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**北控水務集團有限公司\***

BEIJING ENTERPRISES WATER GROUP LIMITED

*(Incorporated in Bermuda with limited liability)*

**(Stock Code: 371)**

## **AMENDMENTS OF THE TERMS AND CONDITIONS OF THE BVI HOLDCO CONVERTIBLE BONDS AND THE TERMS OF THE ACQUISITION AGREEMENT**

Reference is made to the announcement and circular of the Company dated 12 June 2008 and 30 June 2008 respectively, regarding, among other things, the acquisition of the BVI Holdco Sale Shares.

The Board announces that on 31 December 2008, the Company entered into the following agreements for the amendments of the Conditions and the terms of the Acquisition Agreement:

- (1) an agreement was entered into between the Company and the Vendors (being the holders of the BVI Holdco Convertible Bonds) to amend the Conditions whereby the Company and the Vendors agreed that with effect from the First Completion Date:
  - (a) the Initial Conversion Price of the BVI Holdco Convertible Bonds would not be subject to any adjustment save and except for consolidation or subdivision of Shares and the issue of Shares by way of capitalization of profits or reserves; and
  - (b) in considering whether any adjustment to the Initial Conversion Price is appropriate as a result of the Company or any of its subsidiaries modifying the rights attached to any share or loan capital so as wholly or partly to convert or to make convertible such share or loan capital into, or attaching thereto any rights to acquire the Shares, the appointed investment bank would also have to take into account the interest of the Shareholders and the holders of the BVI Holdco Convertible Bonds such that they will not be prejudiced and their rights attaching to the Shares and/or the BVI Holdco Convertible Bonds will not be diluted or augmented; and

(2) a supplemental agreement was entered into between the Company, the Purchaser, the Vendors and the Warrantors to amend the terms of the Acquisition Agreement whereby:-

the Company undertakes with the Vendors that for the period commencing from 31 December 2008 and ending on 24 July 2013 (both days inclusive), the Company will not offer or issue, or announce an offering or issue of, any Shares at a price below HK\$0.69 per Share, or any other securities exercisable or exchangeable for or convertible into Shares with an exchange or conversion price below HK\$0.69 per Share, without the prior written consent of the Vendors, save for the grant of options under the Company's share option scheme adopted pursuant to the resolution of the Shareholders passed on 20 March 2002, the issue of Shares upon the exercise of the options granted or to be granted under the Scheme and any other issue of securities pursuant to any agreements to which the Group or any of its subsidiaries is a party subsisting as of 31 December 2008. The Undertaking will terminate upon the earliest of (i) the date falling on the fifth anniversary of the day on which the BVI Holdco Convertible Bonds were issued, such date being 24 July 2013; (ii) in respect of any Vendor, upon that Vendor ceasing to hold the First Convertible Bonds, the Second Convertible Bonds or the Third Convertible Bonds; and (iii) the parties to the Acquisition Agreement agreeing to terminate the Undertaking.

The Board is of the view that the amendments of the Conditions and the terms of the Acquisition Agreement are fair and reasonable, and in the interests of the Company and the Shareholders as a whole.

## **INTRODUCTION**

Reference is made to the announcement and circular of the Company dated 12 June 2008 and 30 June 2008 respectively, regarding, among other things, the acquisition of the BVI Holdco Sale Shares. Unless otherwise defined, capitalized terms defined in this announcement have the same meanings as those defined in the circular of the Company dated 30 June 2008. This announcement is to provide an update to the Shareholders and the public on the latest development of the Acquisition.

On 3 June 2008, the Acquisition Agreement was entered into between the Company, the Purchaser, the Vendors and the Warrantors pursuant to which the Company agreed to issue the BVI Holdco Convertible Bonds to the Vendors as part of the BVI Holdco Consideration for the acquisition of the BVI Holdco Sale Shares. On 24 July 2008, the BVI Holdco Convertible Bonds in the principal amount of HK\$589,304,125 was issued upon the First Completion. As at the date of this announcement, HK\$589,304,125 in the principal amount of the BVI Holdco Convertible Bonds remain outstanding.

## AMENDMENTS OF THE CONDITIONS

### Removal of certain adjustment events

Pursuant to the original terms and conditions of the BVI Holdco Convertible Bonds (the “**Conditions**”), the Initial Conversion Price of the BVI Holdco Convertible Bonds is subject to adjustment in the event of consolidation or subdivision of Shares, an issue of Shares by way of capitalization of profits or reserves, a capital distribution by the Company, a rights issue or an issue of Shares or convertible securities at a price which is less than 90% of the market price, an issue of Shares for acquisition of assets, and a purchase of Shares by the Company.

Furthermore, based on the original Conditions, if the Company or any of its subsidiaries modifies the rights attached to any share or loan capital so as wholly or partly to convert or to make convertible such share or loan capital into, or attaching thereto any rights to acquire, the Shares, the Company will appoint an approved investment bank to consider whether any adjustment to the Initial Conversion Price is appropriate.

