it under the Listing Rules;
<b>“Business Day”</b>	any day on which banks are generally open for business in Hong Kong (excluding Saturday);
<b>“CCASS”</b>	the Central Clearing and Settlement System established and operated by Hong Kong Securities Clearing Company Limited;
<b>“Companies Law”</b>	the Companies Law (Cap.22) of the Cayman Islands;
<b>“Companies Ordinance”</b>	the Companies Ordinance (Chapter 32 of the Laws of Hong Kong);
<b>“Directors”</b>	the directors of the Company for the time being;
<b>“Group”</b>	the group of companies comprising the Company and its subsidiaries, and the expression <b>“member of the Group”</b> shall be construed accordingly;
<b>“HK\$”</b>	Hong Kong dollars;
<b>“Hong Kong”</b>	the Hong Kong Special Administrative Region of the PRC;
<b>“Independent Shareholders”</b>	the shareholders of the Company other than the Underwriter and its associates;
<b>“Listing Rules”</b>	The Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited;
<b>“Non-Qualifying Shareholders”</b>	those Shareholders whose addresses (as shown on the branch register of members of the Company in Hong Kong at the close of business on the Record Date) are outside

Hong Kong or who are persons to whom in the Directors' opinion, Offer Shares may not be offered without compliance with registration and/or other legal or regulatory requirements of a jurisdiction or jurisdictions outside of Hong Kong;

- "Offer Shares"** 80,000,000 Shares to be issued by the Company pursuant to the Open Offer as described in the Announcement, particulars of which are to be set out in the Open Offer Documents;
- "Open Offer"** the proposed offer of the Offer Shares at the Subscription Price on the terms and subject to the conditions contained in the Open Offer Documents and more particularly described in the Announcement;
- "Open Offer Documents"** the Open Offer Prospectus;
- "Open Offer Prospectus"** the prospectus to be despatched to Shareholders containing additional information relating to the Open Offer;
- "Posting Date"** 29 June 2006 or such later date as the Underwriter may agree with the Company;
- "PRC"** the People's Republic of China excluding for the purposes of this Agreement, Hong Kong, Taiwan and the Macau Special Administrative Region;
- "Qualifying Shareholders"** the Shareholders on the register of members of the Company at the close of business on the Record Date, other than the Non-Qualifying Shareholders;
- "Record Date"** 16 June 2006 or such other date as the Company may decide being the record date for determining the entitlement of Shareholders to participate in the Open Offer;
- "Registrar"** Secretaries Limited of Level 28, Three Pacific Place, 1 Queen's Road East, Hong Kong;
- "Settlement Date"** the date falling on the third Business Day after the Acceptance Date, or such later date as the Company may decide;



	Company may decide;
<b>"Shares"</b>	shares of HK\$0.0250 each in the capital of the Company;
<b>"Shareholders"</b>	the holders of Shares;
<b>"Stock Exchange"</b>	The Stock Exchange of Hong Kong Limited;
<b>"Subscription Price"</b>	the price of HK\$0.07 per Offer Share;
<b>"Underwritten Shares"</b>	all of the Offer Shares, other than the Offer Shares to be taken up by the Underwriter pursuant to the undertakings contained in Clause 5;
<b>"Verification Notes"</b>	the verification questions, in the agreed form, to be put by the Underwriter to the Directors and the Directors' answers thereto confirming the accuracy of the information contained in the Open Offer Prospectus; and
<b>"Warranties"</b>	the representations, warranties and undertakings set out in Clause 8.

- 1.2 In this Agreement the terms shall have the same meanings as respectively defined in the Announcement.
- 1.3 In this Agreement, reference to any ordinance or statute or provision of any ordinance or statute includes a reference to that ordinance or statute or provision as from time to time amended, extended or re-enacted.
- 1.4 In this Agreement, unless the context requires otherwise, words importing the singular include the plural and vice versa; references to any gender include all genders; references to persons include bodies corporate or unincorporate; references to this Agreement or any other agreement shall be construed as references to such document as the same may be amended or supplemented from time to time; references to Clauses, and recitals are to the clauses of and recitals to this Agreement. Clause headings are inserted for convenience only and shall be ignored in construing this Agreement.
- 1.5 Where any of the representations, warranties or undertakings contained herein are expressed to be given "so far as the Company is aware" or using some other similar expression, such representation, warranty or undertaking shall be deemed to have been made or given after the Company has made all reasonable enquiries relating to the subject matter of such representation, warranty or undertaking.

