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## **MTR CORPORATION LIMITED**

**香港鐵路有限公司**

(the "Company")

*(Incorporated in Hong Kong with limited liability)*

(Stock code: 66)

### **CONTINUING CONNECTED TRANSACTION**

On 11 January 2002, the Company entered into the Pre-Existing Contract with UGL, for the provision of maintenance and other services in respect of the Trains at the Depots for a period of seven years commencing on or around 1 October 2002 to 30 September 2009. The commencement date was subsequently advanced by three months. On 14 April 2009 the Company entered into the Pre-Existing Supplemental Agreement with UGL for the extension of the Pre-Existing Contract for a further period of seven years from 1 August 2009.

On 31 August 2009, the Company, UGL and JHL each agreed to subscribe for shares in MTM with the effect that the Company controls 60% of the voting power at any general meeting of MTM and each of UGL and JHL controls 20% of the voting power at any general meeting of MTM. Accordingly, subsequent to the Company entering into the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement), UGL is treated as a substantial shareholder of MTM (a subsidiary of the Company) and therefore a "connected person" of the Company within the meaning of Chapter 14A of the Listing Rules. The Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement) is therefore a "continuing connected transaction" within the meaning of Rule 14A.14.

This announcement is made pursuant to Listing Rule 14A.41.

### **THE PRE-EXISTING CONTRACT**

On 11 January 2002, the Company entered into the Pre-Existing Contract with UGL. On 14 April 2009, the Company entered into the Pre-Existing Supplemental Agreement for the extension of the Pre-Existing Contract for a further period of seven years from 1 August 2009. The Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement) is in substantially the same form as the Company's standard conditions of contract for maintenance services and contains (inter alia) the following terms:

**Parties**

- (1) the Company; and
- (2) UGL

**Obligations of UGL**

Under the terms of the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement), the principal obligations of UGL comprise the following:

- (a) the provision of preventative maintenance, corrective maintenance and cleaning services in respect of the Trains;
- (b) implementation and operation of the Depot Control Centre Operation to ensure that the Trains operate and perform certain designated functions and meet certain safety, reliability, availability and other requirements (in each case, as specified in the Pre-Existing Contract);
- (c) the collection and analysis of data and the development and recording of corrective actions for all faults relating to the Trains, for the purpose of maintaining the intended functions of the Trains and improving the safety and reliability of the services provided by the Trains; and
- (d) maintenance and operation of certain equipment at the Tseung Kwan O Depot and the operation of certain equipment at the Kowloon Depot that is required for the provision of the services listed in paragraphs (a) to (c) above,

(together the "**Maintenance Services**").

UGL shall indemnify the Company against any loss or expense sustained by the Company and against all losses and claims in respect of death or injuries or damage to any person or equipment or other property whatsoever which may arise out of or in connection with the Maintenance Services and against all claims, proceedings, damages, costs charges and expenses in respect of or in relation thereto, subject to any proportionate reduction in liability on account of any related negligence by the Company.

UGL shall indemnify the Company against all damages and compensation and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect of any damages or compensation payable at law in respect of or in consequence of any accident, injury or illness to any workman or other person in the employment of UGL arising out of and in the course of such employment.

UGL shall effect and maintain insurance in relation to certain of its liabilities to the Company and shall be responsible for bearing the cost of all excesses, exclusions or limitations applying under certain policies effected and maintained by the Company in relation to the Maintenance Services.

Pursuant to the terms of the Pre-Existing Contract, United Group Limited (the parent company of UGL) has provided the Company with a guarantee in respect of the obligations of UGL under the Pre-Existing Contract.

***Limitations of liability of UGL***

UGL's liability under the Pre-Existing Contract in respect of death or injury or damage to persons or third party property is unlimited. However, UGL's liability in respect of other matters arising under the Pre-Existing Contract is subject to a limit for any one occurrence of the total amount payable to UGL under the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement).

