

DATE: 17 November 2008

**CHINA BOTANIC DEVELOPMENT HOLDINGS LIMITED
(as the Company)**

and

**CHINA WATER AFFAIRS GROUP LIMITED
(as the Underwriter)**

UNDERWRITING AGREEMENT

**relating to an open offer of not less than 345,968,750
and not more than 404,376,902 Offer Shares
in the share capital of
CHINA BOTANIC DEVELOPMENT HOLDINGS LIMITED**

**Michael Li & Co.
Solicitors
14th Floor, Printing House
6 Duddell Street
Central, Hong Kong
(Ref: CCL/083018)**

INDEX

<u>Clause No.</u>	<u>Heading</u>	<u>Page no.</u>
1	Definitions	
2	Conditions	
3	Publication of the announcement	
4	The Open Offer	
5	Prohibited Shareholders	
6	Acceptance of Offer Shares and application for excess Offer Shares and Underwriting obligations	
7	Obligations of the Underwriter	
8	Fees and the Loan Capitalisation	
9	Announcements	
10	Representations, warranties and undertakings	
11	Indemnity	
12	Rescission and termination	
13	Time of the essence	
14	Notices	
15	Miscellaneous	
16	Governing law and jurisdiction	
Execution	
Exhibit	Announcement	

THIS AGREEMENT is dated 17 November 2008

BETWEEN:

- (1) **CHINA BOTANIC DEVELOPMENT HOLDINGS LIMITED**, a company incorporated in the Cayman Islands with limited liability whose registered office is situate at Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the “**Company**”); and
- (2) **CHINA WATER AFFAIRS GROUP LIMITED**, a company incorporated in the Cayman Islands and continued in Bermuda with limited liability and having its registered office at Clarendon House, 2 Church Street, Hamilton HM11, Bermuda (the “**Underwriter**”).

WHEREAS:

- (A) The Company is incorporated in the Cayman Islands whose issued Shares are listed on the Stock Exchange. As at the date hereof, the Company has an authorised share capital of HK\$40,000,000 divided into 4,000,000,000 Shares of which 691,937,500 Shares are issued and are fully paid or credited as fully-paid.
- (B) The Company proposes to offer by way of open offer of not less than 345,968,750 Offer Shares and not more than 404,376,092 Offer Shares to holders of Shares on the basis of one (1) Offer Share for every two (2) Shares held on the Record Date.
- (C) Subject to and upon the terms and conditions hereinafter appearing and relying on the representations, warranties and undertakings herein contained, the Underwriter has agreed to underwrite the Underwritten Shares.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS

- 1.1 In this Agreement (including the Recitals hereto), unless the context otherwise requires, the following expressions have the following meanings:

“ Announcement ”	the announcement to be made by the Company concerning, among other things, the Open Offer substantially in the form of the draft announcement annexed hereto (subject to such amendments as the Company and the Underwriter may agree)
“ Application Form(s) ”	the form of application for use by the Qualifying Shareholders to apply for the Offer Shares in the agreed form
“ associates ”	has the meaning ascribed thereto in Chapters 1 and 14A of the Listing Rules

“Board”	the board of Directors or a duly authorised committee thereof
“business day”	any day (other than a Saturday, Sunday or public holiday) on which licensed banks in Hong Kong are generally open for business throughout their normal business hours
“CCASS”	the Central Clearing and Settlement System established and operated by Hong Kong Securities Clearing Company Limited
“Circular”	the circular to Shareholders, which will have annexed thereto the Notice, proposed to be despatched to the Shareholders on or about 12 December 2008 (or such other time as may be agreed between the Company and the Underwriter) in the agreed form
“Circular Documents”	the Circular and the proxy form for use at the EGM in the agreed form
“Companies Ordinance”	the Companies Ordinance, Chapter 32 of the Laws of Hong Kong (as amended from time to time)
“Complying Applications”	valid applications under the Application Forms made in accordance with the terms of the Prospectus Documents together with cheques or cashier’s orders or other remittances for the full amount payable in respect of the Offer Shares being applied for under such Application Forms which are honoured on first or, at the discretion of the Underwriter, subsequent presentation
“Conditions”	the conditions set out in Clause 2.1
“CW Convertible Bonds”	the convertible bonds with principal amount of HK\$180,050,000 convertible into 1,200,333,333 Shares with an initial conversion price of HK\$0.15 per Share
“Directors”	directors of the Company
“EGM”	the extraordinary general meeting of the Company to be convened and held to consider and approve the Loan Capitalisation, the Whitewash Waiver and the Special Deals
“Executive”	the Executive Director of the Corporate Finance

	Division of the SFC
“Excess Application Form”	the form of application for excess Offer Shares in the agreed form
“Group”	the Company and its subsidiaries
“Hong Kong”	the Hong Kong Special Administrative Region of the People’s Republic of China
“Independent Shareholders”	shareholders not required under the Listing Rules and/or the Takeovers Code to abstain from voting on the resolution(s) at the EGM
“Latest Lodging Date”	4:00 p.m. on 2 January 2009 or such other date and/or time as the Company and the Underwriter may agree as the latest time for lodging transfer of the Shares in order to qualify for the Open Offer
“Latest Time for Acceptance”	4:00 p.m. on 29 January 2009 or such later time or date as may be agreed between the Company and the Underwriter, being the latest time for acceptance of, and payment for, the Offer Shares as described in the Prospectus
“Latest Time for Termination”	4:00 p.m. on the third business day after the Latest Time for Acceptance or such later time or date as may be agreed between the Company and the Underwriter, being the latest time to terminate this Agreement
“Listing Rules”	the Rules Governing the Listing of Securities on the Stock Exchange
“Loan”	the loan of HK\$27,677,500 owed by the Company to the Underwriter
“Loan Capitalisation”	the capitalisation of the Loan in order to settle the underwriting obligation of the Underwriter in accordance with Clause 8
“Notice”	the notice of EGM contained in the Circular in the agreed form
“Offer Shares”	not less than 345,968,750 new Shares and not more than 404,346,092 new Shares, proposed to be offered to the Qualifying Shareholders for subscription on the terms and subject to the conditions set out in this Agreement and in the

