

DATED

22nd NOVEMBER 2011

**LONDON ASIA CAPITAL PLC**

**DB CONSULTANTS LIMITED**

**DAVID BUCHLER**

and

**SIR JEREMY HANLEY**

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**CONSULTANCY AGREEMENT**

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**ROSENBERG SOLICITORS**

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Ref: NFP/LON22-3



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**THIS AGREEMENT** is made as a **DEED** on

2011

**BETWEEN**

- (1) **LONDON ASIA CAPITAL PLC**, a company incorporated and registered in England and Wales with number 03784771 whose registered office is at 35 Piccadilly, London W1J 0DW (the “**Company**”);
- (2) **DB CONSULTANTS LIMITED**, a company incorporated and registered in England and Wales with number 04824053 whose registered office is at 6 Grosvenor Street, London W1K 4PZ (the “**Consultant Company**”);
- (3) **DAVID BUCHLER** of c/o DB Consultants Limited, 6 Grosvenor Street, London W1K 4PZ (“**DB**”); and
- (4) **SIR JEREMY HANLEY** of c/o DB Consultants Limited, 6 Grosvenor Street, London W1K 4PZ (“**JH**” and together with DB the “**Individuals**” and each an “**Individual**”).

**BACKGROUND**

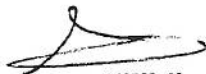
- (A) The Company has a number of investments, with the Zhongying Interest believed to represent approximately 58% of the Company’s net asset value.
- (B) As from February 2011, the Company adopted a strategy to realise its investments in China and elsewhere.
- (C) The Consultant Company works with and has access to Sir Jeremy Hanley, who has extensive contacts with Chinese officials and businessmen, and David Buchler, who has extensive experience of company reorganisations and realisations of assets.
- (D) The Company wishes to engage the Consultant Company on the terms of this agreement to gain access to the experience and contacts of the Individuals, and has appointed the Individuals to the Board, with a view to substantially increasing the value of the Company by resolving the impasse in relation to the Zhongying Interest and otherwise to realise the Company’s assets.
- (E) To assist the Company’s cashflow, the Consultant Company and the Individuals agreed to forego any retainer, provided that they are given every opportunity to achieve the fees provided for in this Agreement.

IT IS AGREED as follows:

**1. INTERPRETATION**


1.1 The definitions and rules of interpretation in this clause apply in this agreement, including the Background and Schedules (unless the context requires otherwise):

“**acting in concert**” has the meaning given in the Takeover Code;  
“**Accounts Realisation**” has the meaning given in clause 4.1;

  
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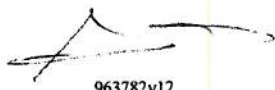
<b>“Actual Realisation”</b>	consideration received by or on behalf of any Group Company on the sale or other disposal, by whatever means and whether in one or a series of transactions, of any asset or any interest in any asset (including for the avoidance of doubt the Zhongying Interest);
<b>“Board”</b>	the board of directors of the Company (including any committee of the board duly appointed by it);
<b>“Capacity”</b>	as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity;
<b>“Company Property”</b>	all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the business or affairs of the Company or its customers and business contacts, and any equipment, keys, hardware or software provided for the Consultant Company or the use of the Individuals by the Company during the Engagement, and any data or documents (including copies) produced, maintained or stored by the Consultant Company or the Individuals on the computer systems or other electronic equipment of the Company, the Consultant Company or the Individuals during the Engagement;
<b>“Confidential Information”</b>	information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of the Company for the time being confidential to the Company and trade secrets including, without limitation, technical data and know-how relating to the business of the Company or any of its suppliers, customers, agents, distributors, shareholders, management or business contacts, including (but not limited to) information that the Consultant Company or the Individuals create, develop, receive or obtain in connection with this Engagement, whether or not such information (if in anything other than oral form) is marked confidential;
<b>“Discounted Value”</b>	has the meaning given in clause 7.8;
<b>“Dispute”</b>	has the meaning given in clause 7.6 and clause 7.20;
<b>“Engagement”</b>	the engagement of the Consultant Company by the Company on the terms of this agreement;
<b>“Expert”</b>	has the meaning given in clause 7.6 and clause 7.20;
<b>“Fee Shares”</b>	has the meaning given in clause 7.2 and clause 7.16;
<b>“Group Company”</b>	any of the Company and its Group Undertakings from time to time;

  
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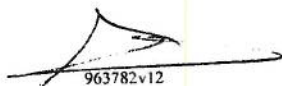


