

**EXECUTION VERSION**

Dated 17 September 2010

**LEHMAN BROTHERS COMMERCIAL CORPORATION ASIA LIMITED  
(IN LIQUIDATION)**

and

**CHINA PRIMARY RESOURCES HOLDINGS LIMITED**

and

**THE LIQUIDATORS**

**DEED OF SETTLEMENT**

relating to

**HK\$246,250,000 4.5% Convertible Bonds Due 31 October 2010**

**Linklaters**

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Hong Kong

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Ref L-159996

A12202072

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This Deed of Settlement ("Deed") is made on 17 September 2010 between:

- (1) **LEHMAN BROTHERS COMMERCIAL CORPORATION ASIA LIMITED** (In Liquidation) a company incorporated in Hong Kong and whose registered office is at 8/F Prince's Building, 10 Chater Road, Central, Hong Kong (the "**Bondholder**");
- (2) **CHINA PRIMARY RESOURCES HOLDINGS LIMITED** a company incorporated in the Cayman Islands whose registered office is at Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the "**Company**"); and
- (3) **PAUL JEREMY BROUGH, EDWARD SIMON MIDDLETON AND PATRICK COWLEY** of 8/F, Prince's Building, 10 Chater Road, Central, Hong Kong, as joint and several liquidators of the Bondholder (the "**Liquidators**").

### Background

- (A) The Liquidators were appointed to act as joint and several provisional liquidators of the Bondholder on 19 September 2008 by order of the Court of First Instance of the Hong Kong Special Administrative Region made in Companies (Winding-Up) Proceedings HCCW 441/2008 on 19 September 2008.
- (B) The Liquidators were appointed to act as joint and several liquidators of the Bondholder on 20 March 2009 by order of the Court of First Instance of the Hong Kong Special Administrative Region made in Companies (Winding-Up) Proceedings HCCW 441/2008 on 20 March 2009.
- (C) On 31 October 2007, the Company issued to the Bondholder HK\$246,250,000 of 4.5% coupon convertible bonds due 31 October 2010 pursuant to the terms and conditions dated 31 October 2007 (the "**Bonds**").
- (D) By a conditional agreement dated 9 April 2010 entered into among Yichang Shoukong Industries Co., Limited (a wholly-owned subsidiary of the Company) and Shougang Holdings Limited Liability Company, the parties thereto agreed on matters, among others, relating to (i) the proposed disposal of a 12.21% interest in the registered capital of Xin Shougang Zi Yuan Holdings Limited (the "**Disposal**") and (ii) the proposed repurchase and cancellation of the 2,802,235,294 preferred shares of HK\$0.00125 each in the share capital of the Company (the "**Repurchase Shares**") by the Company from Great Ocean Real Estate Limited (the "**Share Repurchase**"). The aggregate consideration payable for the Disposal and the Share Repurchase is HK\$314,800,000 (comprising HK\$25,340,000 in cash and HK\$289,460,000 by the transfer of the Repurchase Shares to the Company for cancellation). Pursuant to clause 6.2 of the Subscription Agreement dated 17 June 2007 between the Company, Future Advance Holdings Limited and the Bondholder (the "**Subscription Agreement**"), the Company is required to obtain the written consent of the Bondholder prior to the Disposal. As at the date of this Deed, the Bondholder has not given its consent.
- (E) Subject to the terms and conditions of this Deed, the Bondholder has agreed to a redemption of the Bonds and to consent to the Disposal.

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It is agreed as follows:

### 1 Interpretation

1.1 In this Deed (including its Recitals), the following words and expressions have the meanings respectively set opposite them:

**"Affiliate"** means, with reference to any person, any other person Controlling, Controlled by or under common Control with such person;

**"ARIA LLC"** means ARIA LLC, a Foreign Incorporated Company established under the laws of Mongolia;

**"Business Day"** means a day which is not a Saturday, a Sunday or a public holiday in Hong Kong or London;

**"Consent"** means a consent to the Disposal executed by the Bondholder in a form substantially set out in Schedule 1;

**"Control"** means, in relation to a person, where another person (or persons acting in concert) has or obtains direct or indirect control of more than 50 per cent. of the total voting rights or, direct or indirect, control of the power to direct or cause the direction of the management of that person. For these purposes, **"persons acting in concert"**, in relation to a person, are persons who actively co-operate through holding or acquiring shares in that person, pursuant to an agreement or understanding, with a view to obtaining or consolidating control of that person;

**"Deed of Undertaking"** means a deed to be entered into between the Parties in form and substance satisfactory to both the Bondholder and the Company, the material terms of which are set out in Schedule 2;

**"Encumbrance"** means any mortgage, pledge, lien, option, power of sale, right of pre-emption or security interest of any kind or any other claim against a proprietary right;

**"First Payment Amount"** means the amount of HK\$9,500,000;

**"Group Companies"** means the Company and the Subsidiaries and **"Group Company"** means any one of them;

**"HK\$"** means Hong Kong Dollars, the currency of Hong Kong;

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

**"Liabilities"** means all liabilities, duties and obligations of every description, whether arising from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or unascertained or disputed and whether owed or incurred severally or jointly or as principal or surety;

**"Licence"** means the mining licence # 10278A issued by the Minerals Resources Authority of Mongolia to ARIA LLC;

**"Long-stop Date"** means 31 October 2011 or such later date as may be agreed between the Bondholder and the Company (each of whom shall not unreasonably refuse to agree to an extension of such date) on or before 31 October 2011;

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**"Losses"** means all judgments, fines, penalties, losses, liabilities, costs (including legal costs and experts' and consultants' fees), charges, expenses, actions, proceedings, claims and demands;

**"Material Adverse Change"** means, in the sole and absolute opinion of the Bondholder, a material adverse change on: (a) the business, operations, assets, prospects or financial condition of the Mongolian Assets; (b) the ability of the Company to perform its payment or any other material obligations under this Deed; or (c) the validity or enforceability of this Deed;

**"Mongolian Assets"** means the entire issued share capital of Zhong Ping Resources Holdings Limited, the holder of a 70% equity investment in ARIA LLC or, at the sole and absolute discretion of the Bondholder, all of the assets held directly or indirectly by Zhong Ping Resources Holdings Limited;

**"Party"** means any of the parties to this Deed and **"Parties"** shall be construed accordingly;

**"Release"** means the redemption of the Bonds in accordance with Clause 5;

**"Release Date"** means the date on which the Release occurs;

**"Second Payment Amount"** means the amount of HK\$75,500,000;

**"Shares"** means the ordinary shares of nominal value HK\$1.00 each in the share capital of Zhong Ping Resources Holdings Limited, or shares of any class or classes resulting from any subdivision, consolidation or re-classification of those shares, which as between themselves have no preference in respect of dividends or of amounts payable in the event of voluntary or involuntary liquidation or dissolution of Zhong Ping Resources Holdings Limited;

**"Subsidiaries"** means Zhong Ping Resources Holdings Limited and ARIA LLC and **"Subsidiary"** means any one of them;

**"Tax"** means any and all applicable tax or taxes (including, but not limited to, any value added tax, sales tax, income tax, or business tax, stamp or other duty, levy, impost, charge, fee, deduction, penalty or withholding imposed, levied, collected or assessed) and includes any interest thereon;

**"Tax Authority"** means any taxing or other authority competent to impose any liability in respect of Tax or responsible for the administration and/or collection of Tax or enforcement of any law in relation to Tax; and

**"Transaction Documents"** means this Deed, the Deed of Undertaking and all documents entered into pursuant to or in connection with this Deed.