	Prospectus
“Open Offer”	the proposed offer for subscription by the Qualifying Shareholders for the Offer Shares at the Subscription Price on the terms and subject to the conditions set out in this Agreement and the Prospectus Documents
“Overseas Shareholders”	Shareholders with registered addresses (as shown in the register of members of the Company on the Record Date) which are outside Hong Kong
“parties acting in concert”	has the meaning ascribed thereto in the Takeovers Code
“Prohibited Shareholders”	those Overseas Shareholders to whom the Company considers it necessary or expedient not to offer the Offer Shares based on the enquiry made pursuant to Clause 5.1
“Prospectus”	the Open Offer prospectus in the agreed form expected to be dated the Prospectus Posting Date
“Prospectus Documents”	the Prospectus, the Application Form
“Prospectus Posting Date”	9 January 2009 or such later date as may be agreed between the Company and the Underwriter for the despatch of the Prospectus Documents
“Qualifying Shareholders”	Shareholders whose names appear on the register of members of the Company on the Record Date, other than the Prohibited Shareholders
“Record Date”	8 January 2009 or such other date as may be agreed between the Company and the Underwriter for the determination of the entitlements under the Open Offer
“Registrars”	Tricor Tengis Limited of 26/F, Tesbury Centre, 28 Queen’s Road East, Wanchai, Hong Kong, the branch share registrar of the Company in Hong Kong
“Settlement Date”	the date being the third business day following (but excluding) the Latest Time for Acceptance or such later date as the Company and the

	Underwriter may agree
“SFC”	the Securities and Futures Commission of Hong Kong
“Share(s)”	share(s) of HK\$0.01 each in the share capital of the Company
“Shareholder(s)”	holder(s) of Shares
“Special Deals”	the special deal as a result of the Loan Capitalisation pursuant to the Takeovers Code
“Specified Event”	an event occurring or matter arising on or after the date hereof and prior to the Latest Time for Termination which if it had occurred or arisen before the date hereof would have rendered any of the warranties contained in Clause 10 untrue or incorrect in any material respect
“Stock Exchange”	The Stock Exchange of Hong Kong Limited
“Subscription Price”	the issue price of HK\$0.08 per Offer Share at which the Offer Shares are proposed to be offered for subscription
“subsidiary”	has the same meaning ascribed thereto in section 2 of the Companies Ordinance and “subsidiaries” shall be construed accordingly
“taken up”	in relation to any Offer Shares, means those Offer Shares in respect of which Complying Applications have been received on or before the Latest Time for Acceptance and references to “take up” shall be construed accordingly
“Takeovers Code”	the Hong Kong Code on Takeovers and Mergers
“Underwritten Shares”	the total number of Offer Shares which Shareholders are entitled pursuant to the Open Offer less the Offer Shares which the Underwriter has undertaken to subscribe or procure subscription thereof in accordance with this Agreement
“Verification Notes”	the verification notes to be prepared by Michael Li & Co. in the agreed form relating to the Prospectus
“Whitewash Waiver”	a waiver in respect of the obligation of the

Underwriter and the parties acting in concert with it to make a mandatory general offer to the Shareholders in respect of the Shares not already owned or agreed to be acquired by the Underwriter and the parties acting in concert with it as a result of the subscription of the Offer Shares in accordance with Note 1 on dispensations from Rule 26 of the Takeovers Code

“**HKS**” Hong Kong dollars, the lawful currency of Hong Kong

- 1.2 References to the singular number include the plural and vice versa and references to one gender include every gender. The clause headings in this Agreement are for convenience only and have no legal effect.
- 1.3 Any reference to a document being “**in the agreed form**” means in such form as may following the date of this Agreement be agreed between the Company and the Underwriter, both acting reasonably.
- 1.4 References to Clauses and Recitals are to clauses of and recitals to this Agreement.
- 1.5 References in this Agreement to time are to Hong Kong time.

2. **CONDITIONS**

- 2.1 The Open Offer is conditional upon:
 - (a) the passing by the Independent Shareholders at the EGM of the necessary resolution(s) (such vote shall be taken by way of poll) to approve the Open Offer, the Loan Capitalisation, the Special Deals and the Whitewash Waiver;
 - (b) the delivery to the Stock Exchange and registration with the Registrar of Companies in Hong Kong respectively one copy of each of the Prospectus Documents duly signed by two Directors (or by their agents duly authorised in writing) as having been approved by resolution of the Directors (and all other documents required to be attached thereto) not later than the Prospectus Posting Date and otherwise in compliance with the Listing Rules and the Companies Ordinance;
 - (c) the posting of the Prospectus Documents to Qualifying Shareholders on the Prospectus Posting Date;
 - (d) the Listing Committee of the Stock Exchange granting or agreeing to grant (subject to allotment) and not having withdrawn or revoked listing of and permission to deal in all the Offer Shares;
 - (e) compliance with and performance of all the undertakings and obligations of the Company under this Agreement;

- (f) compliance with and performance of all the undertakings and obligations of China Water under this Agreement;
- (g) the Executive granting the Whitewash Waiver and the consent to Special Deals to the Underwriter and parties acting concert with it and the satisfaction of all conditions (if any) attached to the Whitewash Waiver and the consent;
- (h) the Open Offer and the transactions contemplated thereunder not being regarded as a reverse takeover under Rule 14.06 of the Listing Rules; and
- (i) all necessary consents and approval to be obtained by the Underwriter having been duly obtained.