<b>“Group Undertaking”</b>	has the meaning given in section 1161 of the Companies Act 2006;
<b>“Incapacitated”</b>	in relation to an Individual, that Individual becoming unable to perform all or any part of the Services, whether by reason of illness, accident or otherwise;
<b>“Objection Notice”</b>	has the meaning given in clause 7.5 and clause 7.19;
<b>“Offer Value”</b>	<p>the offer price per share (including any deferred elements) under a Relevant Takeover Offer multiplied by the fully diluted number of shares in the Company (in each case as at the Unconditional Date) and provided that:</p> <ul style="list-style-type: none"> <li>(a) if the offer consideration consists of or includes unquoted paper consideration (within the meaning of the Takeover Code) the unquoted paper consideration shall be valued at the estimated value set out in the last circular from the offeror; and</li> <li>(b) if the offer consideration consists of or includes quoted securities, the quoted securities shall be valued at the mid-market closing price on the trading day immediately before the Unconditional Date; and</li> <li>(c) if the Company’s shareholders can elect to receive the offer consideration entirely in cash, the offer consideration shall be deemed to be solely cash;</li> </ul>
<b>“Realisation Services”</b>	the services described in Part 1 of the Schedule;
<b>“Relevant Accounts Realisation Fee”</b>	has the meaning given in clause 7.16;
<b>“Relevant Fee”</b>	has the meaning given in clause 7.2;
<b>“Relevant Shareholding”</b>	has the meaning given in clause 7.8;
<b>“Relevant Takeover Offer”</b>	a Takeover Offer that (i) in the case of a Takeover Offer that is implemented by way of a contractual offer, is declared or becomes unconditional in all respects or (ii) in the case of a Takeover Offer that is implemented by way of a scheme of arrangement, is approved by the Court;




<b>“Removal Resolution”</b>	(i) the passing of a resolution or resolutions under section 168 of the Companies Act 2006 which results in either or both of the Individuals ceasing to be a director of the Company; or (ii) the failure to pass a resolution or resolutions to reappoint either or both of the Individuals as a director of the Company where either or both have retired by rotation under the Company’s articles of association and offered himself or themselves for reappointment at a general meeting of the Company;
<b>“Removal Resolution Services”</b>	the services described in Part 3 of the Schedule;
<b>“Rule 2.5 Announcement”</b>	an announcement of a firm intention to make a Takeover Offer (as provided in Rule 2.5 of the Takeover Code) released by the offeror;
<b>“Services”</b>	the Realisation Services, the Takeover Services and the Removal Resolution Services;
<b>“Statement of Fee Shares”</b>	has the meaning given in clause 7.2 and clause 7.16;
<b>“Substitute Consultancy Agreement”</b>	has the meaning given in clause 12;
<b>“Substitute Consultant Company”</b>	has the meaning given in clause 12;
<b>“Takeover Code”</b>	the City Code on Takeovers and Mergers as from time to time published by the Panel on Takeovers and Mergers;
<b>“Takeover Offer”</b>	an offer for the entire issued and to be issued share capital of the Company, whether to be implemented by way of a contractual offer or a scheme of arrangement;
<b>“Takeover Services”</b>	the services described in Part 2 of the Schedule;
<b>“Termination Date”</b>	the date of termination of this agreement, however arising;
<b>“Unconditional Date”</b>	the date on which a Relevant Takeover Offer (i) is declared or becomes unconditional in all respects, in the case of a Takeover Offer that is implemented by way of a contractual offer or (ii) is approved by the Court, in the case of a Takeover Offer that is implemented by way of a scheme of arrangement;
<b>“Zhongying”</b>	Zhongying Changjiang Credit International Guarantee Co., Ltd., a company incorporated and registered in China;
<b>“Zhongying Interest”</b>	the Company’s interest in Zhongying.

1.2 The headings in this agreement are inserted for convenience only and shall not affect its construction.



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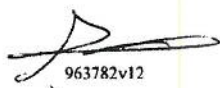
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.6 Any words following the terms “including”, “include”, “in particular” or any similar expression shall be construed as being by way of illustration and emphasis only and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.7 The Schedule forms part of this agreement and will have the same force and effect as if set out in the body of this agreement.

## **2. TERM OF ENGAGEMENT**

- 2.1 The Company shall engage the Consultant Company and the Consultant Company shall provide, and shall (where relevant) make available to the Company the Individuals to provide, the Services on the terms of this agreement.
- 2.2 The Engagement commenced on 14 April 2011 and shall continue unless and until terminated:
- (a) as provided by the terms of this agreement; or
  - (b) by the Consultant Company or the Company giving the other not less than 12 months' prior written notice.