***Obligations of the Company***

In consideration of UGL providing the Maintenance Services between 1 August 2002 and 31 July 2009, the Company paid UGL a total sum of approximately HK\$171,966,450 (including for variations and additional works). The Pre-Existing Contract originally provided for the Maintenance Services to commence on 1 October 2002 but this date was advanced by three months pursuant to the terms of an option contained in the contract which was exercised by the Company. The Pre-Existing Supplemental Agreement, inter alia, extended the term of the Pre-Existing Contract for a further seven years from 1 August 2009 and the consideration payable by the Company to UGL for such extension amounts to HK\$152,940,000 (the "**Contract Sum**"). The Contract Sum is to be paid on a scheduled basis set out in the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement), subject to adjustments to take account of inter alia:

- (a) the level of service performance achieved by the Trains;
- (b) increases in costs to UGL in connection with the Pre-Existing Contract that arise as a result of variations in law or regulation; and
- (c) variations to the scope of the Pre-Existing Contract ordered by the Company,

in each case, in accordance with the provisions of the Pre-Existing Contract.

Under the terms of the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement), additional principal obligations of the Company comprise the following:

- (a) the Company effecting and maintaining third party insurance covering the legal liability of both UGL and the Company for accidental death or injury to persons or accidental loss of or damage to property, in each case, arising out of the Maintenance Services; and
- (b) the Company maintaining "Contractors All Risks" insurance covering loss or damage to certain goods, equipment and temporary buildings at the Depots.

### ***Determination***

In addition to the right to determine the Pre-Existing Contract by written notice in certain specified circumstances (such as upon the insolvency of UGL), the Company may determine the Pre-Existing Contract, at any time by giving three months written notice of the same to UGL.

UGL may determine the Pre-Existing Contract in the event that the Company fails to pay any amount certified by the Corporation to be due to UGL within sixty days of the last date upon which the same ought to have been paid in accordance with the terms of the Pre-Existing Contract, provided that the notice requiring the relevant payment to be made has been provided by UGL to the Company and the Company has remained in default for a further fourteen days (provided that the relevant failure to pay is not due to a bona-fide set-off or counter-claim by the Company or a right under the Pre-Existing Contract to deduct from monies otherwise due).

### **REASONS FOR, AND BENEFITS OF, THE PRE-EXISTING CONTRACT AS AMENDED AND SUPPLEMENTED BY THE PRE-EXISTING SUPPLEMENTAL AGREEMENT**

The terms of the Pre-Existing Contract were agreed upon subsequent to a tender process that invited submissions from a number of contractors, including UGL. UGL was selected by the Company in accordance with the Company's established procedures for the assessment of tenders.

The Company regularly outsources certain services to third parties that specialise in the type of work outsourced, thereby improving the efficiency of the Company's operations and allowing the Company to concentrate its resources on its core business areas. UGL is a specialist in the provision of construction, refurbishment and maintenance services to the railway industry.

UGL is part of an Australian-listed group of engineering and property services companies and is one of the Asia Pacific region's leading providers of end-to-end passenger rail solutions. UGL is also one of Asia Pacific's largest and most experienced providers of rolling-stock and infrastructure solutions to the passenger and freight rail sectors.

### **GENERAL**

As UGL is entitled to exercise 20% of the voting power at any general meeting of MTM, it is a "substantial shareholder" of MTM under Listing Rule 1.01. Under Listing Rule 14A.11, a "connected person" is defined to include a substantial shareholder of the listed issuer. Under Listing Rule 14A.10(7) and Listing Rule 14.04(6), the definition of "listed issuer" includes, unless the context otherwise requires, the subsidiaries of such listed issuer. Following the Company's acquisition of 60% of the voting power at any general meeting of MTM, MTM is deemed to be a subsidiary of the Company. UGL is therefore treated as a "connected person" of the Company. Listing Rule 14A.41 requires listed issuers to comply with the disclosure and reporting requirements of Chapter 14A in respect of pre-existing continuing transactions that subsequently become continuing connected transactions.