2.2 The Company shall use all reasonable endeavours to procure the fulfillment of all the Conditions by the Latest Time for Termination (or such other time and date as stipulated in Clause 2.1) or such other date and time as the Company and the Underwriter may agree and in particular shall furnish such information, supply such documents, pay such fees, give such undertakings and do all such acts and things as may be necessary in connection with the listing of the Offer Shares or to give effect to the Open Offer and the arrangements contemplated in this Agreement.

2.3 The Company shall make an application to the Stock Exchange for the listing of, and permission to deal in, the Offer Shares.

2.4 The Conditions set out in Clause 2.1 are incapable of being waived. If the Conditions referred to in Clause 2.1 is not satisfied by the Latest Time for Termination, or where appropriate, the times stipulated in Clause 2.1, or such later date or dates as the Underwriter may agree with the Company in writing, this Agreement shall terminate and (save in respect of any provisions of Clause 8.2 or Clauses 9, 12, 15 and 17 and any rights or obligations which may accrue under this Agreement prior to such termination) no party will have any claim against any other party for costs, damages, compensation or otherwise.

3. PUBLICATION OF THE ANNOUNCEMENT

3.1 Subject to approval by the Stock Exchange, the Company shall arrange for the Announcement to be published on the Stock Exchange website as soon as reasonably practicable following the signing of this Agreement.

3.2 The Company shall use its reasonable endeavours to procure the posting of the Circular to Shareholders on or about 12 December 2008 (or such other time as may be agreed between the Company and the Underwriter). The Company shall deliver to the Underwriter a certified copy of the resolution of the Board approving each of the Circular Documents and authorising the despatch thereof as soon as reasonably practicable and in any event within two business days from the date of despatch of the Circular Documents.

4. THE OPEN OFFER

4.1 Subject to fulfillment of the Conditions:

- (1) the Company shall offer the Offer Shares to the Qualifying Shareholders at the Subscription Price, in the proportion of one (1) Offer Share for every two (2) Shares held on the Record Date, by posting the Prospectus Documents to such holders on the Prospectus Posting Date on the basis that payment for the Offer Shares shall be made in full on application not later than the Latest Time for Acceptance;
- (2) the Company shall, on the Prospectus Posting Date, post the Prospectus marked “**For information only**” and a letter in agreed form explaining the circumstances in which the Prohibited Shareholders are not permitted to participate in the Open Offer, without the Application Form to the Prohibited Shareholders;
- (3) the Company shall deliver to the Underwriter certified copies of the resolutions referred to in Recital (B) on or before the Prospectus Posting Date; and
- (4) the Company will allot and issue the Offer Shares upon the terms and subject to the conditions set out in the memorandum of association and bye-laws of the Company and in accordance with the Prospectus Documents.

4.2 Prior to the despatch of the Prospectus Documents pursuant to Clause 4.1(1), the Company shall deliver to the Underwriter:

- (1) the Verification Notes relating to the Prospectus duly signed by or on behalf of the Directors; and
- (2) letter(s) from the auditors or reporting accountants of the Company, as appropriate, addressed to the Company reporting on or confirming the proforma net tangible asset value of the Group, and where necessary, sufficiency of working capital of the Group, indebtedness statement and other financial information if and as required by the Stock Exchange or the SFC to be contained in the Prospectus and consenting to the issue of the Prospectus with the inclusion of their names and the references thereto in the form and context in which they are included.

4.3 The Company shall make available for subscription by the Qualifying Shareholders by means of Excess Application Form of the Offer Shares representing:

- (a) any Offer Shares for which Application Forms (accompanied by the appropriate remittances which are honoured on first or, at the sole and absolute discretion of the Underwriter, subsequent presentation and otherwise in compliance with the procedure for acceptance as described in the Prospectus Documents) have not been lodged prior to the Latest Time for Acceptance;
- (b) any Offer Shares provisionally allotted to a nominee of the Company which are left unsold; and
- (c) any Offer Shares created by adding together fractions of Offer Shares.

- 4.4 The Offer Shares, when allotted and issued, shall rank pari passu in all respects with the Shares in issue on the date of allotment and issue of the Offer Shares, including the right to receive all dividends and distributions which may be declared, made or paid on or after such date.

5. PROHIBITED SHAREHOLDERS

- 5.1 The Company shall immediately after the Latest Lodgment Date but in any event before the Record Date make such enquiry regarding the legal restrictions, if any, under the laws of the relevant place and the requirements of the relevant regulatory body or stock exchange in the place where the Overseas Shareholders reside.

- 5.2 The Company shall, on or within two business days after the Prospectus Documents are posted to Shareholders, post copies of the Prospectus and a letter in the agreed form to the Prohibited Shareholders, if any, for information purpose only explaining the circumstances in which they are not permitted to participate in the Open Offer.