## **3. DUTIES**

- 3.1 During the Engagement the Consultant Company shall and (where appropriate) shall procure that (unless Incapacitated) the Individuals shall:
- (a) provide the Services with all due care, skill and ability and use its or their reasonable endeavours to promote the interests of the Company;
  - (b) provide the Services in accordance with all applicable laws (provided that the Consultant Company and the Individuals will not be obliged to comply with their respective obligations under this agreement or any direction of the Company where to do so would place it or him in breach of any applicable laws); and
  - (c) devote all such time and effort as may reasonably be required to provide the Services.
- 3.2 The Consultant Company shall make available to the Company all those of its resources that may reasonably be required to provide the Services.
- 3.3 The Individuals shall be available at all times on reasonable notice to give to the Board

  
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all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services.

- 3.4 If an Individual becomes Incapacitated the Consultant Company shall advise the Company of that fact as soon as reasonably practicable.

#### **4. FEES FOR REALISATION SERVICES**

- 4.1 For the purposes of this agreement, an “**Accounts Realisation**” occurs when the Board resolves (at a properly convened and quorate meeting) that the Zhongying Interest has become capable of being sold or otherwise realised and value for shareholders can be obtained (but it shall not be necessary for the Zhongying Interest to be sold or realised for an Accounts Realisation to occur). If a fee is paid for such an Accounts Realisation no fee shall be paid for an Actual Realisation of the Zhongying Interest in the event of a cash realisation at a later date. The amount of the Accounts Realisation shall be the value attributed to the Zhongying Interest in the first audited accounts of the Company to be prepared following the Accounts Realisation (whether or not annual accounts).

- 4.2 The Company shall pay fees to the Consultant Company in respect of the Realisation Services as set out in this clause 4 and clause 7.

- 4.3 The fees payable by the Company shall be equal to the following percentages of the value of all Actual Realisations and Accounts Realisations:

- (a) 5% of aggregate Actual Realisations and Accounts Realisations up to and including £7,000,000 (but not including the £2,800,000 available to the Company at the commencement of the Engagement);
- (b) 10% of aggregate Actual Realisations and Accounts Realisations over £7,000,000 and up to and including £15,000,000; and
- (c) 15% of aggregate Actual Realisations and Accounts Realisations over £15,000,000.

- 4.4 If an Actual Realisation is received in a currency other than GBP that Actual Realisation shall be deemed to be such amount of GBP as could have been purchased at the spot exchange rate of HSBC Bank plc for purchases of GBP with that currency at the close of business in London on the date that the Actual Realisation was received by or on behalf of the Company.

- 4.5 The Company shall pay the fees due to the Consultant Company pursuant to clauses 4.2 and 4.3 within the following time periods:

- (a) in the case of each Actual Realisation in respect of which a fee is payable, no later than 14 days after receipt by or on behalf of the Company of the consideration in respect of that Actual Realisation; and
- (b) in the case of an Accounts Realisation in respect of which a fee is payable, no later than 14 days after the signing on the Board's behalf of the first audited accounts (whether or not annual accounts) prepared after occurrence of the Accounts Realisation.



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- 4.6 If during the 12 months following the date that the Engagement terminates as a result of notice given by the Company pursuant to clause 2.2(b):
- (a) then no fees will be payable to the Consultant Company under clause 4 on the Company's cash balances amounting to the sum of £2,800,000 less the expenses of the Company incurred in the ordinary course of business since the date of commencement of the Engagement (as set out in clause 2.2);
  - (b) the Company concludes a transaction with any person (or any person controlling, controlled by or under common control of any such person) who before such termination was introduced by the Consultant Company and such transaction leads to an Actual Realisation, whether during or after expiry of such 12 month period, the Consultant Company shall be entitled to fees pursuant to clause 4.2 in respect of each such transaction; and
  - (c) an Accounts Realisation occurs, the Consultant Company shall be entitled to a fee pursuant to clause 4.2.

## **5. FEES FOR TAKEOVER SERVICES**

- 5.1 The Company shall pay the Consultant Company fees in respect of the Takeover Services as set out in this clause 5 and clause 7.
- 5.2 The Company shall pay the Consultant Company a fee of £150,000 in respect of each Individual who performs the Takeover Services on behalf of the Company in respect of each Rule 2.5 Announcement that is released.
- 5.3 The Company shall pay the Consultant Company fees equal to the following percentages of the Offer Value of a Relevant Takeover Offer:
- (a) 5% of Offer Value over the sum equal to £2,800,000 less the expenses of the Company incurred in the ordinary course of business since the date of commencement of the Engagement (as set out in clause 2.2) and up to and including £7,000,000;
  - (b) 10% of Offer Value over £7,000,000 and up to £15,000,000; and
  - (c) 15% of Offer Value over £15,000,000,
- less the amount of any fee paid pursuant to clause 5.2 in respect of that Relevant Takeover Offer.
- 5.4 The Company shall pay the Consultant Company a fee of £150,000 in respect of each Individual who performs the Takeover Services on behalf of the Company if:
- (a) any person acquires, whether by a series of transactions over a period of time or not, an interest in shares which (taken together with shares in which persons acting in concert with him are interested) carry 30% or more of the voting rights of the Company; or