### 1.2 Singular, plural, gender

References to one gender include all genders and references to the singular include the plural and vice versa.

### 1.3 References to persons and companies

References to:

- 1.3.1 a person include any company, partnership or unincorporated association (whether or not having separate legal personality); and

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1.3.2 a company shall include any company, corporation or any body corporate, wherever incorporated.

### **1.4 Schedules etc.**

References to this Deed shall include any Recitals and Schedules to it and references to Clauses and Schedules are to Clauses of, and Schedules to, this Deed. References to paragraphs and Parts are to paragraphs and Parts of the Schedules.

### **1.5 Headings**

Headings shall be ignored in interpreting this Deed.

### **1.6 Construction**

1.6.1 In this Deed a reference to:

- (i) a "**claim**" includes any claim, demand, action or proceeding of any kind, actual or contingent;
- (ii) "**books**", "**records**" or other "**information**" includes books, records or other information held in any form including paper, electronically stored data, magnetic media, film and microfilm; and
- (iii) "**representatives**" includes partners, agents, employees and any other person acting on behalf and with the authority of a Party.

1.6.2 A reference to the Liquidators shall be construed as being to the Liquidators both jointly and severally.

1.6.3 The words "including", "includes" or "in particular" means including, includes or in particular without limitation.

1.7 Obligations undertaken by a Party which comprise more than one person shall be deemed to be made by them jointly and severally.

## **2 Settlement**

### **2.1 First Cash Payment**

Upon execution of this Deed, the Company shall pay to the Bondholder the First Payment Amount.

### **2.2 Second Cash Payment**

By no later than 4:00pm on 17 November 2010 (Hong Kong time), or such later date as may be mutually agreed by the Bondholder and the Company, the Company shall pay to the Bondholder the Second Payment Amount.

### **2.3 Payment method**

The Company shall pay the First Payment Amount and the Second Payment Amount in full to the following bank account:

Bank: Standard Chartered Bank (Hong Kong) Limited

Bank address: Shop 16, G/F & LG/F, New World Tower, Hong Kong

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Name of account: Lehman Brothers Commercial Corporation Asia Limited (In Liquidation)

HK\$ account no.: 447-0-684034-0

Swift code: SCBLHKHHXXX

### 2.4 Use of Proceeds

- 2.4.1 If all of the conditions set out in Clause 5.1 have been fulfilled to the satisfaction of the Bondholder or waived by the Bondholder by the Long-stop Date, then the First Payment Amount and the Second Payment Amount shall be regarded as full and final settlement of the Company's entire obligations, liabilities and monies due under the Bonds. For the avoidance of doubt, if all of the conditions set out in Clause 5.1 have been fulfilled to the satisfaction of the Bondholder or waived by the Bondholder by the Long-stop Date, each Party shall irrevocably waive any and all its rights, claims and demands against the other Party in respect of their obligations under the Bonds thereafter for any reason whatsoever.
- 2.4.2 If any of the conditions set out in Clause 5.1 has not been fulfilled to the satisfaction of the Bondholder or waived by the Bondholder by the Long-stop Date, or if at any time after the date of this Deed, the Bondholder terminates this Deed in accordance with its terms, then:
- (i) HK\$4,000,000 of the First Payment Amount shall be forfeited by the Company by way of liquidated damages, and shall not be refundable by the Bondholder to the Company; and
  - (ii) the balance of the First Payment Amount, and (if paid by the Company) the Second Payment Amount, shall be applied towards the repayment of an equivalent amount of principal due in connection with the Bonds.
- 2.4.3 For the avoidance of doubt, if and only if (i) any of the conditions set out in Clause 5.1 has not been fulfilled to the satisfaction of the Bondholder or waived by the Bondholder by the Long-stop Date, or (ii) at any time after the date of this Deed, the Bondholder terminates this Deed in accordance with its terms, then after any reduction of the principal due in connection with the Bonds pursuant to Clause 2.4.2(ii) above, interest shall continue to be payable in accordance with the terms of the Bonds on any principal which remains outstanding thereunder. For the avoidance of doubt, no interest shall be payable in accordance with the terms of the Bonds on any outstanding principal after the settlement pursuant to Clause 2.4.1 above.
- 2.4.4 The Parties acknowledge that HK\$4,000,000, being the amount of liquidated damages stipulated in Clause 2.4.2(i), is a genuine pre-estimate of the loss that will be suffered by the Bondholder in the event that the Release does not occur by the Long-stop Date. The Company waives any and all rights to challenge the enforceability of Clause 2.4.2 for any reason whatsoever.

### 2.5 Payment Default

Without prejudice to any other rights of the Bondholder and the Liquidators, if the Company fails to pay the First Payment Amount and/or the Second Payment Amount to the Bondholder in accordance with and by the time stipulated in Clauses 2.1 and 2.2 respectively, the Company shall pay interest on the overdue sum at the rate of 6.5% per

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annum from the date of default until the date of final payment in full together with all interest thereon. Such interest shall accrue from day to day and shall be compounded on a daily basis. For the avoidance of doubt, the provisions of Clause 12.8 shall apply to any interest payable pursuant to this Clause 2.5.

### **2.6 No set-off**

All sums payable under this Clause 2 shall be paid without any set-off, deduction, counterclaim, or withholding of any nature whatsoever or the exercise of any liens, any right to which is waived by the Company.

### **2.7 No conversion of the Bonds**

The Bondholder hereby irrevocably undertakes that it shall not exercise any of the conversion rights attached to the Bonds so as to require the Company to allot and issue its shares to the Bondholder pursuant to the terms of the Bonds, with effect from the date of this Deed to the earliest of (i) the date of the Release; (ii) the Long-stop Date; and (iii) the date on which the Bondholder terminates this Deed in accordance with its terms, provided that, in any event, such conversion rights will not be exercised on or before 15 November 2010. For the avoidance of doubt, if the Bondholder terminates this Deed in accordance with its terms on or before 15 November 2010, this Clause 2.7 shall survive termination and remains effective until 15 November 2010.

## **3 Consent**

Within five Business Days following the receipt in full of both the First Payment Amount and the Second Payment Amount, in each case together with any interest payable thereon in accordance with Clause 2.5, in cleared funds in the bank account identified in Clause 2.3; and, subject to the Company not having breached any of its obligations under this Deed, or the Company having remedied a breach of its obligations under this Deed if there is a breach which is remediable pursuant to the terms herein, at such time, the Bondholder shall deliver to the Company the Consent.

## **4 Mongolian Assets**

### **4.1 Due Diligence**

The Company undertakes to provide the information in all material respects as may be reasonably requested by the Bondholder or its advisers or agents in connection with the Mongolian Assets within five Business Days of any such request having been submitted in writing to the Company and shall make available the officers, employees and advisors of the Company and its Affiliates to answer any questions as soon as reasonably practicable in connection with the Mongolian Assets and to provide all reasonable assistance as may reasonably be requested by the Bondholder in connection with any due diligence or other investigations with respect to the Mongolian Assets.