The Pre-Existing Contract (as amended by the Pre-Existing Supplemental Agreement) is therefore a continuing connected transaction of the Company requiring the following to be complied with under Chapter 14A of the Listing Rules:

- (a) this announcement to be made in accordance with Rule 14A.47 of the Listing Rules;
- (b) the independent non-executive Directors to review the transactions under the Pre-Existing Contract (as supplemented and amended by the Pre-Existing Supplemental Agreement) every year and confirm in the Company's annual report that such transactions have been entered into:
  - (1) in the ordinary and usual course of the business of the Company;
  - (2) either on normal commercial terms or, if there are not sufficient comparable transactions to judge whether they are on normal commercial terms, on terms no less favourable to the Company than terms available to or from independent third parties; and
  - (3) in accordance with the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement) on terms that are fair and reasonable and in the interests of the shareholders of the Company as a whole;
- (c) the auditors of the Company to provide a letter to the Board each year (with a copy to the Stock Exchange at least ten business days prior to the bulk printing of the Company's annual report), confirming that the transactions under the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement):
  - (1) have been approved by the Board; and
  - (2) have been entered into in accordance with the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement);
- (d) the Company to allow, and use its reasonable endeavours to procure that the counterparty to the transactions will allow, the auditors of the Company sufficient access to their records for the purposes of giving the confirmation in paragraph (c) above;
- (e) the Company to state in its annual report whether its auditors have given the confirmation in (c) above; and
- (f) the Company to notify the Stock Exchange promptly and publish an announcement if it knows or has reason to believe the independent non-executive Directors and/or the auditors of the Company will not be able to give the confirmations in (b) and (c) above.

The Directors (including the independent non-executive Directors) believe that the terms of the Pre-Existing Contract (as amended and supplemented by the Pre-Existing Supplemental Agreement) are fair and reasonable and in the interests of the shareholders of the Company as a whole.

## PRINCIPAL ACTIVITIES OF THE COMPANY

The principal activities of the Company and its subsidiaries are:

- (a) the operation of a modern railway system with lines from Central to Tsuen Wan (**Tsuen Wan Line**), from Yau Ma Tei to Tiu Keng Leng (**Kwun Tong Line**), from Po Lam and LOHAS Park to North Point (**Tseung Kwan O Line**), from Chai Wan to Sheung Wan (**Island Line**), from Hong Kong to Tung Chung (**Tung Chung Line**), from Hong Kong to the Hong Kong International Airport and then AsiaWorld-Expo both at Chek Lap Kok (**Airport Express Line**), from Sunny Bay to Disneyland Resort (**Disneyland Resort Line**), from Hung Hom to the boundary at Lo Wu and Lok Ma Chau (**East Rail Line**), from Tai Wai to Wu Kai Sha (**Ma On Shan Line**), from Hung Hom to Tuen Mun (**West Rail Line**), the North-west Railway (commonly known as Light Rail) in the North-West New Territories of Tuen Mun, Tin Shui Wai and Yuen Long, an intercity railway system between Hong Kong and some major cities in the Mainland of China, and a freight railway system along East Rail Line from the boundary at Lo Wu to Sheung Shui Abattoir and Hung Hom;
- (b) property development, either as owner or as an agent for KCRC, at locations relating to the railway system including the Tseung Kwan O Line, the Ma On Shan Line, the East Rail Line, the Light Rail and the West Rail Line;
- (c) related commercial activities, including the letting of advertising and retail space, bandwidth services on the railway telecommunication system, property management and leasing management of investment properties (including shopping centres, offices and residential units), and Octopus Card Building Access System services;
- (d) the operation of the 7-year London Overground Concession, in which the Company has a 50% equity share, consisting of 107.2 route kilometres of commuter railway lines connecting London's suburbs into the London Underground network;
- (e) the design and construction of the West Island Line as an extension of the Island Line;
- (f) the planning and construction of future extensions to the railway system and other related infrastructure projects including the South Island Line, the Kwun Tong Line Extension, the Shatin to Central Link and the Express Rail Link, as the major projects for which the Government has confirmed policy support;
- (g) the operation of the Tung Chung to Ngong Ping Cable Car System and the Theme Village in Ngong Ping, Lantau Island, Hong Kong;