On 31 December 2008, an agreement was entered into between the Company and the Vendors (being the holders of the BVI Holdco Convertible Bonds) whereby the Company and the Vendor agreed to remove certain adjustment events (that is, a rights issue or an issue of Shares or convertible securities at a price which is less than 90% of the market price, an issue of Shares for acquisition of assets, and a purchase of Shares by the Company) to which the Initial Conversion Price was originally subject and to provide that when the appointed investment bank is considering whether any adjustment to the Initial Conversion Price is appropriate, the appointed investment bank will also need to consider the interests of the Shareholders and the holders of the BVI Holdco Convertible Bonds such that they will not be prejudiced and their rights attaching to the Shares and/or the BVI Holdco Convertible Bonds will not be diluted or augmented.

As a result of entering into the agreement dated 31 December 2008, with effect from the First Completion Date:

- (a) the Initial Conversion Price of the BVI Holdco Convertible Bonds will not be subject to any adjustment save and except for consolidation or sub-division of Shares or the issue of Shares by way of capitalization of profits or reserves; and
- (b) if the Company or any of its subsidiaries will in any way modify the rights attached to any share or loan capital so as wholly or partly to convert or make convertible such share or loan capital into, or attaching thereto any rights to acquire, Shares, the Company will appoint an approved investment bank to consider whether any adjustment to the Initial Conversion Price is appropriate, the appointed investment bank has to take into the interests of the Shareholders and the holders of the BVI Holdco Convertible Bonds such that they will not be prejudiced and their rights attaching to the Shares and/or the BVI Holdco Convertible Bonds will not be diluted or augmented.

Save for the above-mentioned amendments, all the other Conditions remain unchanged and in full force and effect.

## **Reason for the amendments of the Conditions**

Following the recent consultations with the auditors of the Company in relation to the accounting treatment of the BVI Holdco Convertible Bonds, the Company and the Vendors agreed to amend the Conditions to address an accounting technical issue on the BVI Holdco Convertible Bonds and to avoid the volatility of the Company's operating performance as a result of changes in the value of the derivative liability pertaining to the BVI Holdco Convertible Bonds.

Pursuant to the original Conditions, the conversion price of the BVI Holdco Convertible Bonds was subject to adjustment in certain events (e.g. making of capital distribution, rights issue, issue of Shares for acquisition of assets, etc.) that would not result in settlement by the exchange of a fixed number of cash for a fixed number of ordinary shares of the Company. According to the Hong Kong Accounting Standard 39 Financial Instruments: Recognition and Measurement, the conversion feature of the BVI Holdco Convertible Bonds with price adjustment terms which will not result in settlement by the exchange of a fixed amount of cash for a fixed number of equity instruments is classified as a derivative liability and is measured at fair value. Any change in the fair value of the derivative liability will be recognized in the income statement of the Company. Factors affecting the value of the derivative liability include but not limited to the market price of the Shares and its volatility. The Company and the Vendors agreed to amend the Conditions by effectively removing those Initial Conversion Price adjustment events under the original Conditions that would result in the conversion feature of the BVI Holdco Convertible Bonds being classified as a derivative liability for accounting purposes to address an accounting technical issue on the BVI Holdco Convertible Bonds. Following the amendments of the Conditions, the conversion feature of the BVI Holdco Convertible Bonds will be classified as an equity instrument, the value of which is credited to the equity of the Company and measured at cost rather than classified as a derivative liability which is measured at fair value. Given that the conversion feature will be stated at cost in the equity of the Company following the amendments of the Conditions, the Company can avoid the volatility of the Company's operating performance due to the change in the fair value of the conversion feature of the BVI Holdco Convertible Bonds.

## **The Board's view**

The Board considers that the amendments of the Conditions are fair and reasonable and are in the interest of the Company and the Shareholders as a whole.

## **AMENDMENTS OF THE TERMS OF THE ACQUISITION AGREEMENT**

### **Undertaking**

On 31 December 2008, a supplemental agreement was entered into between the Company, the Purchaser, the Vendors and the Warrantors to amend the terms of the Acquisition Agreement whereby the Company undertakes (the “**Undertaking**”) to the Vendors that for the period commencing from 31 December 2008 and ending on 24 July 2013 (both days inclusive), the Company will not offer or issue, or announce an offering or issue of, any Shares at a price below HK\$0.69 per Share, or any other securities exercisable or exchangeable for or convertible into Shares with an exchange or conversion price below HK\$0.69 per Share, without the prior written consent of the Vendors, save for the grant of options under the scheme (the “**Scheme**”) adopted pursuant to resolution of the Shareholders passed on 20 March 2002, the issue of Shares upon the exercise of the options granted or to be granted under the Scheme and any other issue of securities pursuant to any agreements to which the Company or any of its subsidiaries is a party subsisting as of 31 December 2008. The Undertaking will terminate upon the earliest of (i) the date falling on the fifth anniversary of the day on which the BVI Holdco Convertible Bonds were issued, such date being 24 July 2013; (ii) in respect of any Vendor, upon that Vendor ceasing to hold the First Convertible Bonds, the Second Convertible Bonds or the Third Convertible Bonds; and (iii) the parties to the Acquisition Agreement agreeing to terminate the Undertaking.