### **4.2 Transfer**

**4.2.1** Subject to Clause 4.2.2, the Company shall execute all such documents (in form and substance satisfactory to both the Company and the Bondholder ) and do such things (including procuring all approvals and licences from, and effecting all notifications and filings with, all relevant approval authorities, and using its best endeavours to obtain all necessary shareholder approvals) as may be required by

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the Bondholder to transfer to the Bondholder or, pursuant to the Deed of Undertaking, any third party purchaser, the Mongolian Assets (or part thereof, if so requested by the Bondholder) free from all Encumbrances and without charge and to complete such transfer.

- 4.2.2 For the avoidance of doubt, the Bondholder shall not be under any obligation to accept the transfer of any part of the Mongolian Assets. However, the Bondholder undertakes to act reasonably and in good faith when deciding whether to accept the transfer of any part of the Mongolian Assets. Upon delivery by the Bondholder of a notice to the Company notifying it of the Bondholder's decision not to accept the transfer of the Mongolian Assets for the time being, and if so directed in such notice, the Company shall immediately enter into the Deed of Undertaking.

### **4.3 Undertaking**

The Company undertakes that, on and from the date of this Deed:

- 4.3.1 it shall not, and shall procure that its Affiliates shall not, cause the Mongolian Assets to incur any additional Liabilities other than, in respect of ARIA LLC only, Liabilities arising from any transaction in the ordinary course of business and where such Liabilities individually or in the aggregate shall not exceed US\$10,000 without the prior written consent of the Bondholder; and
- 4.3.2 in the event that any amount is paid to ARIA LLC or any other Affiliate of the Company in respect of the Licence, whether as compensation for revocation thereof or otherwise, it shall, and shall procure that its Affiliates shall, do all things to cause such amount to be held by, and be part of, the Mongolian Assets at the time of transfer of the Mongolian Assets to the Bondholder or as it may otherwise direct (whether pursuant to Clause 4.2 or the provisions of the Deed of Undertaking).

## **5 Redemption of Bonds**

### **5.1 Conditions**

Subject to the fulfilment, prior to or simultaneously with the occurrence of the Release, of the following conditions to the satisfaction of the Bondholder or waiver by the Bondholder:

- 5.1.1 the payment of the First Payment Amount in full in accordance with Clause 2;
- 5.1.2 the payment of the Second Payment Amount in full in accordance with Clause 2;
- 5.1.3 there are no outstanding or contingent Liabilities between Zhong Ping Resources Holdings Limited or ARIA LLC on the one hand, and the Company or any of its Affiliates on the other hand;
- 5.1.4 either:
- (i) the completion of the transfer of the Mongolian Assets (or part thereof, if so requested by the Bondholder) to the Bondholder (which, in the case of the transfer of shares in Zhong Ping Resources Holdings Limited, shall include the registration of the name of the Bondholder on the register of members of such company) free from all Encumbrances and without charge in accordance with Clause 4.2.1; or



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- (ii) if the Bondholder has delivered a notice pursuant to Clause 4.2.2, the Company having entered into, complied with and performed all agreements, obligations and conditions contained in the Deed of Undertaking, including, without limitation, the Company having entered into and performed all documents and done all things requested by the Bondholder in its sole and absolute discretion to transfer the Mongolian Assets (or part thereof, if so requested by the Bondholder) and pay any proceeds to the Bondholder or any third party as required under the Deed of Undertaking, or the Company having entered into the Deed of Undertaking and the Bondholder having notified the Company of its refusal to accept the transfer of the Mongolian Assets to the Bondholder or any other third party pursuant to the Deed of Undertaking,

and in either case, the Company having provided the Bondholder with a copy of the accounts of each of Zhong Ping Resources Holdings Limited and ARIA LLC for the period up to and as at the date of the transfer pursuant to Clause 4.2.1 or the Deed of Undertaking (as the case may be);

- 5.1.5 the Company having performed and complied with all agreements, obligations and conditions contained in this Deed in all material respects;
- 5.1.6 there having been no Material Adverse Change;
- 5.1.7 the warranties and representations set out in Clause 7.1 and Schedule 3 remaining true and correct in all material respects as of the Release Date as though made on such date;
- 5.1.8 the transactions contemplated by this Deed remaining permitted by applicable law and regulation and not in violation of applicable law or regulation and not subjecting the Bondholder or the Liquidators to any tax, penalty or liability under applicable law or regulation, and no person having instituted or threatened any action or investigation to restrain, prohibit or otherwise challenge any of the transactions contemplated by this Deed or threatened to take any action as a result of or in anticipation of the implementation of any of the transactions contemplated by this Deed;
- 5.1.9 the Company having provided the Bondholder with a copy of the conditional agreement dated 9 April 2010 in relation to the Disposal and Share Repurchase;
- 5.1.10 the shareholders of the Company who are not required to abstain from voting under the GEM Listing Rules or other applicable codes and regulations having passed the necessary resolution(s) to approve this Deed and the transactions contemplated hereunder; and
- 5.1.11 all requirements and conditions imposed by the Stock Exchange, the Securities and Futures Commission of Hong Kong or under the GEM Listing Rules or otherwise in connection with this Deed and the transactions contemplated hereby (including but not limited to the change of terms of the Bonds) having been fulfilled or complied with,

the Bondholder shall present the original of the certificate(s) for the Bonds to the Company on the Release Date and treat the Bonds as having been redeemed with effect from the Release Date. For the avoidance of doubt, all Liabilities and obligations accruing or which have accrued under the terms of the Bonds shall continue unless such Liabilities or

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obligations have been reduced or extinguished under the terms of the Bonds or the terms of this Deed.

### **5.2 Responsibility for and Notice of Satisfaction**

**5.2.1** The Company shall use its best endeavours to ensure the satisfaction of the conditions set out in Clauses 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.1.7, 5.1.9, 5.1.10 and 5.1.11.

**5.2.2** The Company shall give the Bondholder five Business Days' notice of the date on which it expects to satisfy all of the conditions set out in Clauses 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.1.5, 5.1.6, 5.1.7, 5.1.9, 5.1.10 and 5.1.11.

### **5.3 Waiver**

The Bondholder may, at any time, waive in whole or in part, conditionally or unconditionally, any of the conditions set out in Clause 5.1 or the requirement to provide notice under Clause 5.2.2 by notice to the Company.

## **6 Bondholder's and Liquidators' Exclusions**

### **6.1 Exclusion**

None of the Bondholder and the Liquidators makes any representations, warranties, conditions, guarantees and stipulations, express or implied, statutory, customary or otherwise and any such representations, warranties, conditions, guarantees and stipulations, express or implied, statutory, customary or otherwise are expressly excluded.

### **6.2 Acknowledgements of the Company**

**6.2.1** The Company acknowledges and agrees that the terms and conditions of this Deed and the exclusions and limitations contained in it are fair and reasonable having regard to the following:

- (i) that this is a settlement with an insolvent company in circumstances where it is usual that no representations and warranties will be given by or on behalf of the Bondholder or the Liquidators;
- (ii) that the Company has relied solely upon the opinions of itself and its professional advisers concerning the transactions contemplated herein, and has not relied on any information provided to the Company by the Bondholder or the Liquidators; and
- (iii) that the Company has agreed to the transactions contemplated herein for a consideration which takes into account the risk to it represented by the Parties' belief that the said exclusions and limitations are or would be recognised by the courts of Hong Kong.