- 1.6 In this Agreement references to writing shall include any methods of producing or reproducing words in a legible and non-transitory form and references to times and/or dates are to Hong Kong times and/or dates.
- 1.7 Unless the context requires otherwise, words and expressions defined in the Companies Ordinance shall bear the same respective meanings when used in this Agreement.
- 1.8 References in this Agreement to any document being "**in the agreed form**" are to that document in the form agreed between the Underwriter and the Company (with such amendments and modifications (if any) as may be agreed between the Underwriter and the Company) and signed by or on behalf of the Underwriter and the Company for the purposes of identification.

## **2. Conditions**

- 2.1 The obligations of the Underwriter to subscribe for the Underwritten Shares pursuant to this Agreement are conditional upon the happening of the following events by no later than the dates and times (where relevant) specified below respectively (or, in each case, such later date or time as the Underwriter may agree in writing with the Company):
- 2.1.1 the issue and publication of the Announcement;
- 2.1.2 on or before the Posting Date, the Securities and Futures Commission granting a waiver ("**Whitewash Waiver**") in respect of any obligation on the Underwriter to make a general offer for the Shares or other securities of the Company under the Codes on Takeovers and Mergers and Share Repurchases as a result of the Underwriter subscribing for the Offer Shares hereunder;
- 2.1.3 on or before the Posting Date, the approval of the Whitewash Waiver by the Independent Shareholders at a general meeting of the Company;
- 2.1.4 on or before the Posting Date, the signing of 2 copies of each of the Open Offer Documents by or on behalf of each of the Directors and by the secretary of the Company and the delivery of such signed copies to the Stock Exchange;
- 2.1.5 on or before the Posting Date, the signing of 3 copies of each of the Open Offer Documents by or on behalf of each of the Directors in accordance with section 342C of the Companies Ordinance and the filing and registration of one such signed copy of each of the Open Offer Documents (together with all other documents required by section 342C of the Companies Ordinance to be attached thereto) with the Registrar of Companies in Hong Kong;
- 2.1.6 the posting on the Posting Date of the Open Offer Documents to the Qualifying Shareholders and of the letter referred to in Clause 3.3 to the Non-Qualifying Shareholders;
- 2.1.7 on or before the Posting Date, the Listing Committee of the Stock Exchange granting or agreeing to grant (subject to allotment), and not having revoked the

grant of, listing of and permission to deal in the Offer Shares, either unconditionally or subject to such conditions as are accepted by the Underwriter; and

- 2.1.8 compliance by the Company with its obligations under Clause 3.
- 2.2 The Company shall use its best endeavours to procure that the Listing Committee of the Stock Exchange shall grant (subject to allotment) permission to deal in and listing of the Offer Shares, either unconditionally or subject to such conditions as are accepted by the Underwriter.
- 2.3 The Company shall use its best endeavours to procure the fulfilment of the conditions set out in Clause 2.1 on or before the relevant dates and times specified therein (or, in each case, such later date or time as may be agreed in writing between the Underwriter and the Company pursuant to Clause 2.1).
- 2.4 If the conditions set out in Clause 2.1 are not fulfilled (or waived in whole or in part by the Underwriter, in its absolute discretion) by the relevant dates and times specified therein (or, in each case, such later date or time as the Underwriter may agree in writing with the Company pursuant to Clause 2.1), then all liabilities of the parties hereto will cease and determine and no party will have any claim against the others (except in respect of any antecedent breaches), save that the provisions of Clauses 8.2.3, 8.3, 8.4 and 8.5 shall continue in full force and effect.

### 3. The Offer Shares

Subject to the fulfilment (or waiver) of all of the conditions set out in Clause 2.1 (other than the conditions set out in Clause 2.1.8):