- (h) worldwide consultancy services covering all areas of expertise required in the project management, planning, construction, operation, maintenance and up-grading of railways plus fare collection, property integration/development advice including other property related services and advice on generation of non-fare revenues;
- (i) investment in Octopus Holdings Limited, a subsidiary of the Company, which has business activities both in Hong Kong and overseas including the operation of a smart card system by its subsidiary Octopus Cards Limited for the collection of payments for both transport and non-transport applications in Hong Kong;
- (j) equity investments and long term operation and maintenance contracts outside of Hong Kong;
- (k) property management, shopping centre investment and railway related property development business in the Mainland of China;
- (l) the investment in, and construction of, Beijing Metro Line 4, in which the Company has a 49% equity interest, for future operations under a 30 year concession agreement with the Beijing Municipal Government; and
- (m) investment in MTR Corporation (Shenzhen) Limited, a wholly-owned subsidiary of the Company, which is responsible for the construction of Phase 2 of Line 4 of the Shenzhen metro system and the operation of the whole of Line 4 of the Shenzhen Metro for a period of 30 years under a concession agreement with the Shenzhen Municipal Government.

## DEFINITIONS

In this announcement, the following expressions have the meanings set out below unless the context otherwise requires:

**"Board"** means the board of directors of the Company.

**"Depots"** means collectively the Tseung Kwan O Depot and the Kowloon Depot.

**"Depot Control Centre Operation"** means the operation of a control centre at the Tseung Kwan O Depot for the managing of the day-to-day operations of the Tseung Kwan O Depot and the performance of certain other functions specified in the Pre-Existing Contract.

**"Director"** means a member of the Board.

**"Government"** means the government of Hong Kong.

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

"**JHL**" means John Holland Pty Limited.

"**KCRC**" means the Kowloon-Canton Railway Corporation.

"**Kowloon Depot**" the Company's rail depot at Kowloon Bay.

"**Listing Rules**" means the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited.

"**Mass Transit Railway**" has the meaning ascribed to that term in the Mass Transit Railway Ordinance (Cap. 556 of the Laws of Hong Kong).

"**MTM**" means Metro Trains Melbourne Pty Ltd, a joint venture company incorporated in Australia.

"**Pre-Existing Contract**" means the contract entered into on 11 January 2002 between the Company and UGL for the provision of maintenance and other services in respect of the Trains at the Tseung Kwan O Depot.

"**Pre-Existing Supplemental Agreement**" means the contract entered into on 14 April 2009 between the Company and UGL for the extension of the Pre-Existing Contract for a further period of seven years from 1 August 2009 and the transfer of the provision of maintenance services under the Pre-Existing Contract to the Kowloon Depot.

"**Stock Exchange**" means The Stock Exchange of Hong Kong Limited.

"**Trains**" means 15 G/H stock trains used by the Company on the Kwun Tong Line, the Island Line, the Tsuen Wan Line and the Tseung Kwan O Line (in each case, as defined in the section above headed "**PRINCIPAL ACTIVITIES OF THE COMPANY**").

"**Tseung Kwan O Depot**" means the Company's rail depot at Tseung Kwan O.

"**UGL**" means United Group Rail Services Limited (formerly known as A Goninan & Co. Ltd).

By order of the Board  
**Leonard Bryan Turk**  
*Company Secretary*  
MTR Corporation Limited

Hong Kong, 1 September 2009



*Members of the Board:* Dr. Raymond Ch'ien Kuo-fung (*Chairman*)\*\*, Chow Chung-kong (*Chief Executive Officer*), Vincent Cheng Hoi-chuen\*, Christine Fang Meng-sang\*, Edward Ho Sing-tin\*, Ng Leung-sing\*, Abraham Shek Lai-him\*, T. Brian Stevenson\*, Professor Chan Ka-keung, Ceajer (*Secretary for Financial Services and the Treasury*)\*\*, Secretary for Transport and Housing (Eva Cheng)\*\* and Commissioner for Transport (Joseph Lai Yee-tak)\*\*

*Members of the Executive Directorate:* Chow Chung-kong, Russell John Black, William Chan Fu-keung, Thomas Ho Hang-kwong, Lincoln Leong Kwok-kuen, Andrew McCusker and Leonard Bryan Turk

\* independent non-executive Directors

\*\* non-executive Directors

This announcement is made in English and Chinese. In the case of any inconsistency, the English version shall prevail.