**6.2.2** The Company acknowledges that in respect of its agreement to indemnify the Bondholder and the Liquidators it shall also indemnify any firm, partner, employee, agent, adviser or representative of the Bondholder and the Liquidators and each of them to the same extent and in the same regard.

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### **7 Warranties and representations**

#### **7.1 Warranties and representations**

The Company warrants and represents that the statements set out in Schedule 3 are true and accurate as at the date of this Deed.

#### **7.2 Updating**

In respect of the warranties and representations given by the Company under Clause 7.1, the Company further undertakes, warrants and represents to the Bondholder that such warranties and representations will be true and accurate and not misleading on the Release Date.

#### **7.3 Notification**

If, after the signing of this Deed and before Release:

7.3.1 the Company becomes aware that any of the warranties and representations set out in Clause 7.1 was untrue, inaccurate or misleading in any material respects as of the signing of this Deed; or

7.3.2 any event shall occur or matter shall arise of which the Company becomes aware would result in any of the warranties or representations set out in Clause 7.1 being untrue, inaccurate or misleading in any material respects as at any of the dates referred to in Clause 7.2 had such warranties and representations been repeated on any such date,

the Company shall notify the Bondholder in writing as soon as reasonably practicable and in any event prior to the Release Date setting out full details of the matter and the Company shall make any investigation concerning the event or matter and take such mitigation and/or preservation measures, at its own cost, as the Bondholder may reasonably require.

### **8 Indemnity**

8.1 The Company agrees and undertakes with the Bondholder and the Liquidators to indemnify and hold harmless each of the Bondholder and the Liquidators (the "**Indemnified Parties**" and each an "**Indemnified Party**") from and against all Losses which arise from or in relation to any breach of this Deed and the transactions contemplated in connection with this Deed.

8.2 This indemnity shall extend to include all charges or expenses which any Indemnified Party may reasonably and properly pay or incur in investigating, disputing or defending any claim or action or other proceedings in respect of which this indemnity could reasonably be expected to apply and is determined by an arbitral award to be in favour of the Indemnified Party.

### **9 Termination**

#### **9.1 Non-satisfaction and no waiver of conditions precedent**

If any condition in Clause 5.1 is not satisfied or waived by the Bondholder pursuant to Clause 5.3 on or before the Long-stop Date, the Bondholder shall not be obliged to

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perform its obligations under this Deed and shall be entitled, in its sole and absolute discretion, to elect to:

- 9.1.1 defer Release;
- 9.1.2 proceed to Release; or
- 9.1.3 terminate this Deed,

in each case, without limiting the rights and remedies of the Bondholder under this Deed.

### **9.2 Material Adverse Effect**

If, prior to Release, a Material Adverse Change shall occur, the Bondholder shall be entitled by notice in writing to the other Parties to terminate this Deed without liability on the part of any of the Liquidators or the Bondholder.

### **9.3 Breach of obligations**

If, prior to Release:

- 9.3.1 the Company is in breach of any of its obligations under Clause 2; or
- 9.3.2 the Company is in breach of any other of its obligations under this Deed, and the Company fails to remedy such breach to the reasonable satisfaction of the Bondholder (if the breach is remediable) within 14 days after notification by the Bondholder,

the Bondholder shall be entitled (in addition to and without prejudice to all other rights or remedies available to it including the right to claim damages) by notice in writing to the other Parties to terminate this Deed without liability on the part of any of the Liquidators or the Bondholder.

### **9.4 Breach of warranties and representations**

If it shall be found prior to Release that any of the warranties or representations in Clause 7.1 was, when given, or will be or would be at the Release Date, in each case as if repeated again at those dates, untrue or misleading in any material respect, the Bondholder shall be entitled (in addition to and without prejudice to all other rights or remedies available to them including the right to claim damages) by notice in writing to the Company to terminate this Deed without liability on the part of any of the Liquidators or the Bondholder.

### **9.5 Rights of Bondholder pursuant to the Bonds**

The Company agrees that termination by the Bondholder of this Deed pursuant to any of Clauses 9.1 to 9.4 above shall not prejudice the rights of the Bondholder in respect of the Bonds which are outstanding and have not been converted, novated, assigned, transferred, redeemed or cancelled. In such event, the Bondholder reserves its right to make a claim for the entire face value of the Bonds (less any amount deemed to be repaid pursuant to Clause 2.4) and all other amounts owing in connection with the Bonds (including, but not limited to, interest, costs, disbursements and expenses) at par without any discount.

### **9.6 Continuing obligations**

Clauses 1, 10, 11 and 12.2 to 12.13 shall survive any lapse or termination of this Deed and shall continue to apply in accordance with their terms.

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### **10 Confidentiality**

#### **10.1 Subject to Clause 10.2:**

- 10.1.1** each of the Parties shall treat as strictly confidential and not disclose or use any information received or obtained as a result of entering into this Deed (or any agreement entered into pursuant to this Deed) which relates to:
- 10.1.2** the existence and the provisions of this Deed, the Deed of Undertaking and of any agreement entered into pursuant to this Deed; or
- 10.1.3** the negotiations relating to this Deed and the Deed of Undertaking (and any such other agreements);
- 10.1.4** the Bondholder shall treat as strictly confidential and not disclose or use any information relating to the business, financial or other affairs (including future plans and targets) of the Group Companies (other than the Mongolian Assets, following their transfer by the Company in accordance with the terms of this Deed or the Deed of Undertaking); and
- 10.1.5** the Company shall treat as strictly confidential and not disclose or use any information relating to the business, financial or other affairs (including future plans and targets) of the Bondholder.

#### **10.2 Clause 10.1 shall not prohibit disclosure or use of any information if and to the extent that:**

- 10.2.1** the disclosure or use is required by current insolvency practice or to enable the Liquidators properly to carry out the duties of their office;
- 10.2.2** the disclosure or use is made by the Liquidators to any subsequent supervisor, liquidator or other officeholder of the Bondholder;
- 10.2.3** the disclosure or use is required by law, any regulatory body or any recognised stock exchange, including but not limited to The Stock Exchange of Hong Kong Limited and the Securities and Futures Commission of Hong Kong;
- 10.2.4** the disclosure or use is required to vest the full benefit of this Deed and/or the Deed of Undertaking in the Bondholder or the Company (including without limitation any disclosure related to or for the purpose of entering into a proposed agreement to transfer the Mongolian Assets to the Bondholder or any other third party);
- 10.2.5** the disclosure or use is required for the purpose of any judicial proceedings arising out of this Deed or any other agreement entered into under or pursuant to this Deed or the disclosure is made to a tax authority in connection with the taxation affairs of the disclosing Party;
- 10.2.6** the disclosure is made to professional advisers, auditors or bankers of the Bondholder, the Liquidators or the Company or any holding company or Affiliate of the Bondholder on terms that any such person (save for professional advisers or auditors) to whom disclosure is made pursuant to this sub-clause undertakes to comply with the provisions of Clause 10.1 in respect of such information as if they were a Party to this Deed;
- 10.2.7** the information is or becomes publicly available (other than by breach of any confidentiality agreement or of this Deed);

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- 10.2.8 the other Parties to which such information relates have given prior written approval to the disclosure or use; or
- 10.2.9 the information is independently developed after Release.