- 3.1 on or before the Posting Date, the Company shall offer the Offer Shares on and subject to the terms and conditions of the Open Offer Documents to the Qualifying Shareholders in the proportion of 1 Offer Share for every 2 Shares held on the Record Date, provided however that fractional entitlements will not be so offered but will be aggregated and dealt with as set out in Clause 3.2 and provided further that no Offer Shares will be offered to the Non-Qualifying Shareholders (the Offer Shares which, but for this proviso, would be offered to them being dealt with as set out in Clause 3.2), and the Company shall offer the Offer Shares to the Qualifying Shareholders at the Subscription Price by posting the Open Offer Documents to such Qualifying Shareholders by not later than the Posting Date, on the basis that payment for the Offer Shares shall be made in full on acceptance by not later than 4:00 p.m. on the Acceptance Date;
- 3.2 the Company shall provisionally allot the Offer Shares, which but for Clause 3.1 would be offered to the Non-Qualifying Shareholders, and Offer Shares created by the aggregation of fractions to a nominee of the Company and the Company shall procure that such nominee shall use its reasonable endeavours to sell such Offer Shares on the Stock Exchange as soon as practicable after dealings in the Offer Shares commence on the Stock Exchange at a net premium and, if and to the extent that such Shares can be so



sold, the nominee shall account to the Company for the net proceeds of sale (after deducting the expenses of sale, if any) on the basis that the net proceeds of sale after deducting the expenses of sale (if any) attributable to the sale of the Offer Shares which would otherwise have been offered to the Non-Qualifying Shareholders shall be distributed to the Non-Qualifying Shareholders pro rata to their respective entitlements in Hong Kong dollars, provided that any amount of less than HK\$100 payable to a Non-Qualifying Shareholder and the net proceeds attributable to the sale of the Offer Shares created by the aggregation of fractions shall be retained by the Company for its own benefit and provided further that any of such Shares which are not sold as aforesaid shall be dealt with as set out in Clause 3.4;

- 3.3 on the Posting Date, the Company shall procure that copies of a letter, in the agreed form, explaining the circumstances under which Non-Qualifying Shareholders are not permitted to participate in the Open Offer and summarising the expected effect of the Open Offer and the arrangements described in Clause 3.2, are despatched to the Non-Qualifying Shareholders; and
- 3.4 any Offer Shares allotted to a nominee pursuant to Clause 3.2 and representing the entitlements of the Non-Qualifying Shareholders or arising from the aggregation of fractional entitlements, which cannot be sold as mentioned in Clause 3.2, shall be offered at the Subscription Price, payable as aforesaid, to the Underwriter.

#### 4. Underwriting Procedure

- 4.1 Subject to the provisions of this Agreement and, in particular (but without limitation), to the provisions of Clauses 2, 5 and 9:
- 4.1.1 if and to the extent that by 4:00 p.m. on the Acceptance Date there shall remain any of the Underwritten Shares (including Underwritten Shares, which but for the second proviso to Clause 3.1 would have been offered to the Non-Qualifying Shareholders, and Underwritten Shares arising from the aggregation of fractional entitlements referred to in Clause 3.1) in respect of which valid acceptances of offer accompanied by remittances for the respective amounts payable on acceptance or application, have not by then been received by the Company (all of which said applications (provided they have been submitted in accordance with the terms and conditions set out in the Open Offer Documents) the Company irrevocably undertakes to the Underwriter to accept before calling upon the Underwriter to perform their obligations under this Clause 4.1.1), then the Underwriter shall subscribe for such shares in accordance with Clause 4.1.2 and on the terms of the Open Offer Documents (save as regards the time for acceptance and payment) and shall pay to the Company of the amount due on acceptance or application in respect thereof (less the amount of the underwriting commission, costs, fees and expenses payable to that Underwriter pursuant to Clause 10.1);
- 4.1.2 the Company shall keep the Underwriter regularly informed of the respective amounts of the Offer Shares validly accepted and validly applied for during the period up to 4:00 p.m. on the Acceptance Date and shall notify the Underwriter

in writing as soon as practicable thereafter (and in any event by no later than 4:00 p.m. on the Business Day following the Acceptance Date) of the total number of the Underwritten Shares (if any) in respect of which valid acceptances of offer accompanied by remittances for the respective amounts payable on acceptance or application, have not been received by the Company by 4:00 p.m. on the Acceptance Date and for which the Underwriter are called upon to subscribe under Clause 4.1.1 (hereinafter referred to as the **"Underwritten Shares not taken up"**). The Underwriter shall, subject as provided in this Agreement, subscribe as aforesaid for all the Underwritten Shares not taken up and shall pay the amount due on acceptance or application in respect thereof (less the amount of the underwriting commission, costs, fees and expenses payable to that Underwriter pursuant to Clause 10.1) (the **"Relevant Amount"**) by not later than 4:00 p.m. on whichever is the later of (i) the Settlement Date, and (ii) the second Business Day after the date on which the Underwriter receive notification as aforesaid.