6. ACCEPTANCE OF OFFER SHARES AND APPLICATION FOR EXCESS OFFER SHARES AND UNDERWRITING OBLIGATIONS

- 6.1 The Underwriter's obligations under Clauses 6.1 to 6.6 (both inclusive) shall terminate if, before the Latest Time for Acceptance:

- (a) Application Forms in respect of all the Underwritten Shares (including any Offer Shares falling within the provisions of Clause 5.3) have been lodged for acceptance (whether by the persons to whom the Underwritten Shares were provisionally allotted or by renounees of the right to accept allotment) in accordance with the terms of the Prospectus Documents, together with cheques or bankers' cashier orders or other remittances for the full amount payable thereunder which are honoured on first or, at the discretion of the Underwriter, subsequent presentation (the Underwritten Shares comprised in Application Forms which are so lodged together with such remittances are herein referred to as having been "accepted"); or

- (b) the number of Underwritten Shares applied for under Excess Application Forms which have been lodged in accordance with the terms of the Prospectus Documents, together with cheques or banker's cashier orders or other remittances for the full amount payable in connection with the relevant applications which are honoured on first or, at the sole and absolute discretion of the Underwriter, subsequent presentation, is equal to or greater than the aggregate of the number of Underwritten Shares which have not been accepted under the Application Forms.

- 6.2 If Excess Application Forms have been lodged in accordance with the terms of the Prospectus Documents, together with cheques or banker's cashier orders or other remittances for the full amount payable in connection with the relevant applications which are honoured on first or, at the sole and absolute discretion of the Underwriter, subsequent presentation, then the Company shall accept such applications which are honoured on first or, at the sole and absolute discretion of the Underwriter, subsequent presentation, provided that the Company shall only be obliged to accept applications

for the aggregate number of the Underwritten Shares which shall not have been accepted and, if that aggregate number is less than the number of Shares applied for under the relevant Excess Application Forms, the Company shall be entitled to determine on a fair and equitable basis (in accordance with the relevant stipulations in the Prospectus Documents) which applications are to be accepted and which rejected, after consulting with the Underwriter. Underwritten Shares which have either been accepted or which are the subject of accepted applications under Excess Application Forms are herein referred to as having been “taken up”.

- 6.3 If, however, by the Latest Time for Acceptance any of the Underwritten Shares has not been taken up, the Company shall as soon as practicable thereafter and in any event before 4:00 p.m. on the first business day after the Latest Time for Acceptance notify or procure the Registrars on behalf of the Company to notify the Underwriter in writing of the number of Underwritten Shares not taken up, and the Underwriter shall subscribe or procure subscription on the terms of the Prospectus Documents (so far as the same are applicable) for such Underwritten Shares which have not been taken up by 5:00 p.m. on the third business day after the Latest Time for Acceptance.
- 6.4 The Underwriter shall, not later than 5:00 p.m. on the third business day after the Latest Time for Acceptance, pay or procure payment to the Company by way of the Loan Capitalisation together with any additional cash in accordance with Clause 8 of the aggregate Subscription Price in respect of the Underwritten Shares for which it is obliged to subscribe or procure subscription in accordance with this Clause, less any amounts payable to the Underwriter (if any). The Company shall arrange for delivery to the Underwriter or its nominee of share certificates in respect of the fully paid Underwritten Shares for which the Underwriter has subscribed or procured subscription in such names and in such denominations as the Underwriter may reasonably require at the same time as share certificates are despatched generally to persons who have taken up Offer Shares or, where the Underwriter has designated an investor participant or CCASS participant stock account for deposit of all or part of the Offer Shares, evidence to the satisfaction of the Underwriter that such documents and instructions required to effect the crediting of such Offer Shares have been signed or given, as the case may be.
- 6.5 If the Underwriter shall default in complying with its obligations under Clause 6.3, the Company shall be entitled (and is hereby irrevocably authorised) to treat this Agreement as an application by the Underwriter for the relevant Underwritten Shares which have not been taken up on the terms of the Prospectus Documents (so far as the same are applicable) and to allot and issue the same to the Underwriter and register the same in the name of the Underwriter and payment therefor at the aggregate Subscription Price less any amounts payable to the Underwriter (if any) for the account of the Underwriter shall be made by the Underwriter forthwith. The Company shall deliver to the Underwriter (or as it may direct) documentary evidence of entitlement to the relevant Underwritten Shares reasonably satisfactory to the Underwriter.
- 6.6 The Company and the Underwriter acknowledge and agree that:
- (a) up to a maximum of an additional 116,814,685 new Shares (the “**Additional Shares**”) are capable of being issued before the Record Date pursuant to the

exercise of the Share Options; and

- (b) if any Additional Shares are so issued and any new Shares are provisionally allotted by way of rights in respect of such Additional Shares pursuant to the Open Offer (the “**Additional Offer Shares**”), such Additional Offer Shares shall be Offer Shares and Underwritten Shares for the purpose of this Agreement.

6.7 The Underwriter hereby irrevocably undertakes to the Company that:

- (a) it will accept or procure to accept its entitlements under the Open Offer for 66,500,000 Offer Shares for 133,000,000 Shares held by the Underwriter and its subsidiaries;
- (b) it will not transfer or otherwise dispose any Shares held by the Underwriter or its subsidiaries between the date of this Agreement and the Latest Acceptance Date; and
- (c) it will procure that there be no conversion of any CW convertible Bonds into the Shares between the date of this Agreement and the Latest Acceptance Date.