### **11 Liquidators' Liability**

The Liquidators have entered into and signed this Deed as agents for and on behalf of the Bondholder and neither they, their firm, partners, employees, agents, advisers or representatives shall incur any personal liability whatever in respect of any of the obligations undertaken by the Bondholder; or in respect of any failure on the part of the Bondholder to observe, perform or comply with any such obligations; or under or in relation to any associated arrangements or negotiations; or under any document or assurance made pursuant to this Deed. The exclusion of liability referred to in the foregoing sentence shall arise and continue notwithstanding the termination of the agency of the Liquidators and shall operate as a waiver of any claims in tort as well as under the laws of contract. The Liquidators are party to this Deed in their personal capacities only for the purpose of receiving the benefit of all limitations, exclusions, undertakings, covenants and indemnities in their favour contained in this Deed, and such provisions shall continue to benefit the Liquidators notwithstanding the termination of the agency of the Liquidators or their discharge from office as liquidators of the Bondholder.

### **12 Other provisions**

#### **12.1 Further Assurance**

The Company agrees that it will execute and deliver such documents, and do such things, as may reasonably be required by the Bondholder or the Liquidators to vest the full benefit of this Deed in the Bondholder and the Liquidators. The terms of all such documents shall exclude any personal liability of the Liquidators and shall be subject to the Liquidators' and the Company's prior approval (such approval not to be unreasonably withheld or delayed).

#### **12.2 Whole Agreement**

- 12.2.1 This Deed contains the whole agreement between the Parties relating to the subject matter of this Deed at the date of this Deed to the exclusion of any terms implied by law which may be excluded by contract and supersedes any previous written or oral agreement between the Parties in relation to the matters dealt with in this Deed, except that, for the avoidance of doubt, this Deed shall not supersede or affect the Bonds in any way.
- 12.2.2 Each of the Parties acknowledges that it has not been induced to enter this Deed by any representation, warranty or undertaking not expressly incorporated into it.
- 12.2.3 So far as is permitted by law and, except in the case of fraud, each of the Parties agrees and acknowledges that its only right and remedy in relation to any representation, warranty or undertaking made or given in connection with this Deed shall be for breach of the terms of this Deed to the exclusion of all other rights and remedies (including those in tort or arising under statute).

## **EXECUTION VERSION**

### **12.3 Assignment**

None of the Parties may, without the prior written consent of the other Parties, assign, grant any security interest over, hold on trust or otherwise transfer the benefit of the whole or any part of this Deed which shall be binding upon and enure for the benefit of each Party's personal representatives and successors in title.

### **12.4 Variation**

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

### **12.5 Time of the Essence**

Time shall be of the essence of this Deed both as regards any dates, times and periods mentioned and as regards any dates, times and periods which may be substituted for them in accordance with this Deed or by agreement in writing between the Parties.

### **12.6 Costs**

Except as expressly provided in this Deed, the Parties shall bear their own costs in connection with the preparation, negotiation, entry and performance of this Deed.

### **12.7 Fees and taxes**

12.7.1 The Company shall bear the cost of all stamp duty, any notarial fees and all registration and transfer taxes and duties or their equivalents in all jurisdictions where such fees, taxes and duties are payable as a result of the transactions contemplated by this Deed. The Company shall be responsible for arranging the payment of such stamp duty, and all other such fees, taxes and duties, including fulfilling any administrative or reporting obligation imposed by the jurisdiction in question in connection with the payment of such taxes and duties.

12.7.2 The Company shall indemnify, on an after-tax basis, and keep indemnified the Bondholder and the Liquidators and each of them against all Liabilities and Losses incurred by any of them as a result of the Company failing to comply with its obligations under this Clause 12.7, except to the extent that such Liabilities or Losses are already compensated for by a payment made under Clause 12.7.1 above.

12.7.3 The Company shall provide the Bondholder with evidence of the payment of all stamp duty and, if applicable, all registration and transfer taxes and duties or their equivalents in all jurisdictions where such fees, taxes and duties are payable as a result of the transactions contemplated by this Deed within 10 Business Days of request in writing from the Bondholder.

### **12.8 Withholding taxes etc.**

12.8.1 All payments due under this Deed and the transactions contemplated herein are stated exclusive of any applicable tax whether income taxes, withholding taxes, value added taxes, goods and services taxes, business or services taxes or similar taxes other than taxes imposed in respect of net income by a taxing jurisdiction wherein the recipient is incorporated or resident for tax purposes ("**Taxes**"). If any deduction or withholding for or on account of Taxes is required to be made from any payment to the Bondholder, then the Company shall pay an additional amount so that the Bondholder receives, free from any such withholding, deduction,

## EXECUTION VERSION

assessment or levy, the full amount of the payments set out herein. The Company shall make appropriate payments and returns in respect of such Taxes and provide the Bondholder with an original or authenticated copy of the tax receipt.

**12.8.2** The Company shall indemnify, on an after-tax basis, the Bondholder and the Liquidators and each of them against all Liabilities and Losses which it may incur as a result or arising out of or in relation to any failure to pay or delay by the Company in paying any of the same, except to the extent that such Liabilities or Losses are already compensated for by an increased payment under Clause 12.8.1 above.

## 12.9 Notices

**12.9.1** Any notice or other communication in connection with this Deed (each, a "Notice") shall be:

- (i) in writing in English; and
- (ii) delivered by hand, e-mail, fax, pre-paid first class post or courier.

**12.9.2** A Notice to the Bondholder or the Liquidators shall be sent to the following address, or such other person or address as the Bondholder or Liquidators may notify to the Company from time to time:

c/o KPMG  
8/F Prince's Building  
10 Chater Road  
Central  
Hong Kong

Fax: +852 2869 7357

E-mail: [phil.smith@kpmg.com.hk](mailto:phil.smith@kpmg.com.hk) and [georgia.chow@kpmg.com.hk](mailto:georgia.chow@kpmg.com.hk)

Attention: Patrick Cowley (Joint and Several Liquidator of the Seller)

**12.9.3** A Notice to the Company shall be sent to the following address, or such other person or address as the Company may notify to the Bondholder from time to time:

Suite 1415, Ocean Centre  
5 Canton Road  
Tsim Sha Tsui  
Kowloon  
Hong Kong

Fax: +852 2526 3354

E-mail: [maxwong@china-p-res.com](mailto:maxwong@china-p-res.com) and [mirandachin@china-p-res.com](mailto:mirandachin@china-p-res.com)

Attention: The board of directors

**12.9.4** Any Notice to any person shall be effective upon receipt and shall be deemed to have been received:

- (i) 60 hours after posting, if delivered by pre-paid first class post;
- (ii) at the time of delivery, if delivered by hand or courier; or
- (iii) at the time of transmission in legible form, if delivered by fax.



## **EXECUTION VERSION**

### **12.10 Invalidity**

**12.10.1** If any provision in this Deed shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the Parties.

**12.10.2** To the extent it is not possible to delete or modify the provision, in whole or in part, under Clause 12.10.1, then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this Deed and the legality, validity and enforceability of the remainder of this Deed shall, subject to any deletion or modification made under Clause 12.10.1, not be affected.

### **12.11 Waivers**

**12.11.1** No waiver by or on behalf of the Bondholder or the Liquidators or either of them of any requirement of or any rights under this Deed shall release the Company from the full performance of its remaining obligations under this Deed.

**12.11.2** No single or partial exercise or failure or delay in exercising, on the part of the Bondholder or the Liquidators, any right, power or remedy under this Deed or the granting of time by the Bondholder or the Liquidators shall prejudice, affect or restrict the rights, powers and remedies of those Parties under this Deed, nor shall any waiver by the Bondholder or the Liquidators of any breach of this Deed operate as a waiver of or in relation to any subsequent or any continuing breach of this Deed.