Save for the above amendments, all the other terms of the Acquisition Agreement remain unchanged and in full force and effect.

### **Reason for the Undertaking**

The Undertaking is given to the Vendors for the purposes of affording them anti-dilution protection against any issue of Shares below the Initial Conversion Price which might otherwise be subject to adjustment but for the amendments of the Conditions stated above. The Company, after arm’s length negotiation with the Vendors, has agreed to give the Undertaking to the Vendors so as to induce them to enter into the supplemental agreement for the amendments of the Conditions with an aim to address an accounting technical issue on the BVI Holdco Convertible Bonds to avoid the volatility of the Company’s operating performance as a result of changes in the value of the derivative liability pertaining to the BVI Holdco Convertible Bonds.

### **The Board’s view**

By the resolution of the Shareholders passed on 15 July 2008, any one Director is authorised to do all such acts and things as he in his sole and absolute discretion deems necessary, desirable or expedient to implement, give effect to and/or complete the Acquisition Agreement and the transactions contemplated thereunder, and where required, any amendment of the terms of the Acquisition Agreement and/or the Conditions.

The Board is of the view that the amendments of the terms of the Acquisition Agreement do not constitute material variation of the terms of the Acquisition Agreement for the following reasons: (a) the expiry date of the Undertaking (that is 24 July 2013) corresponds with the maturity date of the BVI Holdco Convertible Bonds, that is the date falling on the fifth anniversary of the date of issue, being 24 July 2013; (b) the price per Share of HK\$0.69 below which the Company agrees not to offer or issue, or announce an offering or issue of, any Shares or any other securities exercisable or exchangeable for or convertible into Shares without the prior written consent of the Vendors in the Undertaking, is the same as the Initial Conversion Price and the price at which the BVI Holdco Consideration Shares which were issued to the Vendors as part of the BVI Holdco Consideration; (c) the Undertaking is subject to early termination (i) in respect of any Vendor, upon that Vendor ceasing to hold the BVI Holdco Convertible Bonds; or (ii) upon the parties to the Acquisition Agreement agreeing to terminate the Undertaking; and (d) under the original Conditions and as an anti-dilution measure agreed by the parties for the protection of the Vendors, the Vendors as holders of the BVI Holdco Convertible Bonds are entitled to adjust the Initial Conversion Price in the event of, among other things, a capital distribution by the Company, a rights issue or an issue of Shares or convertible securities at a price which is less than 90% of the market price, an issue of Shares for acquisition of assets, and a purchase of the Shares by the Company. The amendments of the Conditions under which the Company and the Vendors agree to remove these adjustment events from the Conditions and the giving of the Undertaking is consistent with the agreement among the parties to afford the Vendors as the holders of the BVI Holdco Convertible Bonds the anti-dilution protection.

For the reasons stated above and having considered other fund raising alternatives available to the Company and the current overall financial position of the Group, the Board is of the view that there will not be any adverse material impact on the Company's business and financial position (including the Company's fund raising activities in the future) as a result of the amendments of the Conditions and the terms of the Acquisition Agreement and that the above-mentioned amendments of the terms of the Acquisition Agreement are fair and reasonable and in the interests of the Company and the Shareholders as a whole.

Shareholders and potential investors of the Company should be aware that the price per Share stipulated in the Undertaking is not indicative of the future performance of the Company and there is no assurance that the Shares will not be traded below HK\$0.69 per Share.

By Order of the Board  
**Beijing Enterprises Water Group Limited**  
**Zhang Honghai**  
*Chairman*

Hong Kong, 31 December 2008

*As at the date of this announcement, the Board comprises eleven executive directors, namely, Mr. Zhang Honghai (Chairman), Mr. Liu Kai, Mr. E Meng, Mr. Jiang Xinhao, Mr. Hu Xiaoyong (Chief Executive Officer), Mr. Wang Taoguang, Mr. Wu Xiaoming, Mr. Zhou Min, Mr. Li Haifeng, Ms. Qi Xiaohong and Mr. Ju Yadong and five independent non-executive directors, namely, Mr. Shea Chun Lok Quadrant, Mr. Zhang Gaobo, Mr. Guo Rui, Ms. Hang Shijun and Mr. Wang Kaijun.*

\* *For identification purposes only*