7. OBLIGATIONS OF THE UNDERWRITER

7.1 Any transaction carried out by the Underwriter pursuant to Clause 6 (other than the obligations contained in Clause 7.2) shall constitute a transaction carried out at the request of the Company and as its agent and not in respect of the Underwriter’s own account. The Underwriter shall not be responsible for any loss or damage to any persons arising from any such transaction or for any alleged insufficiency of any dealing price at which any of the Offer Shares may be sold by any such person or for the timing of any such transaction, except where such loss or damage arises from the negligence or default of the Underwriter or any agent appointed by it for such purpose.

7.2 In acting as agent of the Company hereunder, the Underwriter shall comply with all applicable laws and shall not do or omit anything, the doing or omission of which shall or may cause the Company or any of its directors to be in breach of any applicable laws, and in particular, but without prejudice to the generality of the foregoing, shall ensure that all offers made by it of the Offer Shares are made only in compliance with all applicable laws and regulations and do not require the registration of the Prospectus Documents or any of them or any other document as a prospectus or otherwise in any jurisdiction other than Hong Kong and the Underwriter shall not make or purport to make on behalf of the Company any representation or warranty not contained in the Prospectus Documents.

8. FEES AND THE LOAN CAPITALISATION

8.1 In consideration of the Underwriter’s obligations under this Agreement to underwrite the Underwritten Shares and its services in connection with the issue of the Offer Shares, the Company shall by not later than the date of despatch of the share

certificates in respect of the Offer Shares pay and reimburse to the Underwriter all reasonable legal fees and other reasonable out-of-pocket expenses of the Underwriter in respect of the Open Offer in the event that the Open Offer was not approved by the Independent Shareholders at the EGM. For the avoidance of doubt, no commission will be payable by the Company to the Underwriter.

- 8.2 The amount referred to in Clause 8.1(1) shall not be payable if this Agreement does not become unconditional or if it is terminated by the Underwriter pursuant to Clause 13.
- 8.3 The aggregate Subscription Price required to be paid by the Underwriter and its associates under Clause 6 will be paid by way of the full or part capitalisation of the Loan of up to HK\$27,677,500 in first place and the remaining balance of the Subscription Price (if any) will be settled in cash. The exact amount of the Loan to be capitalised for such aggregate Subscription Price shall depend on the exact number of Offer Shares to be taken up by the Qualifying Shareholders.
- 8.4 The Company shall bear its own legal fees, accountancy and other professional fees, the Registrars' fees, the cost of printing and distributing the Announcement, the Circular and the Prospectus Documents and all other costs, charges and expenses relating to the issue of the Offer Shares and associated transactions (including, without limitation, all fees payable to the Stock Exchange in connection with the listing of the Offer Shares and capital duty (if any) payable on the increase or issue of its share capital). The Company shall forthwith upon request by the Underwriter reimburse the Underwriter for any such expenses as are referred to above which the Underwriter may have properly paid or incurred on behalf of the Company.

9. **ANNOUNCEMENTS**

Save as expressly required hereunder or as otherwise required by the Stock Exchange or the SFC, no public announcement or communication to Shareholders or to the Stock Exchange or to the SFC concerning the Company and/or its subsidiaries which is material in relation to the Open Offer shall be made or despatched by the Company or the Underwriter between the date hereof and, if all the Underwritten Shares are taken up, the Latest Time for Acceptance or, in any other case, the time at which the Underwriter is obliged to make payment (if any), without prior written approval from the Company and the Underwriter as to the content, timing and manner of making or despatch thereof which approval shall not be unreasonably withheld or delayed.

10. **REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

- 10.1 The Company represents and warrants to and undertakes with the Underwriter in the following terms:
- (1) the facts stated in the Recitals are true and accurate in all material respects;
 - (2) all statements of fact contained or to be contained in the Announcement, the Circular or the Prospectus Documents are and will at the date of issue thereof be true and accurate in all material respects and not misleading and all expressions of opinion, intention and expectation expressed therein are and

will be fair and made after due and careful consideration;

- (3) there will be no information not disclosed in the Prospectus Documents (a) the omission of which makes any statement therein misleading or which, in the context of the issue of the Offer Shares, might be material for disclosure therein or (b) which is necessary to enable investors to make an informed assessment of the activities, assets and liabilities, financial position, management, profits and losses and prospects of the Company and of the rights attaching to the Offer Shares;
- (4) the audited consolidated balance sheet of the Group as at the Audited Accounts Date, the audited consolidated profit and loss account of the Group for the financial year ended on such date (including the notes thereto) were prepared in accordance with the applicable law and on a basis consistent with that adopted in preparing the audited accounts for the previous two financial years in accordance with accounting principles, standards and practices generally accepted in Hong Kong so as to give (except to the extent (if any) disclosed therein) a true and fair view of the state of affairs of the Group as at the relevant dates and the profit or loss of the Group for the relevant financial periods. There has been no material adverse change in the financial or trading position of the Group since the Audited Accounts Date;
- (5) the returns for taxation purposes, which ought to have been made by or in respect of the companies in the Group in Hong Kong and any other part of the world, have been duly made and there are no circumstances known to any company in the Group or any of their respective directors, after making due and careful enquiry, which might be the occasion of any dispute with the relevant revenue or other appropriate authorities which is material adverse to the Group and all such returns are in all material respects up to date, correct and on a proper basis and are not the subject of any material dispute with the relevant revenue or other appropriate authorities;
- (6) there are existing valid policies of insurance against all liabilities, risks and losses against which it is normal or prudent to insure in respect of all major property and assets owned by and all businesses carried on by the companies in the Group and nothing has been done or has been omitted to be done whereby any of the said policies has or may become void or is likely to be avoided;
- (7) the statements, forecasts, estimates and expressions of opinion, intention and expectation to be contained in the Announcement, the Circular or the Prospectus will at the respective dates of issue thereof be made after due and proper consideration, will at the respective dates of issue thereof be fair and honest and represent reasonable expectations based on facts known or which on reasonable enquiry ought to have been known to the Company and/or the Directors or any of them;
- (8) all information necessary for the purpose of, or in the course of preparation of, the Announcement, the Circular and the Prospectus, and the replies to the Verification Notes, or which ought reasonably to have been disclosed or made

