

## Business Revolving Loan General Terms and Conditions

**Business Revolving Loan is provided by the Lender subject to these Terms and Conditions, our SME Services Terms and Conditions and the terms and conditions set out in the Business Revolving Loan Confirmation Letter (“Letter”). By applying for the Loan Facility, you will be taken to have accepted all of the aforesaid terms and conditions.**

### **1. Definitions and Interpretation**

#### 1.1 Definitions

In these Terms and Conditions:

“**Authorisation**” means:

- (a) an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, lodgement or registration; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if an Authority intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

“**Authority**” means any regulatory authority, court or judicial body, governmental agency, tax authority, law enforcement agency, central bank, exchange, clearing house, industry or self-regulatory body, or sanctions authority or organisation that enacts, administers or enforces sanctions, embargos or restrictive measures.

“**Banking (Exposure Limits) Rules**” means the Banking (Exposure Limits) Rules (Cap. 155S of the Laws of Hong Kong).

“**Borrower**” or “**you**” means any person applying for or has been granted the Loan Facility.

“**Borrower Account**” means the savings account maintained by the Borrower with the Lender for crediting and debiting funds in relation to the Loan Facility.

“**Business Day**” means a day (other than a Saturday or a Sunday or a public holiday in Hong Kong) on which commercial banks are open for general business in Hong Kong.

“**Exchange Rate**” means the rate for converting one currency into another currency which the Lender determines to be prevailing in the relevant foreign exchange market at the relevant time, such determination to be conclusive and binding on the Borrower (except in the case of manifest error).

“**FATCA**” means:

- (a) sections 1471 to 1474 of the US Internal Revenue Code of 1986 or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“**Final Repayment Amount**” shall have the meaning ascribed to it in Clause 6.3 below.

“**Finance Document**” means these Terms and Conditions, the Letter, (if applicable) the Guarantee or any security document or any other document or agreement that may be executed by the Borrower, the Guarantor or any other person in relation to the Loan Facility.

“**Guarantee**” means the personal guarantee in favour of the Lender for the obligations and liabilities owing by the Borrower to the Lender, in the form and substance satisfactory to the Lender.

“**Guarantor**” means each and all individual(s) who executes the Guarantee.

“**Hong Kong**” means the Hong Kong Special Administrative Region of the People’s Republic of China.

“**Lender**” or “**we**” means Ping An OneConnect Bank (Hong Kong) Limited, including its successors and assigns and any trustee or agent acting on its behalf where the context requires or permits.

“**Loan**” means a loan made or to be made by the Lender to the Borrower under the Loan Facility or, where the context may require, the principal amount outstanding at any time of that loan.

“**Loan Facility**” means the Business Revolving Loan and includes, where the context may require, each and all Loans.

“**Loan Facility Expiry Date**” means the last day of the Loan Facility Tenor.

“**Loan Facility Tenor**” means the tenor of the Loan Facility which is specified in the Letter.

“**Loan Maturity Date**” means the last day of the Loan Tenor.

“**Loan Tenor**” means the tenor of a Loan which is specified in the Letter.

“**Material Adverse Effect**” means a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of the Borrower;
- (b) the ability of the Borrower or the Guarantor to perform its obligations under the Finance Documents;
- (c) the validity, legality or enforceability of any Finance Document, or the rights or remedies of the Lender under the Finance Documents; or
- (d) the validity, legality or enforceability of any security expressed to be created under any Finance Documents or the priority and ranking of any of such security.

“**One-Month Interest Period**” means a one-month interest period applicable to a Loan:

- (a) which commences on the date on which such Loan is drawn and thereafter, commences on the corresponding day of each subsequent month (or if there is no corresponding day in a subsequent month, the preceding calendar day in such subsequent month); and
- (b) during which interest on the principal amount of such Loan shall accrue.

“**Regulatory Requirements**” means any and all of the following requirements whether applicable in or outside Hong Kong to which the Lender or the Borrower is subject or with which the Lender or the Borrower is expected to comply from time to time:

- (a) any law, rule, regulation, ordinance, statute, subsidiary or subordinate legislation, court or judicial order, or any embargo or sanction regime; and
- (b) any guideline, code, policy, procedure, direction, request, demand, condition or restriction issued by any Authority.

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“**Third Parties Ordinance**” means the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong).