- (b) any person, who together with persons acting in concert with him, is interested in shares which in the aggregate carry not less than 30% of the voting rights of the Company and such person, or any person acting in concert with him, acquires an interest in any other shares in the Company which increases the percentage of shares carrying voting rights in which he or such person is interested.
- 5.5 For the avoidance of doubt, no fee shall be payable under both of clauses 5.2 and 5.4 in respect of the same circumstances.
- 5.6 The Company shall pay the relevant fees to the Consultant Company:
  - (a) in the case of fees due pursuant to clause 5.2, no later than seven days after release of the relevant Rule 2.5 Announcement;
  - (b) in the case of fees due pursuant to clause 5.3, immediately on the Relevant Takeover Offer (i) being declared or becoming unconditional in all respects, in the case of a Relevant Takeover Offer that is implemented by way of a contractual offer or (ii) being approved by the Court, in the case of a Relevant Takeover Offer that is implemented by way of a scheme of arrangement; and
  - (c) in the case of fees due pursuant to clause 5.4, no later than seven days after the later of the relevant event occurring or the Board becoming aware of the occurrence of the relevant event.
- 5.7 If during the 12 months following the date that the Engagement terminates as a result of notice given by the Company pursuant to clause 2.2(b):
  - (a) any Rule 2.5 Announcements are released, then the Consultant Company shall be entitled to fees pursuant to clause 5.2;
  - (b) a Relevant Takeover Offer occurs, then the Consultant Company shall be entitled to a fee pursuant to clause 5.3;
  - (c) any of the events specified in clause 5.4 occurs, then the Consultant Company shall be entitled to fees pursuant to that clause.

## **6. FURTHER FEES**

- 6.1 The Company shall pay the Consultant Company fees in respect of the Removal Resolution Services at such commercial rates as the Company and the Consultancy Company may from time to time agree.
- 6.2 If, following a Removal Resolution, passed other than in circumstances in which the Consultant Company or the Individuals are in material breach of their obligations hereunder, in the reasonable opinion of the Consultant Company, it and/or the Individuals cannot provide any one or more elements of the Services, the Consultant Company shall be entitled to terminate this Agreement on five days' notice to the Company, in which event, the Company shall promptly pay the Consultant Company a fee of £200,000 (together with any other fees payable on the termination of this Agreement) less any fees paid to the Consultancy Company pursuant to clause 6.1.



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- 6.3 The Company accepts that such fee (together with any other fee payable on termination of this Agreement) represents a genuine pre-estimate of the loss likely to be suffered by the Consultant Company as a result of being deprived of the opportunity to earn a fee for Realisation Services or Takeover Services.

## 7. FURTHER FEE PROVISIONS

- 7.1 All fees payable under this agreement shall be exclusive of VAT.
- 7.2 At its option, the Consultant Company may request that all or any part of any fee due and payable to it is satisfied by the issue of new ordinary shares in the Company ("**Fee Shares**"). Such request shall be made in writing to the Company and shall specify the amount of the fee to be so satisfied (the "**Relevant Fee**") and the number of Fee Shares that the Consultant Company considers should be issued in satisfaction of the Relevant Fee (a "**Statement of Fee Shares**").
- 7.3 The Company shall notify the Consultant Company in writing within seven days of receipt of the Statement of Fee Shares whether or not it accepts it.
- 7.4 If the Company accepts the Statement of Fee Shares (or fails to notify the Consultant Company in writing before expiry of the seven day period that it does not accept it) it shall issue the relevant number of Fee Shares to the Consultant Company (or as it may direct) as soon as reasonably practicable and in any event within 21 days of the Company's receipt of the Statement of Fee Shares.
- 7.5 If the Company notifies the Consultant Company in writing that it does not accept the Statement of Fee Shares (an "**Objection Notice**"), the parties shall use their respective reasonable efforts to agree the appropriate number of Fee Shares.
- 7.6 If the parties fail to agree the appropriate number of Fee Shares within seven days of the Consultant Company's receipt of the Objection Notice (such failure to agree being a "**Dispute**"), the Dispute shall be referred for decision to an independent chartered account (the "**Expert**").
- 7.7 The Expert shall be appointed jointly by the Company and the Consultant Company within seven days of the Dispute arising or, failing such joint appointment, by the President for the time being of the Institute of Chartered Accountants in England and Wales (who shall be authorised to agree the Expert's terms of engagement) on the application of either party.
- 7.8 The Expert shall determine the number of Fee Shares to be issued to the Consultant Company in satisfaction of the Relevant Fee on the following basis:
- (a) the Expert shall first determine the fair value of an ordinary share in the Company on the basis that:
    - (i) the value of each ordinary share is that proportion of the fair value of the entire issued ordinary share capital of the Company that one ordinary share bears to the then total issued ordinary share capital of the Company;