available by the Company or the Directors was so disclosed or made available to the Underwriter or its legal advisers fully, fairly and accurately and the replies to the Verification Notes (which will be prepared or approved by persons having appropriate knowledge and responsibility to enable them properly to provide such replies) given by the Company and the Directors will be true, accurate and complete in all material respects and will contain all material information and particulars with regard to the subject matter thereof;

- (9) each of the companies in the Group is duly incorporated in and under the laws of its place of incorporation and has full power and authority to conduct its business as now carried on;
- (10) except as has been disclosed by the Company by public announcement to Shareholders, neither the Company nor any of its subsidiaries has entered into any contract or commitment of an unusual or onerous nature which, in the context of Open Offer, might be material for disclosure;
- (11) the Company and its subsidiaries has carried on its business in the ordinary and usual course and there has been no material adverse change in the financial or trading position of the Company or any of its subsidiaries which has not been fully and properly disclosed by the Company in the form of an announcement in accordance with the Listing Rules or otherwise as required by the Listing Rules;
- (12) no order has been made and no resolution has been passed for the winding up of, or for a provisional liquidator to be appointed in respect of, the Company or any of its subsidiaries, and no petition has been presented and no meeting has been convened for the purpose of winding up any of the same; no receiver has been appointed in respect of the Company or any of its subsidiaries or all or any of its assets; none of the Company or any of its subsidiaries is insolvent, or unable to pay its debts within the meaning of section 178 of the Companies Ordinance, or has stopped paying its debts as they fall due; and no unsatisfied judgment which is material adverse to the condition of the Company is outstanding against the Company or any of its subsidiaries;
- (13) the Circular Documents and the Prospectus Documents will contain all particulars and information required by, and will be in accordance with the Companies Ordinance, the Listing Rules, the rules and regulations of the Stock Exchange and all other relevant statutory provisions and governmental regulations in Hong Kong and the Cayman Islands and shall not involve any breach of or default under any agreement, trust deed or instrument to which any member of the Group is a party;
- (14) no material outstanding indebtedness or guarantee or indemnity of any liability of the Company or any of its subsidiaries has become payable by reason of default by the Company or any of its subsidiaries and no event has occurred or is pending which with the lapse of time or the fulfillment of any condition or the giving of notice or the compliance with any other formality may result in any such indebtedness or guarantee or indemnity of any liability becoming so payable;

- (15) the Company shall not from the date hereof until after the Latest Time for Acceptance issue any Shares or issue or grant any share options or other securities convertible into, exchangeable for or which carry rights to acquire Shares;
- (16) on the date of issue of the Offer Shares, the Company will have the power under its memorandum of association and bye-laws, will have taken all necessary corporate or other action to enable it to, and no other consents, actions, authorizations or approvals are necessary to enable or authorize it other than the obtaining the consents and approvals referred to in Clauses 2.1:
 - (a) to issue and allot the Offer Shares in accordance with the Prospectus Documents without any sanction; and
 - (b) to enter into and perform its obligations under this Agreement and to make the Open Offer;
- (17) the Offer Shares, when allotted and issued, will be issued free from all liens, charges, encumbrances and third party rights, interests or claims of any nature whatsoever and will rank pari passu in all respects among themselves and with the Shares then in issue on the date of allotment and issue of the Offer Shares; and
- (18) the obligations of the Company under this Agreement constitute legally valid and binding obligations of the Company enforceable in accordance with the terms herein.
- (19) subject to the satisfaction of the Conditions, the compliance by the Company with all the provisions of this Agreement, as well as the consummation of the transactions herein contemplated will not conflict with or result in a breach or violation of, or result in any third party consent being required under, the constitutional documents of the Company, any of the terms or provisions of any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which any member of the Group or by which any member of the Group is a party or to which any of the property or assets of any member of the Group or any statute or any rule or regulation, including, without limitation, to the extent applicable, Listing Rules or any order of any court or governmental agency or body having jurisdiction over any member of the Group or the property or assets of any member of the Group;
- (20) except for the employee share options (if any) of the Company in issue as at the date hereof, no unissued share capital of any member of the Group is under any option or agreed conditionally or unconditionally to be put under any option and no person has an outstanding warrant, pre-emptive right or any other right of any description to require shares to be allotted or issued by any member of the Group; and
- (21) the Company will promptly provide the Underwriter, at its reasonable request, with all such information known to it or which on reasonable enquiry ought to

be known to it relating to the Group as may be required by the Underwriter in connection with the Open Offer for the purpose of complying with any applicable law, regulation or direction (including the establishment of any defence to any action under any of the same, whether relating to due diligence or otherwise) or any requirement of the Stock Exchange, the Securities and Futures Commission or any other applicable regulatory body.