### **12.12 Reservation of Rights**

**12.12.1** Until such time as the Consent has been delivered in accordance with Clause 3, the Bondholder continues to reserve all of its rights under Clause 6.2 of the Subscription Agreement. No failure to exercise, nor any delay in exercising, on the part of the Bondholder, any right or remedy available to it in relation to the Consent under the Subscription Agreement, will or is intended to operate as a waiver of any right or remedy of the Bondholder, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy, all such rights and remedies being hereby reserved.

**12.12.2** Until such time as all of the conditions set out in Clause 5.1 have been fulfilled to the satisfaction of the Bondholder or waived by the Bondholder and, the Bondholder continues to reserve all of its rights under the Bonds and the Subscription Agreement, save for the rights under the Subscription Agreement in relation to the Consent if the Consent has been delivered in accordance with Clause 3. No failure to exercise, nor any delay in exercising, on the part of the Bondholder, any right or remedy available to it, including without limitation under the Subscription Agreement but excluding those relating to the Consent, will or is intended to operate as a waiver of any right or remedy of the Bondholder, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy, all such rights and remedies being hereby reserved.

## **EXECUTION VERSION**

### **12.13 Counterparts**

This Deed may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any Party may enter into this Deed by executing any such counterpart.

### **12.14 Governing Law and Submission to Jurisdiction**

**12.14.1** This Deed and any non-contractual obligations arising out of or in connection with it are governed by Hong Kong law.

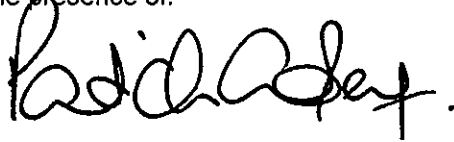
**12.14.2** The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a “**Dispute**”).

**12.14.3** The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

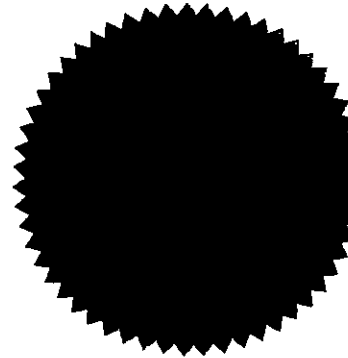
**EXECUTION VERSION**

**IN WITNESS** whereof this Deed has been delivered the day and year first before written.

The common seal of **LEHMAN  
BROTHERS COMMERCIAL  
CORPORATION ASIA LIMITED (In  
Liquidation)** was hereunto affixed in  
the presence of:



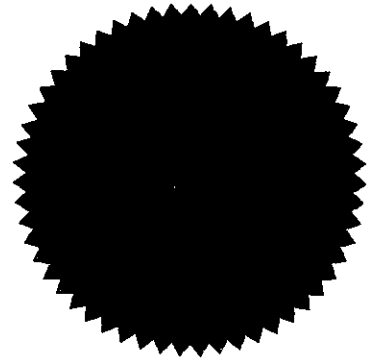
as a joint and several liquidator,  
without personal liability, of Lehman  
Brothers Commercial Corporation Asia  
Limited (In Liquidation)



**EXECUTION VERSION**

The common seal of **CHINA  
PRIMARY RESOURCES  
HOLDINGS LIMITED** was  
hereunto affixed in the presence  
of:

}



Name:  
Director

MA ZHENG

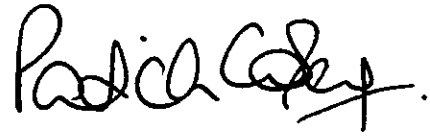
Name:  
Secretary

WONG CHUN SING

**EXECUTION VERSION**

Signed, sealed and delivered as a Deed  
by one of the **LIQUIDATORS** on behalf  
of each of them (without personal liability  
and solely for the purpose of receiving  
the benefit of the provisions of this Deed  
in their favour) in the presence of:

}

A handwritten signature in black ink, appearing to read "Patricia Casey". To the right of the signature is a solid black circular stamp.

Name: *GEORGINA CLOW BSC*

Address: *27/F, Alexander House, 18 Kaiti Rd, Central*

Occupation: *Accountant*

**EXECUTION VERSION**

**Schedule 1  
Consent**

China Primary Resources Holdings Limited (the "**Company**")  
Suite 1415, Ocean Centre  
5 Canton Road  
Tsim Sha Tsui  
Kowloon  
Hong Kong

Fax: +852 2526 3354

Attention: The board of directors

We, being the subscriber (as defined in the subscription agreement dated 17 June 2007 between the Company, Future Advance Holdings Limited and Lehman Brothers Commercial Corporation Asia Limited (In Liquidation) (the "**Subscription Agreement**")), hereby irrevocably give our consent pursuant to Clause 6.2 of the Subscription Agreement to the proposed disposal of a 12.21% interest in the registered capital of Xin Shougang Zi Yuan Holdings Limited at the aggregate consideration of HK\$314,800,000, in accordance with an agreement dated 9 April 2010 entered into among Yichang Shoukong Industries Co., Limited (a wholly-owned subsidiary of the Company) and Shougang Holdings Limited Liability Company as disclosed in the circular issued by the Company dated 8 June 2010.

**EXECUTED** for and on behalf of  
Lehman Brothers Commercial Corporation Asia  
Limited (In Liquidation) by one of the Liquidators  
(as its agent without personal liability)

}

**Schedule 2**  
**Key Terms of Deed of Undertaking**

|  |   |
|--|---|
| <b>1</b> <b>Parties</b>                                    | (i)      The Bondholder;<br>(ii)      The Company; and<br>(iii)      The Liquidators.   |
| <b>2</b> <b>Structure/scope</b>                            | The parties propose to enter into the Deed of Undertaking, the terms of which include, subject to the Bondholder agreeing to acquire the Mongolian Assets or succeeding in introducing to the Company purchaser(s) of the Mongolian Assets (or part thereof), an obligation of the Company to use its best endeavours to sell the Mongolian Assets (or part thereof, if so requested by the Bondholder) and pay the Sale Proceeds (as defined below) to the Bondholder pursuant to paragraph 3 below. The Company acknowledges that it is in its best interests to assist the Bondholder in soliciting offers from Shougang Holdings Limited Liability Company and its Affiliates and Selange Mining Company Limited for acquisition of the Mongolian Assets (or any part thereof), with a view to Release occurring as soon as possible. Notwithstanding the foregoing, the Bondholder shall be entitled in its sole and absolute discretion to either request transfer of the Mongolian Assets (or part thereof, if so requested by the Bondholder) to the Bondholder or such other third party as it may direct, or notifying to the Company its refusal to accept the transfer of the Mongolian Assets, in which case the Company shall be under no further obligation to transfer the Mongolian Assets to the Bondholder (or any other third party) pursuant to the Deed of Undertaking. |
| <b>3</b> <b>Principal terms of the Deed of Undertaking</b> | <p><b>Agreement to Sell</b></p> <p>(i)      Subject to the terms of this paragraph 3 and in particular the Bondholder agreeing to acquire the Mongolian Assets or succeeding in introducing to the Company purchaser(s) of the Mongolian Assets (or part thereof) , the Company shall sell the Mongolian Assets (or part thereof, if so requested by the Bondholder) and pay all sale proceeds to the Bondholder free from any deduction or withholding whatsoever (the "<b>Sale Proceeds</b>").</p> <p>(ii)      Notwithstanding anything to the contrary in this Deed or otherwise, the Company shall only transfer the Mongolian Assets as directed by the Bondholder in its sole and absolute discretion (unless the Bondholder notifies the Company that it is no longer obliged to transfer the Mongolian Assets to the Bondholder or any other third party pursuant to the Deed of Undertaking).</p>   |