- (ii) the sale of the whole of the ordinary share capital of the Company is taking place on the date that the Statement of Fee Shares was served on the Company; and
    - (iii) if the Company was then carrying on its business as a going concern, on the assumption that it shall continue to do so;
  - (b) the Expert shall then determine the number of ordinary shares in the Company that, if they were issued at fair value as so determined, would be required to be issued to the Consultant Company in satisfaction of the Relevant Fee (being the number equal to the Relevant Fee divided by the fair value of an ordinary share so determined) (the “**Relevant Shareholding**”);
  - (c) if the Relevant Shareholding constitutes a minority holding, the Expert shall then determine:
    - (i) the market value of the Relevant Shareholding, applying a discount for the size of the Relevant Shareholding; and
    - (ii) the market value of each share in the Relevant Shareholding so discounted (being the discounted market value of the whole of the Relevant Shareholding divided by the number of ordinary shares constituting the Relevant Shareholding) (the “**Discounted Value**”);
  - (d) the Expert shall then determine the number of Fee Shares to be issued to the Consultant Company in satisfaction of the Relevant Fee, which shall be the Relevant Fee divided by the Discounted Value.
- 7.9 The parties shall use their reasonable efforts to procure that the Expert shall deliver his written determination to the parties within 21 days of his appointment.
- 7.10 The parties shall each provide the Expert with all information relating to the Company which the Expert reasonably requires and the Expert shall be entitled (to the extent he considers appropriate) to base his determination on such information and on the accounting and other records of the Company. The Expert shall have regard only to such events, matters and facts as shall have occurred by the date of his appointment.
- 7.11 The Expert shall act as expert and not arbitrator and the Company shall bear the costs and expenses of the Expert.
- 7.12 The Expert’s determination as to the fair value of an ordinary share in the Company and the number of Fee Shares to be issued to the Consultant Company in satisfaction of the Relevant Fee shall (in the absence of manifest error) be binding on the Company, but not the Consultant Company.
- 7.13 The Consultant Company shall notify the Company in writing within seven days of receipt of the Expert’s written determination whether or not it accepts it.
- 7.14 If the Consultant Company accepts the Expert’s determination (or fails to notify the Company in writing before expiry of the seven day period that it does not accept it), the Consultant Company shall be deemed to have directed the Company to use the Relevant

  
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Fee in subscribing for the number of Fee Shares determined by the Expert and the Company shall as soon as reasonably practicable and in any event within 21 days of the Company's receipt of the Expert's determination issue to the Consultant Company (or as it may direct) such number of Fee Shares, credited as fully paid and free from all encumbrances and such Fee Shares shall rank pari passu in all respects with the existing ordinary shares in the Company.

- 7.15 If the Consultant Company notifies the Company in writing that it does not accept the Expert's determination, the Company shall pay the Relevant Fee in cash to the Consultant Company on the business day following such notification.
- 7.16 At its option, the Company may request that all or any part of the fee due and payable to the Consultant Company in respect of an Accounts Realisation is satisfied by the issue of new ordinary shares in the Company (also "**Fee Shares**"). Such request shall be made in writing to the Consultant Company and shall specify the amount of the fee to be so satisfied (the "**Relevant Accounts Realisation Fee**") and the number of Fee Shares that the Company considers should be issued in satisfaction of the Relevant Accounts Realisation Fee (also a "**Statement of Fee Shares**").
- 7.17 The Consultant Company shall notify the Company in writing within seven days of receipt of the Statement of Fee Shares whether or not it accepts it.
- 7.18 If the Consultant Company accepts the Statement of Fee Shares (or fails to notify the Company in writing before expiry of the seven day period that it does not accept it) the Company shall issue the relevant number of Fee Shares to the Consultant Company (or as it may direct) as soon as reasonably practicable and in any event within 21 days of the Consultant Company's receipt of the Statement of Fee Shares.
- 7.19 If the Consultant Company notifies the Company in writing that it does not accept the Statement of Fee Shares (also an "**Objection Notice**"), the parties shall use their respective reasonable efforts to agree the appropriate number of Fee Shares.
- 7.20 If the parties fail to agree the appropriate number of Fee Shares within seven days of the Company's receipt of the Objection Notice (such failure to agree also a "**Dispute**"), the Dispute shall be referred for decision to an independent chartered account (also the "**Expert**") and clauses 7.7 to 7.12 and clause 7.14 shall apply mutatis mutandis except that the Expert's determination as to the fair value of an ordinary share in the Company and the number of Fee Shares to be issued to the Consultant Company in satisfaction of the Relevant Accounts Realisation Fee shall (in the absence of manifest error) be binding on both parties.
- 7.21 The Company's obligation to issue Fee Shares pursuant to this clause 7 shall be subject to the Board having shareholder authority to allot and issue the relevant number of Fee Shares. The Company undertakes that it shall use its reasonable efforts to ensure that it maintains from time to time sufficient shareholder authority to satisfy, without first having to offer the same to any existing shareholders of the Company or any other person, any obligation to issue Fee Shares that the Company considers, in good faith, may be likely to arise.
- 7.22 Payment in full or in part of the fees or any expenses claimed under this agreement shall be without prejudice to any claims or rights of the Company against the Consultant