- 10.2 The Company undertakes to use all reasonable endeavours not to cause or permit any Specified Event to occur prior to the Latest Time for Termination. Each of the representations, warranties and undertaking contained in Clause 10.1 shall be construed separately and shall not be limited or restricted by reference to or inference from the terms of any other of the representations, warranties and undertaking or any other terms of this Agreement. If this Agreement is not rescinded pursuant to Clause 12, all such warranties, representations and undertakings as are contained in Clause 10.1 above shall be deemed to have been repeated as at the Latest Time for Termination with reference to the facts and circumstances then subsisting.
- 10.3 If any Specified Event shall occur or come to the knowledge of the Company prior to the Latest Time for Termination, it shall forthwith give notice to the Underwriter of the same.
- 10.4 The foregoing provisions of this Clause 10 will continue in full force and effect notwithstanding the completion of the Open Offer.

11. INDEMNITY

- 11.1 The Company shall on demand indemnify the Underwriter and shall on demand hold the Underwriter indemnified against all loss or liability of any nature (including, without limitation, claims, costs, charges and expenses) whatsoever arising from or in respect of any material breach by the Company of any provision of this Agreement, or any claim which may be brought or threatened to be brought against the Underwriter (whether or not such claim is successfully compromised or settled) in each case arising out of or in relation to or by reason of the performance by the Underwriter of its obligations hereunder (and provided that such loss or liability is not connected with any failure by the Underwriter to comply with its obligations under Clause 5.3), by any subscriber of any of the Offer Shares or any subsequent purchaser or transferee thereof or any other person claiming that he has suffered loss in respect of them as a result of:
- (1) the Circular Documents and the Prospectus Documents not containing all the information required by law or the Listing Rules or pursuant to the rules of the Stock Exchange or other relevant authority or body to be stated therein or on the grounds that any statement, estimate or forecast contained in the Circular Documents and the Prospectus Documents is untrue, inaccurate or misleading in any material respect;
 - (2) the Circular Documents and the Prospectus Documents failing or being alleged to fail to disclose sufficient information necessary to enable an informed assessment to be made by a sophisticated investor of the assets and liabilities, financial position, profits and losses, and prospects of the Group or

of the rights attaching to the Offer Shares;

- (3) any claims and proceedings arising out of matters which constitute a material breach of the representations and warranties in Clause 10;
- (4) other than non-compliance or breach by the Underwriter of its obligations under this Agreement, any breach of the laws or regulations of any country resulting from the allotment or issue of the Offer Shares or the distribution of the Prospectus Documents;
- (5) any material misrepresentation by either the Company or any of the Directors or any employee of the Company in connection with the Open Offer; or
- (6) the allotment or issue of the Offer Shares,

including in any such case (but without prejudice to the generality of the foregoing) all reasonable costs, charges and expenses of whatever nature which the Underwriter may properly incur or bear in disputing any such claim made against it or establishing any claim on its part under this Clause 11 provided that this indemnity shall not relate to any claims, proceedings, costs or expenses arising from any gross negligent act, willful omission or default on the part of the Underwriter and that the conduct of the defence (including any settlement of any such claim) shall be carried out by the Underwriter after, and on the basis of, regular consultation with the Company.

11.2 The Company shall not make any claim against the Underwriter to recover any damages which the Company may suffer arising out of the performance by the Underwriter of its obligations hereunder, provided that such damages do not arise from any gross negligent act, willful omission or default on the part of the Underwriter.

11.3 If the Underwriter becomes aware of any claim relevant for the purposes of Clause 10.1, it shall forthwith give notice in writing thereof to the Company and shall take such action as the Company may reasonably request to avoid, dispute, resist, defend or appeal against the claim and any adjudication in respect thereof but subject to the Underwriter being fully indemnified and secured to its satisfaction against all losses and expenses to which it might thereby render themselves liable to suffer and incur including, without limitation, legal expenses properly incurred by its legal advisers.

12. **RESCISSION AND TERMINATION**

12.1 If prior to the Latest Time for Termination:

- (a) in the sole and absolute opinion of the Underwriter, the success of the Open Offer would be materially and adversely affected by:
 - (i) the introduction of any new law or regulation or any change in existing law or regulation (or the judicial interpretation thereof) or other occurrence of any nature whatsoever which may in the sole and absolute opinion of the Underwriter materially and adversely affect the business or the financial or trading position or prospects of the Group