|  |  |
|--|--|
|  | <p><b>Sale Process</b></p> <p>(iii) As soon as reasonably practicable following its entry into the Deed of Undertaking, and subject to the Bondholder agreeing to acquire the Mongolian Assets or succeeding in introducing to the Company purchaser(s) of the Mongolian Assets (or part thereof), the Company shall use its best endeavours and act in good faith to meet the requests of the Bondholder (or any party it may nominate) in respect of (a) communicating with or assisting any actual or potential bona fide independent third party buyer in respect of the proposed acquisition of the Mongolian Assets; and (b) any due diligence work on the Mongolian Assets.</p> <p>(iv) On every 20<sup>th</sup> Business Day after entering into the Deed of Undertaking, the Company shall notify the Bondholder in writing of the offers it has received as at each such date to purchase the Mongolian Assets.</p> <p>(v) Following the receipt of any notice as referred to in paragraph 3(iv) above, the Bondholder may, in its sole and absolute discretion by notice in writing to the Company, instruct the Company to sell the Mongolian Assets (or part thereof) to a third party on the basis of an offer as set out in such notice.</p> <p>(vi) At any time after the parties have entered into the Deed of Undertaking, the Bondholder may, by notice in writing to the Company, instruct the Company to sell the Mongolian Assets (or part thereof) to a third party as nominated by (and on such terms and conditions as may be requested by) the Bondholder in its sole and absolute discretion.</p> <p>(vii) As soon as reasonably practicable following receipt by the Company of an instruction to sell to a third party as referred to in paragraphs 4(v) or 4(vi) above, the Company shall proceed with the sale and execute all such documents and do all such things as may be required to transfer the Mongolian Assets (or part thereof, if so requested by the Bondholder) to such third party and complete such transfer. The transfer documentation shall be subject to the prior written approval of the Bondholder and the Company, and without limitation to the foregoing, shall provide that the Sale Proceeds shall be paid by the relevant purchaser in a manner as directed by the Bondholder.</p> <p><b>Sale proceeds</b></p> <p>(viii) As soon as reasonably practicable upon completion of a transfer as referred to in paragraph 3(vii), the Company</p> |
|--|--|



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|                             |  |
|-----------------------------|--|
|                             | <p>shall notify the Bondholder in writing of the same and shall direct the relevant purchaser to transfer the Sale Proceeds to a bank account specified by the Bondholder, the details of which shall be notified by the Bondholder to the Company in timely fashion.</p> <p><b>Consequences of failure to sell</b></p> <p>(ix) If the Company has not sold the Mongolian Assets and the Bondholder has not received the Sale Proceeds in respect of such sale by 31 October 2011, or such later date as may be agreed between the Bondholder and the Company (each of whom shall not unreasonably refuse to agree to an extension of such date), then the Bondholder shall be entitled in its sole and absolute discretion to either:</p> <p>(a) request that the Company execute all such documents and do all such things as may be required to transfer the Mongolian Assets (or part thereof) to the Bondholder or such other third party as the Bondholder may direct at nil consideration and complete such transfer; or</p> <p>(b) notify the Company its refusal to accept the transfer of the Mongolian Assets, following which the Company shall be under no further obligation to transfer the Mongolian Assets to the Bondholder or any other third party pursuant to the Deed of Undertaking.</p> <p>(x) Notwithstanding anything to the contrary in the Deed of Undertaking, at any time after entering into the Deed of Undertaking the Bondholder may request that the Company execute all such documents and do all such things as may be required to transfer the Mongolian Assets (or part thereof, if so requested by the Bondholder) to the Bondholder at nil consideration and complete such transfer.</p> <p>(xi) The Company shall indemnify the Bondholder and the Liquidators from and against all losses arising from or in relation to any breach of the Deed of Undertaking.</p> |
| <p><b>4 Termination</b></p> | <p>The Deed of Undertaking shall terminate upon the earlier of (a) the Bondholder being satisfied in its sole and absolute discretion that the Company has performed all of its obligations under this Deed of Undertaking; (b) the Bondholder giving 3 Business Days' notice to the Company to terminate the obligations of the parties under this Deed of Undertaking following the occurrence of a breach by the Company of its obligations under the Deed of Undertaking; and (c) the Bondholder notifying the Company of its refusal to accept the transfer of the Mongolian Assets to the Bondholder or any other third party pursuant to the Deed of</p>  |

## EXECUTION VERSION

|          |                                       |  |
|----------|---------------------------------------|--|
|          |                                       | Undertaking.   |
| <b>5</b> | <b>Transaction Costs and Taxes</b>    | The Company shall bear any taxes arising in connection with the Deed of Undertaking and the transactions contemplated thereby, and each party shall bear its own costs in connection with the same.  |
| <b>6</b> | <b>Confidentiality</b>                | The parties agree that the content and existence of this Term Sheet are to remain confidential, other than where disclosure is required by law, governmental entities or regulatory authorities to affiliates, liquidators, employees or professional advisers.  |
| <b>7</b> | <b>Cumulative Remedies</b>            | The rights of the Bondholder under the Deed of Undertaking shall be in addition to, and shall not prejudice, any rights and remedies which it may otherwise have, and shall not be deemed to be exclusive of any other right or remedy available to it, including without limitation any rights it may have against the Company pursuant to the Bonds and the Deed of Settlement, which rights are reserved in full. |
| <b>8</b> | <b>Governing law and jurisdiction</b> | The Deed of Undertaking shall be governed by Hong Kong law and each party submits to the exclusive jurisdiction of the Hong Kong courts.   |

## EXECUTION VERSION

### Schedule 3 Warranties given under Clause 7.1

#### 1 Corporate Information

##### 1.1 The Shares

###### 1.1.1 The Company:

- (i) is the sole legal and beneficial owner of the Shares; and
- (ii) has the right to exercise all voting and other rights over the Shares.

###### 1.1.2 The Shares comprise the entire issued share capital of Zhong Ping Resources Holdings Limited ("**Zhong Ping**"), have been properly and validly issued and allotted and are each fully paid.

###### 1.1.3 Zhong Ping:

- (i) is the sole legal and beneficial owner of 70% of the shares in ARIA LLC; and
- (ii) has the right to exercise all voting and other rights over such shares.

###### 1.1.4 The shares in ARIA LLC have been properly and validly issued and each of them is fully paid.

###### 1.1.5 No person has the right (whether exercisable now or in the future and whether contingent or not) to call for the conversion, issue, registration, sale or transfer, amortisation or repayment of any share capital or any other security giving rise to a right over, or an interest in, the capital of any of Zhong Ping and ARIA LLC under any option, agreement or other arrangement (including conversion rights and rights of pre-emption).