- 4.2 The Company shall procure that the Underwritten Shares dealt with by the Underwriter as provided in Clauses 4.1.1 and 4.1.2 shall be duly allotted and issued, that the allottees of the Offer Shares are duly entered on the Register of Members of the Company in respect thereof and that fully paid certificates in respect thereof shall be issued in such names and in such denominations as the Underwriter may reasonably require and the same shall be delivered to the Underwriter or as it may direct as soon as practicable after receipt by the Company of payment in full of the Relevant Amount as aforesaid (or, in the case of applicants having accounts with CCASS participants, procure that the relevant Underwritten Shares be issued in the name of HKSCC Nominees Limited and deposited into CCASS for the credit of the stock account of the applicants' designated CCASS participants). Following such payment of the Relevant Amount as aforesaid, all obligations and liabilities of the Underwriter under this Agreement shall cease and determine.

## **5. Undertakings of the Underwriter**

- 5.1 The Underwriter hereby irrevocably and unconditionally represents, warrants and undertakes to and with the Company that:
- 5.1.1 it owns beneficially and will on the Record Date own beneficially 42,710,400 Shares;
- 5.1.2 it shall not, and shall procure that its associates shall not, within the period commencing on the date hereof and ending on the Settlement Date transfer or otherwise dispose of or create any rights in respect of any of the Shares in which it is beneficially interested or dispose of any interest in any shares in any company controlled by it which is beneficially interested in any of the Shares; and
- 5.1.3 subject to the Company despatching the Open Offer Documents to the Qualifying Shareholders and the letter referred to in Clause 3.3 to the Non-Qualifying Shareholders, it shall take up and pay for at or before 4:00 p.m.

on the Acceptance Date in accordance with the terms of the Open Offer Documents, 21,355,200 Offer Shares which will be offered to it pursuant to the Open Offer.

5.2 In the event that the Underwriter shall fail to comply with the undertakings given in sub-clause 5.1.3, the Underwriter hereby irrevocably authorises the Company:

5.2.1 to apply as agent for the Underwriter for all the Offer Shares to be offered to the Underwriter;

5.2.2 to allot and procure the issue of the Offer Shares falling to be issued pursuant to the applications under sub-clause 5.2.1 to the Underwriter and to procure the registration of the same in the name of the Underwriter;

and the Underwriter hereby irrevocably undertakes that it shall forthwith make payment in full to the Company for the said Offer Shares.

**6. Allotment and Issue of Offer Shares**

Without prejudice to Clause 4.2, the Company shall, on or as soon as practicable after the Acceptance Date, duly allot and issue (or confirm the allotment and issue of) the Offer Shares validly accepted or validly applied for and shall issue certificates for the Offer Shares to the respective subscribers in accordance with the terms of the Open Offer Documents (or, in the case of applicants having accounts with CCASS participants, procure that the relevant Offer Shares be issued in the name of HKSCC Nominees Limited and deposited into CCASS for the credit of the stock account of the applicants' designated CCASS participants). The Offer Shares shall, when issued and fully paid, rank pari passu in all respects with, and be identical to, the Shares then issue (including the right to receive all dividends and distributions which may be declared, made or paid after the date of issue of the Offer Shares).

**7. Undertakings by Company as to Delivery of Materials, Fees, Announcements, etc.**

7.1 The Company shall forthwith on execution of this Agreement deliver to the Underwriter:

7.1.1 one copy of the Announcement approved by the meeting referred to in sub-Clause 7.1.2 below; and

7.1.2 one copy (certified by one of the Directors) of the minutes of a meeting of the Directors approving the Announcement, authorising the entry by the Company into this Agreement and the publication of the Announcement, authorising the publication of the notice of the closure of the register of members of the Company.

7.2 The Company shall on or before the Posting Date deliver to the Underwriter evidence satisfactory to the Underwriter of the satisfaction of the conditions contained in Clause

2.1 (other than the conditions set out in sub-clause 2.1.7).