  
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Company or the Individuals in respect of the provision of the Services.

**8. EXPENSES**

- 8.1 The Company shall reimburse the Consultant Company on a monthly basis for all expenses properly incurred by the Consultant Company and/or the Individuals in the course of carrying out the Engagement and the Services (including all travelling, hotel and other expenses) subject to production of receipts or other appropriate evidence of payment.
- 8.2 If an Individual is required to travel abroad in the course of the Engagement, the Consultant Company shall be responsible for any necessary insurances, inoculations and immigration requirements.

**9. OTHER ACTIVITIES**

Nothing in this agreement shall prevent the Consultant Company, its officers, employees or agents or the Individuals from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the Engagement provided that such activity does not cause a breach of any of the Consultant Company's or the Individuals' obligations under this agreement.

**10. DIRECTORSHIPS**

Each Individual undertakes to the Company that if the agreement is terminated he shall promptly resign from his office as a director of the Company and any subsidiaries of the Company and irrevocably waive and release any claim or right of action of any kind outstanding for compensation or otherwise against the Company or any subsidiaries of the Company or any of its or their respective officers or employees in respect of the termination of such office.

**11. CONFIDENTIAL INFORMATION AND COMPANY PROPERTY**

- 11.1 The Consultant Company and the Individuals acknowledges that in the course of the Engagement it and they will have access to Confidential Information. The Consultant Company and the Individuals have therefore agreed to accept the restrictions in this clause 11.
- 11.2 None of the Consultant Company and the Individuals shall (except in the proper course of its or their duties), either during the Engagement or at any time after the Termination Date, use or disclose to any third party (and shall use its best endeavours to prevent the publication and disclosure of) any Confidential Information. This restriction does not apply to:
- (a) any use or disclosure authorised by the Company or required by law or regulation; or
  - (b) any information which is already in, or comes into, the public domain otherwise than through the Consultant Company's or the Individuals' unauthorised disclosure.



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- 11.3 At any stage during the Engagement, the Consultant Company and the Individuals will promptly on request return to the Company all and any Company Property in its or their possession.

## **12. SUBSTITUTION OF CONSULTANCY COMPANY**

The Company undertakes to the Consultant Company and each of the Individuals that if the Consultant Company notifies the Company in writing that it wishes to transfer the obligation to provide the Services of either or both of the Individuals to one or two other consultant companies (a “**Substitute Consultant Company**”) then:

- (a) the Company shall enter into an agreement with the Substitute Consultant Company or Substitute Consultant Companies, as relevant, on the same terms as this agreement, provided that if a Substitute Consultant Company shall provide the Services of only one of the Individuals the fees payable to that Substitute Consultant Company pursuant to any of clauses 4, 5 and 6 shall be one-half of the fees specified in those clauses in this agreement (a “**Substitute Consultancy Agreement**”); and
- (b) if the Services of both Individuals are to be provided by another Substitute Consultant Company or Substitute Consultant Companies, as relevant, this agreement shall terminate on the relevant parties entering into the relevant Substitute Consultancy Agreements; or
- (c) if the Consultant Company will carry on providing the Services of one of the Individuals, the fees payable to the Consultant Company pursuant to clauses 4, 5 and 6 shall be reduced by one-half and this agreement shall be amended accordingly.

## **13. TERMINATION**

- 13.1 Notwithstanding the provisions of clause 2.2, the Consultant Company may terminate the Engagement with immediate effect without notice and without liability on its part if at any time:

- (a) the Consultant Company and/or the Individuals do not as a result of any act or omission of the Company or any of its subsidiary undertakings have access to any information or personnel that is reasonably required for them to be able to provide any one or more elements of the Services (and the parties agree that the Consultant Company may, in its absolute discretion, treat a Removal Resolution as having that effect thereby entitling it to terminate the Engagement under this clause 13.1(a));
- (b) the Company commits any serious or repeated breach or non-observance of any of the provisions of this agreement;
- (c) the Company makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to the Company;

- (d) the Company or any officer or senior employee of the Company (other than the Individual) commits any fraud or dishonesty or acts in any manner which in the reasonable opinion of the Consultant Company brings or is likely to bring the Individual, the Consultant Company or the Company into disrepute or is materially adverse to the interests of the Consultant Company or the Individual; or
- (e) the Company commits any offence under the Bribery Act 2010.