- as a whole or is materially adverse in the context of the Open Offer; or
- (ii) the occurrence of any local, national or international event or change (whether or not forming part of a series of events or changes occurring or continuing before, and/or after the date hereof) of a political, military, financial, economic or other nature (whether or not ejusdem generis with any of the foregoing), or in the nature of any local, national or international outbreak or escalation of hostilities or armed conflict, or affecting local securities markets which may, in the sole and absolute opinion of the Underwriter materially and adversely affect the business or the financial or trading position or prospects of the Group as a whole or materially and adversely prejudice the success of the Open Offer or otherwise makes it inexpedient or inadvisable to proceed with the Open Offer; or
 - (iii) any material adverse change in the business or in the financial or trading position of the Group as a whole; or
- (b) any adverse change in market conditions (including without limitation, any change in fiscal or monetary policy, or foreign exchange or currency markets, suspension or material restriction or trading in securities) occurs which in the sole and absolute opinion of the Underwriter is likely to materially or adversely affect the success of the Open Offer or otherwise makes it inexpedient or inadvisable to proceed with the Open Offer; or
 - (c) there is any change in the circumstances of the Company or any member of the Group which in the sole and absolute opinion of the Underwriter will adversely affect the prospects of the Company, including without limiting the generality of the foregoing the presentation of a petition or the passing of a resolution for the liquidation or winding up or similar event occurring in respect of any of member of the Group or the destruction of any material asset of the Group; or
 - (d) any suspension in the trading of securities generally or the Company's securities on the Stock Exchange for a period of more than ten consecutive business days, excluding any suspension in connection with the clearance of the Announcement or the Prospectus Documents or other announcements or circulars in connection with the Open Offer, or
 - (e) the Circular, Prospectus or announcements of the Company published since the date of this Agreement when published contain information (either as to business prospects or the condition of the Group or as to its compliance with any laws or the Listing Rules or any applicable regulations) which has not prior to the date hereof been publicly announced or published by the Company and which may in the sole and absolute opinion of the Underwriter is material to the Group as a whole and is likely to affect materially and adversely the success of the Open Offer or might cause a prudent investor not to accept the Rights Shares provisionally allotted to it,

The Underwriter shall at its sole and absolute discretion be entitled by notice in

writing to the Company, served prior to the Latest Time for Termination, to terminate this Agreement.

12.2 The Underwriter shall be entitled by notice in writing to rescind this Agreement if prior to the Latest Time for Termination:

(a) any material breach of any of the warranties or undertakings contained in Clause 10 above comes to the knowledge of the Underwriter; or

(b) any Specified Event comes to the knowledge of the Underwriter.

Any such notice shall be served by the Underwriter prior to the Latest Time for Termination.

12.3 If prior to the Latest Time for Termination any such notice as is referred to above is given by the Underwriter, the obligations of all parties under this Agreement (save in respect of this Clause 12 and the provisions of Clause 12 which shall remain in full force and effect and save further that the Company shall pay the fees and expenses specified in Clause 8 (subject as provided in Clause 8.2)) shall terminate forthwith.

12.4 If this Agreement is terminated by the Underwriter at such time before the Latest Time for Termination but after the Underwriter has in accordance with Clause 6.4 paid or procured payment to the Company of the aggregate Subscription Price in respect of the Underwritten Shares for which it is obliged to subscribe or procure subscription under the provisions of Clause 6, the Company shall, not later than the end of the second business day after (but not including) the date of receipt of the notice of termination issued by the Underwriter referred to in Clause 12.1 or Clause 12.2, remit to the Underwriter such amount of aggregate Subscription Price which it has received from the Underwriter referred to by cheque or cashier order. For the avoidance of doubt, notwithstanding the payment of any sum by or on behalf of the Underwriter to the Company, Clause 8.2 shall apply and the amount referred to in Clause 8.1 in any event shall not be payable.

12.5 Rescission or termination of this Agreement under this Clause 12 shall be without prejudice to any rights of any party in respect of any breach by the other prior to such rescission or termination.

13. TIME OF THE ESSENCE

Any time, date or period mentioned in this Agreement may be extended by mutual agreement between the parties hereto, but as regards any time, date or period originally fixed or any time, date or period so extended as aforesaid, time shall be of the essence.

14. NOTICES

14.1 Any notice required to be given hereunder will be deemed to be duly served if left at or sent by hand, by telex or facsimile transmission or pre-paid post to the registered office or to the following addresses and facsimile numbers and marked for the attention of the following persons:

<u>Party</u>	<u>Address</u>	<u>Facsimile number</u>
The Company	2/F On Shing Industrial Bldg 2-16 Wo Liu Hang Road Fo Tan Shatin NT Hong Kong Attn.: Board of Directors	(852) 2691 0971
The Underwriter	Suite 6408, 64/F. Central Plaza 18 Harbour Road, Wanchai Hong Kong Attn: Board of Directors	(852) 2770 4883

14.2 Any such notice will be deemed to be served if sent by facsimile on receipt of answerback, if sent by hand at the time when the same is handed to or left at the address of the party to be served, and if sent by post on the day (excluding Sundays or Hong Kong public holidays) after the day of posting.

15. MISCELLANEOUS

15.1 This Agreement may be executed in any number of counterparts which when executed and delivered is an original, but all the counterparts together constitute the same document.

15.2 Any liability of any party hereunder to any other party may in whole or in part be released, compounded or compromised and time or indulgence may be given by any party hereunder as regards any other party under such liability without prejudicing that party's rights against any other person under the same or a similar liability.

16. GOVERNING LAW AND JURISDICTION

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

16.2 The parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of Hong Kong but this Agreement may be enforced in any other court in competent jurisdiction.

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

THE COMPANY

SIGNED by)

for and on behalf of)

**CHINA BOTANIC DEVELOPMENT
HOLDINGS LIMITED**)

in the presence of:)

THE UNDERWRITER

SIGNED by)

for and on behalf of)

**CHINA WATER AFFAIRS GROUP
LIMITED**)

in the presence of:)

For and on behalf of
CHINA WATER AFFAIRS GROUP LIMITED
中国水务集团有限公司
Authorized Signature(s)

EXHIBIT
ANNOUNCEMENT