- 7.3 In relation to the issue of the Offer Shares, the Company shall pay all such fees, supply all such information, give all such undertakings, execute all such documents, make all such announcements and do all such things as may be required by applicable laws, rules and regulations and/or by the Listing Committee of the Stock Exchange.
- 7.4 Save as may be required by law or by the Listing Committee of the Stock Exchange or by the Securities and Futures Commission, the Company hereby undertakes to the Underwriter to procure that no announcement or circular by or on behalf of the Company which is or may be material in relation to the Open Offer shall be made or despatched during the period from the date hereof up to and including the Settlement Date without the prior approval of the Underwriter as to the contents thereof and the timing and manner of the making or despatch thereof and the Company shall take into account the requirements of the Underwriter in relation thereto.

**8. Representations, Warranties and Undertakings**

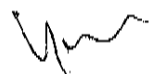
8.1 The Company hereby irrevocably and unconditionally represents, warrants and undertakes to and with the Underwriter that:

- 8.1.1 recitals (A) to (F) inclusive are true and accurate in all respects;
- 8.1.2 all information supplied by the Company in connection with the Announcement and the Open Offer is true and accurate in all respects and all information necessary for the purposes of the Open Offer Prospectus which ought to be or to have been disclosed or made available will be or was so disclosed or made available to the Underwriter and/or the auditors of the Company fully, fairly and accurately;
- 8.1.3 the Announcement contains and the Open Offer Documents will contain, all material particulars required to comply with all Hong Kong and Cayman Islands statutory and other provisions so far as applicable and the requirements of the Listing Rules and all statements of fact (including, without limitation, the statements relating to the indebtedness and the liquidity, financial resources and working capital of the Group) to be contained in the Announcement and the Open Offer Documents (other than those made by the Underwriter) will be true and accurate in all respects and will not be misleading in any respect and shall not be adverse to the success of the Open Offer and there are no facts known or which on reasonable enquiry could have been known to the Company which will not be disclosed in the Announcement or the Open Offer Documents and the omission of which could make any statement therein misleading or which in the context of the Open Offer are or are likely to be material for disclosure therein;
- 8.1.4 the statements and the expressions of opinion, intention and expectation to be contained in the Announcement, and the Open Offer Documents or in the documents referred to therein will be made after due and proper consideration,



will be fair and honest and will be based on facts known to the Directors and shall not contain anything materially adverse to the success of the Open Offer;

- 8.1.5 the Open Offer Documents will contain all material particulars required to comply with all applicable Hong Kong and Cayman Islands statutory provisions and the requirements of the Listing Rules and the issue of the Offer Shares in accordance with the terms and conditions of the Open Offer Documents will comply with the Companies Ordinance, the Companies Law and the requirements of the Listing Rules and all other relevant regulations in Hong Kong and the Cayman Islands and does not and will not involve any breach of or default under any agreement, trust deed or instrument to which any member of the Group is a party;
- 8.1.6 subject to fulfilment of the conditions as provided in Clause 2.1, the Company and the Directors have all necessary power to allot and issue the Offer Shares and to comply with their respective obligations under this Agreement and the Open Offer Documents without any sanction or consent being required from any member of the Company, and (subject as aforesaid) there are no other consents, authorisations or approvals required by the Company from the members of the Company or any third party for the entry into or performance of this Agreement;
- 8.1.7 the Company will have available sufficient Shares to permit the Offer Shares to be issued and to satisfy in full all rights to subscribe for new Shares then outstanding;
- 8.1.8 all the direct and indirect shareholding and other interests of each of the Directors and their associates in each member of the Group will be fully and accurately described in the Open Offer Documents in accordance with the Listing Rules and the relevant requirements under Cayman Islands and Hong Kong law;
- 8.1.9 the Group will have sufficient working capital for its present and its reasonably foreseeable future requirements having regard to existing banking facilities available and the proceeds of the Open Offer;
- 8.1.10 all subsisting material contracts entered into within two years of the date of the Open Offer Prospectus (other than contracts entered into in the ordinary course of business which are not material) by any member of the Group will be disclosed in the Open Offer Prospectus and no contracts (other than those so disclosed and those entered into in the ordinary course of business which are not material) which would be material for disclosure to an intending subscriber or underwriter of the Offer Shares will without the prior written consent of the Underwriter be entered into nor will the terms of any subsisting agreements be varied without the prior written consent of the Underwriter prior to the commencement of dealings in the fully paid Offer Shares;
- 8.1.11 the Company has the requisite power and authority to enter into and perform this Agreement and all agreements and other documents required to be executed



by it or him pursuant to the provisions of this Agreement and/or in connection with the Open Offer or any of them;