13.2 If the Consultant Company terminates the Engagement under clause 13.1, or if the Company terminates the Engagement under clause 13.3(a), the Company shall promptly on such termination pay the Consultant Company a fee of £300,000 which fee (together with any other fee payable on the termination of this Agreement) represents a genuine pre-estimate of the loss likely to be suffered by the Consultant Company as a result of being deprived of the opportunity to earn a fee for Realisation Services or Takeover Services.

13.3 Notwithstanding the provisions of clause 2.2, the Company may terminate the Engagement with immediate effect without notice and without liability on its part (other than to pay amounts accrued before the Termination Date and subject always to clauses 4.6, 5.7, and 13.2) if at any time:

- (a) following a Removal Resolution, in the reasonable opinion of the Company, the Consultant Company and/or the Individuals cannot provide any one or more elements of the Services;
- (b) the Consultant Company or either of the Individuals commits any gross misconduct affecting the business of the Company;
- (c) the Consultant Company or either of the Individuals commits any serious or repeated breach or non-observance of any of the provisions of this agreement or refuses or neglects to comply with any reasonable and lawful directions of the Board;
- (d) either of the Individuals is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);
- (e) the Consultant Company or either of the Individuals is, in the reasonable opinion of the Board, negligent or incompetent in the performance of the Services;
- (f) either of the Individuals is declared bankrupt or makes any arrangement with or for the benefit of his creditors or has a county court administration order made against him under the County Court Act 1984;
- (g) the Consultant Company makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to the Consultant Company;

  
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- (h) either of the Individuals is Incapacitated for an aggregate period of 120 days in any 52 week consecutive period;
- (i) the Consultant Company or either of the Individual commits any fraud or dishonesty or acts in any manner which in the reasonable opinion of the Board brings or is likely to bring the Individual, the Consultant Company or the Company into disrepute or is materially adverse to the interests of the Company; or
- (j) the Consultant Company or either of the Individuals commits any offence under the Bribery Act 2010.

13.4 The rights of the Company under clause 13.3 are without prejudice to any other rights that it might have at law to terminate the Engagement or to accept any breach of this agreement on the part of the Consultant Company as having brought the agreement to an end. Any delay by the Company in exercising its rights to terminate shall not constitute a waiver of these rights.

#### **14. OBLIGATIONS ON TERMINATION**

On the Termination Date the Consultant Company and the Individuals shall:

- (a) immediately deliver to the Company all Company Property which is in its or their possession or under its or their control; and
- (b) delete any information relating to the business of the Company stored on any magnetic or optical disk or memory and all matter derived from such sources which is in its or their possession or under its or their control outside the premises of the Company.

#### **15. STATUS**

- 15.1 The relationship of the Consultant Company (and the Individuals) to the Company will be that of independent contractor and nothing in this agreement shall render it (nor the Individuals) an employee, worker, agent or partner of the Company and neither the Consultant Company nor the Individuals shall hold itself or themselves out as such.
- 15.2 This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant Company shall:
  - (a) be fully responsible for any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by the Individuals in respect of the Services; and
  - (b) indemnify the Company against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Company in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Company's negligence or wilful default.



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## 16. NOTICES

- 16.1 Any notice given under this agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at its registered office for the time being. Any such notice shall be deemed to have been received:
- (a) if delivered personally, at the time of delivery; and
  - (b) in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting.
- 16.2 In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post.

## 17. ENTIRE AGREEMENT

Each party on behalf of itself (and, in the case of the Company, as agent for any Group Companies) acknowledges and agrees with the other party (the Company acting on behalf of itself and as agent for each Group Company) that:

- (a) this agreement (and any appointment letters or directorship agreements between the Company and the Individuals) constitute the entire agreement and understanding between the Consultant Company, the Individuals and the Company and supersede any previous agreement between them relating to the Engagement (which shall be deemed to have been terminated by mutual consent);
- (b) in entering into this agreement no party nor any Group Company has relied on any pre-contractual statement; and
- (c) the only remedy available to it or him or arising out of or in connection with any pre-contractual statement shall be for breach of contract. Nothing in this agreement shall, however, operate to limit or exclude any liability for fraud.

## 18. VARIATION

No variation of this agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

## 19. SEVERANCE

- 19.1 If any provision of this agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.