###### 1.1.6 There are no Encumbrances on the shares of Zhong Ping and ARIA LLC.

##### 1.2 Constitutional Documents, Corporate Registers and Minute Books

###### 1.2.1 The constitutional documents provided to the Bondholder on the date of this Deed are true and accurate copies of the constitutional documents of Zhong Ping and ARIA LLC and, so far as the Company is aware, there have not been and are not any breaches by Zhong Ping and ARIA LLC of its constitutional documents.

###### 1.2.2 The registers, minute books, books of account and other records of Zhong Ping which are required to be maintained under applicable law are in the possession (or under the control) of Zhong Ping and:

- (i) are up-to-date;
- (ii) are maintained in accordance with applicable law; and

contain complete and accurate records of all matters required to be dealt with in such books and records.

###### 1.2.3 All filings, publications, registrations and other formalities required by applicable law to be delivered or made by Zhong Ping to company registries in each relevant jurisdiction have been duly and correctly delivered or made on a timely basis and, at the time of the delivery or filing, did not contain any untrue statement of a

## **EXECUTION VERSION**

material fact or omit to state a material fact required to be stated therein in order to make the statements therein not misleading.

### **2 Compliance**

#### **2.1 Compliance with Laws**

2.1.1 So far as the Company is aware, Zhong Ping is conducting, and has conducted, its business in compliance with applicable laws and regulations and Zhong Ping is not, or has been, in breach of any such laws and regulations.

2.1.2 So far as the Company is aware, there is no investigation by, or order of, any court, governmental agency or regulatory body outstanding or anticipated against Zhong Ping or any person for whose acts or defaults it may be liable.

#### **2.2 Licences and Agreements**

Originals or copies of all contracts, leases, licences and agreements to which any of any of Zhong Ping and ARIA LLC is a party and for which the Bondholders or the Liquidators expressly requested ("**Company Documents**") have been provided to the Bondholder, and all such Company Documents are valid, binding and enforceable obligations of the parties thereto and the terms thereof have been complied with by the relevant company and by each other party to such contracts.

### **3 Litigation**

#### **3.1 Current Proceedings**

So far as the Company is aware, neither Zhong Ping nor ARIA LLC (or any person for whose acts or defaults any of them may be vicariously liable) is involved whether as claimant or defendant or other party in any claim, legal action, proceeding, suit, litigation, prosecution, investigation, enquiry, mediation or arbitration which may materially and adversely affect the business, operations and financial performance of such company.

#### **3.2 Pending or Threatened Proceedings**

So far as the Company is aware, no such claim, legal action, proceeding, suit, litigation, prosecution, investigation, enquiry, mediation or arbitration which may materially and adversely affect the business, operations and financial performance of Zhong Ping or ARIA LLC is pending or threatened by or against Zhong Ping or ARIA LLC (as the case may be) .

#### **3.3 Circumstances Likely to Lead to Claims**

So far as the Company is aware, there are no investigations, disciplinary proceedings or other circumstances likely to lead to any such claim or legal action, proceeding, suit, litigation, prosecution, investigation, enquiry, mediation or arbitration which may materially and adversely affect the business, operations and financial performance of Zhong Ping or ARIA LLC.

### **4 Authority and Capacity**

4.1 Each of Zhong Ping and ARIA LLC is validly incorporated, in existence and duly registered under the laws of its jurisdiction and has full power to conduct its business as conducted at the date of this Deed.

## **EXECUTION VERSION**

- 4.2** The Company has the legal right and full power and authority to enter into and perform this Deed and any other documents to be executed by it pursuant to or in connection with this Deed.
- 4.3** The Transaction Documents will, when executed, constitute valid, binding and enforceable obligations of the Company in accordance with their respective terms and such obligations do not conflict with any law applicable to, the constitutional documents of or any agreement or instrument binding upon, the Company.
- 4.4** The Company has obtained, and they are in full force and effect, all corporate authorisations and all other governmental, statutory, regulatory or other licences, consents, authorisations, orders, warrants, confirmations, permissions, certificates, approvals, registrations and authorities required to empower it to enter into and perform its obligations contemplated under this Deed where failure to obtain them would affect to a material extent its ability to enter into and perform its obligations under this Deed.

## **5 Insolvency etc.**

- 5.1** Neither Zhong Ping nor ARIA LLC is insolvent under the laws of its jurisdiction of incorporation or unable to pay its debts as they fall due.
- 5.2** There are no proceedings in relation to any compromise or arrangement with creditors or any winding up, bankruptcy or other insolvency proceedings concerning Zhong Ping and ARIA LLC and, so far as the Company is aware, no events have occurred which, under applicable laws, would justify such proceedings.
- 5.3** No creditor of Zhong Ping and ARIA LLC has taken, or is entitled to take any steps to enforce, or has enforced any security over any assets of any of Zhong Ping and ARIA LLC (as the case may be) or is, so far as the Company is aware, likely to do so in the immediate future.
- 5.4** Neither Zhong Ping nor ARIA LLC by reason of actual or anticipated financial difficulties commenced negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.

## **6 Liabilities**

Zhong Ping has no Liabilities save for any debt owed by Zhong Ping to the Company, which shall be forgiven or otherwise repaid prior to Release.

## **7 Accuracy of Information Disclosed**

- 7.1** All information contained in this Deed and all other information which has been given in writing or electronic form or made available by or on behalf of any of Zhong Ping and ARIA LLC to the Bondholder or any of its Affiliates, agents, employees or professional advisers in the course of the negotiations leading to this Deed or in the course of any due diligence or other investigation carried out by or on behalf of the Bondholder prior to entering into this Deed was when given and remains true, complete and accurate in all material respects and not misleading. The Company is not aware of any fact or matter or circumstances not disclosed in writing to the Bondholder which renders any such information untrue, inaccurate or misleading in any material respects or the disclosure of which might reasonably affect the willingness of the Bondholder to enter into this Deed on the terms and conditions set out therein.

## EXECUTION VERSION

- 7.2 The accounts provided to the Bondholders in respect of Zhong Ping and ARIA LLC ("**Accounts**") have been prepared in accordance with the accounting policies used in preparing the audited accounts of the Company, applied on a consistent basis. The Accounts are fair and not misleading and do not materially misstate the assets and liabilities of Zhong Ping and ARIA LLC as at the dates of the Accounts, nor the profits and losses of Zhong Ping and ARIA LLC for the period ended on such date.
- 7.3 All statements of fact contained in all announcements and circulars to shareholders made by or on behalf of the Company since 31 December 2007 ("**Previous Announcements**") were true and accurate as at the respective dates of such Previous Announcements and not misleading. All expressions of opinion or intention contained in the Previous Announcements were made on reasonable grounds and were truly and honestly held by the directors of the Company and there were no other facts known to the directors of the Company the omission of which would make any such statement or expression in any of the Previous Announcements misleading in the context in which the Previous Announcements were made and as at the respective dates of such Previous Announcements.
- 7.4 The consolidated statement of financial position of the group as at 31 December 2009 and the consolidated income statement, the consolidated statement of cash flow and the consolidated statement of changes in equity and the notes to the financial statements as set out in the annual report and accounts of the Company and its subsidiaries for the year ended 31 December 2009 ("**2009 Accounts**") together were prepared by the directors of the Company so as to give a true and fair view of the state of affairs of the Company and its subsidiaries as at 31 December 2009 and of the profits or losses, cash flows and changes in equity of the Company and its subsidiaries for the financial year ended on that date and were prepared on the basis set out therein.