8.1.12 this Agreement constitutes and any other agreements and documents required to be executed by the Company pursuant to the provisions of this Agreement and/or in connection with the Open Offer or any of them will, when executed, constitute its or his legal, valid and binding obligations, enforceable in accordance with their respective terms;

8.1.13 the execution and delivery of, and the performance by the Company of its obligations under, this Agreement and any other agreements and documents required to be executed by it pursuant to the provisions of this Agreement and/or in connection with the Open Offer or any of them will not:

- (a) result in a breach of any provision in its memorandum or articles of association or equivalent constitutive documents;
- (b) result in a breach of, or constitute a default under, any instrument to which it is a party or by which it is bound;
- (c) result in a breach of any laws, rules or regulations to which it is a party or is subject or by which it is bound; or
- (d) except as referred to in Clause 2.1, require any approval from any governmental or regulatory body;

8.1.14 the Company will use its best endeavours to procure that the Underwriter be given the full benefit of all rights conferred on the Company pursuant to all and any agreements and documents to which the Company is or will be a party in connection with or any of them which are relevant to the Underwriter, including (if so requested by the Underwriter) the enforcement of any of the Company's rights against any other party to such agreements and/or documents or any of them.

8.1.15 The replies to the Verification Notes:

- (a) will be prepared or approved by persons having the requisite skill, knowledge and responsibility to enable them properly to provide such replies;
- (b) will be given in good faith; and
- (c) when taken together with any information contained or referred to therein will be true and accurate in all material respects and no material fact will be omitted.

8.2.1 The representations and warranties contained in Clause 8.1 are given as at the date hereof. In addition, the said representations and warranties shall be deemed to be given on and as at the Posting Date with respect (where relevant) to the

Open Offer Documents in their final form, and the said representations and warranties shall be deemed to be repeated on the Acceptance Date with reference to the facts and circumstances then subsisting. The Company irrevocably and unconditionally undertakes to notify the Underwriter of any matter or event coming to its or his or their attention at any time before the despatch of the Open Offer Documents and at or before 6:00 p.m. on the Settlement Date which shows any representation or warranty to be or to have been untrue, inaccurate or misleading.

8.2.2 Without prejudice to the provisions of Clause 9, if, before the despatch of the Open Offer Documents or at or before 6:00 p.m. on the Settlement Date any matter or event comes to the attention of the Company as a result of which any representation or warranty contained in Clause 8.1, if repeated immediately after the occurrence thereof, would be untrue or inaccurate or misleading in a respect which is material in the context of the Open Offer or which would or might render untrue, inaccurate or misleading in a respect which is material in the context of the Open Offer any statement, whether of fact or opinion, contained in the Open Offer Documents if the same were issued immediately after such occurrence, the Company shall forthwith notify the Underwriter, in which event the Company and the Underwriter shall forthwith consult each other with a view to agreeing what changes, if any, should be made to the Open Offer Documents or, if the Open Offer Documents have already been despatched, what announcement or circular, if any, should be made or despatched. The Company agrees not to make any such changes or announcements or despatch any such circular without the prior written consent of the Underwriter.

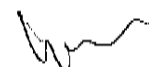
8.2.3 Any liability arising in respect of any breach of any of the representations, warranties and undertakings in this Clause 8 shall continue notwithstanding, and shall not be affected by, the completion of the subscription for and issue of the Offer Shares or the termination of this Agreement.

8.3 The Company shall accept full responsibility for the issue of the Offer Shares for the Open Offer Documents and for all claims and proceedings in relation thereto.

8.4 The Company shall not make any claim against the Underwriter to recover any losses, costs, expenses, liabilities or damages which the Company might suffer arising out of or in relation to the performance by the Underwriter of its obligations hereunder save to the extent that such losses, costs, expenses, liabilities or damages arise by reason of the gross negligence or wilful and material default or fraud of the Underwriter.

8.5 The undertakings and indemnities contained in this Agreement on the part of the Company shall to the extent that they have not been performed or satisfied in full continue in full force and effect notwithstanding completion of the Open Offer and all matters and arrangements referred to in or contemplated by this Agreement.