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**20. COUNTERPARTS**

This agreement may be executed in any number of counterparts, each of which, when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument.

**21. THIRD PARTY RIGHTS**


- 21.1 Subject to clause 21.2, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement but this does not affect any right or remedy of a third party which exists, or is available, apart from under that Act.
- 21.2 Clause 12 is intended to benefit a Substitute Consultant Company and shall be enforceable by it to the fullest extent permitted by law.

**22. INDEMNITY**

- 22.1 The Company covenants with the Consultant Company that it will indemnify and keep it indemnified against all losses, liabilities, costs, damages, or expenses (including, without limitation, reasonable legal and other professional fees and costs) which may be suffered or incurred by the Consultant Company in connection with enforcing its rights under this agreement, provided that this indemnity shall not apply where (a) the Consultant Company is in breach of this Agreement and such breach is continuing or (b) payment or satisfaction by the Company of the rights in question would be unlawful.
- 22.2 The Company covenants with the Consultant Company and the Individuals that it will indemnify and keep them indemnified against all losses, liabilities, costs, damages, or expenses (including, without limitation, reasonable legal and other professional fees and costs) which may be suffered or incurred by any of them in connection with any claim made by a third party arising in the course of the Consultant Company or the Individuals providing the Services under this Agreement, provided always that this indemnity shall not apply in respect of (and to the extent of) any negligence or wilful default or breach of this Agreement (and such breach is continuing) of or by the Consultant Company or any negligence, wilful default or breach of duty by the Individuals.
- 22.3 Each of the Consultant Company and the Individuals warrants, on a several basis, to the Company that on the date of this Agreement it or he has no actual awareness of any circumstances that will or might reasonably be expected to lead to it or him making a claim under the indemnity in clause 22.2.

**23. COSTS**

The Company shall pay the reasonable and proper costs of the Consultant Company and the Individuals (including legal fees) in the preparation and completion of this Agreement, including its subsequent variation.



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**24. GOVERNING LAW AND JURISDICTION**

- 24.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 24.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.



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## **Schedule**

### **Part 1**

#### **The Realisation Services**

The Consultant Company shall provide the following services with a view to achieving Actual Realisations in respect of the Company's asset and/or an Accounts Realisation, as soon as reasonably practicable and consistent with increasing quantum:

1. (subject to an Individual not ceasing to be a director pursuant to the Company's articles of association or section 168 of the Companies Act 2006) making the Individuals available to act as directors of the Company;
2. reviewing the Zhongying Interest and its terms;
3. preparing proposals for the Board with a view to optimising the value attributed to the Zhongying Interest;
4. assisting with identifying potential buyers of the Company's assets and, subject to the Board's approval, approaching and dealing with such potential buyers and in conjunction with the Company's advisers negotiating and managing any ensuing sale; and
5. making the Individuals available to attend meetings and site visits as required (provided for the avoidance of doubt that expenses properly incurred by the Individuals in attending such meetings and site visits shall be reimbursed in accordance with clause 8).

### **Part 2**

#### **The Takeover Services**

If the Board has reason to believe that a Takeover Offer may be imminent, and during the course of a Takeover Offer, the Consultant Company shall provide such of the following services in relation to the anticipated or actual Takeover Offer as may be relevant depending on whether or not the Takeover Offer is recommended by the Board:

1. generally providing assistance and advice with respect to: defining objectives in relation to the Takeover Offer; considering the likely valuation of the Company; dealing with the bidder; and the defence against and structuring, negotiating and managing the Takeover Offer;
2. advising on the preparation and presentation of financial and other information, whether to be provided to a recommended bidder or included in a defence document;
3. advising the Board during the negotiation process with a view to optimising the offer price and form of consideration and agreeing other key issues;




4. in conjunction with the Board and the Company's lawyers and other advisers, managing the legal process and any due diligence process;
5. providing independent corporate finance advice in relation to the Takeover Offer;
6. assisting in the drafting of any necessary documents issued in connection with the Takeover Offer;
7. providing general project management and co-ordination of all aspects of the Takeover Offer; and
8. providing other assistance as may reasonable be required either to cause the Takeover Offer to be withdrawn or to become a Relevant Takeover Offer.

### **Part 3**

#### **The Removal Resolution Services**

If the Company receives notice of a resolution or resolutions under section 168 of the Companies Act 2006 to remove one or more members of the Board, the Consultant Company shall generally provide assistance and advice with a view to defeating the proposed resolution or resolutions or having it or them withdrawn.

If a resolution or resolutions are proposed to reappoint one or more members of the Board who have retired by rotation under the Company's articles of association and offered himself or themselves for reappointment at a general meeting of the Company, the Consultant Company shall generally provide assistance and advice with a view to the resolution or resolutions being passed.



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