9. **Termination**



If at or prior to 4:00 p.m. on the Settlement Date:

- 9.1 there shall occur any of the following events which would, in the absolute opinion of the Underwriter, materially and adversely affect the business, financial or trading position or prospects of the Group as a whole or the success of the Open Offer or otherwise makes it inexpedient or inadvisable for the Company or the Underwriter to proceed with the Open Offer:
- 9.1.1 the introduction of any new law or regulation or any change in existing law or regulation or any material change in the judicial interpretation or application thereof or other occurrence of any nature whatsoever; or
- 9.1.2 the occurrence of any event, development or change (whether or not local, national or international or forming part of a series of events or changes occurring or continuing before, on and/or after the date of this Agreement and including an event or change in relation to or a development of an existing state if affairs) of a political, military, financial, regulatory, economic, currency or other nature (whether or not sui generis with any of the forgoing or in the nature of any local, national, or international, outbreak or escalation of hostilities or armed conflict) resulting in a material adverse change in, or which might reasonably be expected to result in a material adverse change in political, economic or stock market conditions, or
- 9.1.3 the imposition of any moratorium, suspension or material restriction on trading in securities generally on the Stock Exchange occurring due to exceptional financial circumstances; or
- 9.1.4 a change or development involving a prospective material change in taxation in Hong Kong or the implementation of exchange controls which shall or might materially adversely affect the Company; or
- 9.1.5 any material change in market conditions, taxation or exchange control or combination of circumstances in Hong Kong and the PRC (including without limitation suspension or material restriction on trading in securities); or
- 9.2 if the Underwriter shall receive notice of, or shall otherwise become aware of, the fact that any of the representations or warranties contained in this Agreement was, when given, untrue or inaccurate or would be untrue or inaccurate and the Underwriter shall, in its absolute opinion, determine that any such untrue representation or warranty represents or is likely to represent a material adverse change in the business, financial or trading position or prospects of the Group taken as a whole or is otherwise likely to have a materially prejudicial effect on the Open Offer; or
- 9.3 any change occurs in the circumstances of the Company or any member of the Group which would materially and adversely affect the business, financial or trading position or prospects of the Group as a whole; or
- 9.4 the Company commits any breach of or omits to observe any of the obligations or undertakings expressed to be assumed by it under this Agreement which breach or omission would have a material and adverse effect on the business, financial or trading



position of the Group as a whole; or

- 9.5 there shall occur any event, or series of events, beyond the control of the Underwriter (including, without limitation, acts of government, strike, lock-outs, fire, explosion, flooding, civil commotion, acts of war, acts of terrorism or acts of God) which, in the absolute opinion of the Underwriter, have or would have the effect of making any part of this Agreement (including underwriting) incapable of performance in accordance with its terms or which prevents the processing of applications and/or payments pursuant to the Open Offer or pursuant to the underwriting thereof or which have or is likely to have a material prejudicial effect on the Open Offer,

then and in any such case the Underwriter may by notice in writing to the Company given at any time before 4:00 p.m. on the Settlement Date terminate (save as specified below) this Agreement and thereupon all obligations of the Underwriter shall cease and determine, in which event the Company shall not have any claim against the Underwriter for compensation, costs, damage or otherwise, provided that the Company shall thereupon forthwith give instructions to the Registrar to return all moneys received from subscribers for the Offer Shares and provided further that the provisions of Clauses 8.2.3, 8.3, 8.4 and 8.5 shall continue in full force and effect and all costs, charges and expenses which have been incurred by the Underwriter and their respective legal advisers in connection with the Open Offer referred to in Clause 10.2 shall still be borne and paid by the Company.

## 10. Expenses

- 10.1 The Company shall pay, or as appropriate reimburse to the Underwriter, all costs, charges and expenses howsoever incurred of or incidental to the issue of the Offer Shares and the arrangements hereby contemplated, including but not limited to translation charges, capital duty, the fees and disbursements of the Underwriter's legal advisers in respect of the negotiation and preparation of this Agreement and the documents referred to herein and any matters incidental thereto. The Underwriter shall be at liberty to deduct the full amount such costs, fees and expenses incurred by it from the amount of any subscription moneys payable by it pursuant to Clause 4.
- 10.2 The Company shall pay to the Underwriter in accordance with Clauses 10.1 to the extent that the same have not been deducted in accordance with Clause 10.1 or the terms of the registrars agreement from the subscription monies (if any) payable by the Underwriter all costs, charges and expenses as soon as reasonably practicable.
- 10.3 The Company agrees that remittances received with acceptances of offer ("**application monies**") shall be retained in one or more separate bank accounts in the name of the Company pursuant to the terms of the registrars agreement to be entered into between the Company and the Registrar and that, in accordance with the terms of the registrars agreement, there shall be deducted from such application monies (if the same have not already been deducted pursuant to Clause 10.1) an amount equal to the estimate (as Underwriter and the Company may agree) of the costs, charges and expenses referred to in Clause 10.1 which amount shall be paid to the Underwriter in accordance with this Agreement and the registrars agreement.



- 10.4 In the event that this Agreement is terminated pursuant to Clause 9, or if any of the conditions referred to in Clause 2.1 is not satisfied before the due date or waived, the Company shall continue to be responsible for payment of the amounts referred to in Clause 10.1 on demand, so far as the same have been incurred.

11. **Notices**

Any notice or other communication to be given under this Agreement shall be in writing in the English language and be given by personal delivery or facsimile or by sending it by registered post and shall, subject as provided below, be deemed to have been given when delivered (if given by hand), when despatched with confirmed receipt as evidenced by the transmission report generated at the end of the transmission of such facsimile by the facsimile machine used for such transmission (if given by facsimile) or 48 hours after posting (if given by registered post). Any notice received (or deemed to be received) on a day which is not a Business Day or after 5:00 p.m. on any day shall be deemed to be received at 9:00 a.m. on the next Business Day. Each notice or other communication which is personally delivered or sent by facsimile or by post shall be delivered or sent to the appropriate address specified below:

If to the Company : Haywood Investments Limited  
Unit 2206, 22<sup>nd</sup> Floor  
Office Tower, Convention Plaza  
No.1 Harbour Road, Wanchai  
Hong Kong  
Attention : Mr. Yul Phang, Executive Director  
Facsimile No. : (852) 3579-4140

If to the Underwriter : Xiyang International Limited  
Unit 2206, 22<sup>nd</sup> Floor  
Office Tower, Convention Plaza  
No.1 Harbour Road, Wanchai  
Hong Kong  
Attention : Ms. Huang Song, Executive Director  
Facsimile No. : (852) 2367-1682

12. **Time of the Essence**

Time shall be of the essence of this Agreement, both as regards the times, dates and periods mentioned herein and as to any times, dates or periods which may, by agreement in writing between the parties hereto, be substituted for them.

13. **Waiver**

No failure or delay by the Underwriter in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise



of the same preclude any further exercise thereof or the exercise of any other right, power or remedy. Without limiting the foregoing, no waiver by the Underwriter of any breach by any other party of any provision hereof shall be deemed to be a waiver of any subsequent breach of that or any other provision hereof.

**14. Invalidity**

If any provision or part of a provision of this Agreement or its application to any party, shall be, or be found by any authority of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions of this Agreement, all of which shall remain in full force and effect.

**15. Successors and Assigns**

15.1 This Agreement shall be binding on and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

15.2 The benefit of the representations, warranties and undertakings contained in this Agreement may be assigned in whole or in part by the Underwriter and the Underwriter shall be entitled to engage and appoint sub-underwriters and sub-agents on such terms as it sees fit. Save as aforesaid none of the parties hereto may assign or transfer or purport to assign or transfer any of its rights or obligations under this Agreement.

**16. Entire Agreement**

This Agreement (together with any documents referred to herein) constitutes the whole agreement between the parties hereto and it is expressly declared that no variations hereof shall be effective unless made in writing.

**17. Counterparts**

This Agreement may be entered into on separate counterparts, each of which when so executed and delivered shall be an original but all the counterparts shall together constitute one and the same instrument and shall take effect from the time of execution of the last counterpart.

**18. Governing Law and Jurisdiction**

18.1 This Agreement is governed by and shall be construed in accordance with the laws of Hong Kong and all the parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of the Hong Kong courts for the purpose of enforcing any claim arising hereunder but this Agreement may be enforced in any court of competent jurisdiction.

**IN WITNESS** whereof this Agreement has been entered into by the parties hereto the day and year first above written.

SIGNED by Mr. Phang Yul Cher Yeow  
for and on behalf of  
**HAYWOOD INVESTMENTS LIMITED**  
the presence of:-

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SIGNED by Ms. Huang Song  
for and on behalf of  
**XIYANG INTERNAIONAL LIMITED**  
the presence of:-

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