## 1.2 Interpretation

- (a) Where the Borrower is a company or corporation, reference to the “**Borrower**” means the company or corporation and its successors, permitted assigns and permitted transferees.
- (b) Where the Borrower is a sole proprietorship, reference to the “**Borrower**” means the sole proprietor and his executors, administrators, personal representatives, lawful successors, permitted assigns and permitted transferees.
- (c) Where the Borrower is a partnership or any other unincorporated body, reference

P3/18

to the “**Borrower**” means the present and future partners of the partnership, or the persons from time to time carrying on business in the name of the unincorporated body, and their respective executors, administrators, personal representatives, lawful successors, permitted assigns and permitted transferees, and any agreement or document executed by the Borrower shall continue to bind the partnership or the unincorporated body notwithstanding any change in its constitution, name or membership by reason of death, bankruptcy, retirement, disability or admission of partners or persons for carrying on business, or the occurrence of any other event which may dissolve the partnership or the unincorporated body.

- (d) Unless a contrary indication appears, any reference in these Terms and Conditions to:
- (i) “assets” includes present and future properties, revenues and rights of every description;
  - (ii) “including” means “including without limitation” (with related words being construed accordingly);
  - (iii) “indebtedness” means any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (iv) a “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
  - (v) a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any Authority;
  - (vi) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vii) a time of day is a reference to the time in Hong Kong, unless otherwise specified.
- (e) Words importing the plural include the singular and vice versa, and words importing a gender include every gender.

## 2. Availability, Drawdown and Tenor

2.1 The Lender has the sole discretion whether or not to grant the Loan Facility to the Borrower. The Loan Facility is an uncommitted banking facility. The Loan Facility is available to the Borrower, subject to the Lender’s customary overriding right to (i) cancel or suspend any unutilised Loan Facility amount, (ii) determine whether or not to permit utilisation of any unutilised Loan Facility amount, and (iii) demand repayment at any time (including the right to call for cash cover on demand for prospective and contingent liabilities). The Loan Facility is also subject to the Lender’s review on an annual basis or at such time or intervals as the Lender considers appropriate.

2.2 Once the Lender notifies the Borrower that the Loan Facility is available to the

P4/18

Borrower, the Loan Facility will be effective and available to the Borrower from such date and subject to these Terms and Conditions and the terms and conditions set out in the Letter.

- 2.3 The Lender will designate an initial approved principal amount limit to the Borrower Account in respect of the use of the Loan Facility, provided that the Borrower hereby expressly agrees and acknowledges that the Lender shall be at liberty at any time at its absolute discretion to review, increase, reduce and/or vary such principal amount limit without any prior notice to the Borrower.
- 2.4 The Borrower may request to draw one or more Loans, provided that the total sum of the principal amounts of the newly granted Loans and the outstanding principal amounts of all existing Loans (if any) must not exceed the approved principal amount limit of the Loan Facility at any time, in the manner and subject to these Terms and Conditions, the terms and conditions set out in the Letter and the relevant terms and conditions prescribed by the Lender from time to time. No Loan drawdown is allowed for the purpose of re-financing or consolidating any of the existing Loans.
- 2.5 All Loans must be drawn within the Loan Facility Tenor and no Loan Tenor may exceed the Loan Facility Expiry Date.

### **3. Borrower's Representations and Warranties**

- 3.1 The Borrower represents and warrants to the Lender as follows:
  - (a) it is duly incorporated or established and validly existing, and where applicable, in good standing under the laws of the place of incorporation or establishment, and has power to own its assets and carry on its business as it is being conducted;
  - (b) it has power to execute, deliver and perform, and has taken all necessary action to authorise the execution, delivery and performance of its obligations under and the transactions contemplated by these Terms and Conditions and any other Finance Documents, and no limitation on its powers has been or will be exceeded;
  - (c) the obligations it takes on under these Terms and Conditions and any other Finance Documents are legal, valid, binding and enforceable;
  - (d) the execution, delivery and performance of, and the transactions contemplated by, these Terms and Conditions and any other Finance Documents do not and will not (i) contravene any existing law or regulation applicable to it, (ii) result in any breach of or default under any agreement or other instrument binding on it or any of its assets, or (iii) contravene any provision of its constitutional documents;
  - (e) all Authorisations required or desirable to enable it to lawfully accept the Loan Facility and to execute, deliver and perform its obligations under and the transactions contemplated by these Terms and Conditions and any other Finance Documents have been obtained or effected and are in full force and effect;
  - (f) to the best of its knowledge and belief, no litigation, arbitration or administrative proceedings has been started or threatened against it or any of its assets which, if adversely determined, would have or could reasonably be expected to have a Material Adverse Effect;

- (g) the obligations of the Borrower in connection with the Loan Facility will at all times rank at least pari passu with the claims (whether present or future, actual or contingent) of all of its other creditors, except for obligations mandatorily preferred by law applying to companies generally;
  - (h) all financial or other information provided to the Lender by or on behalf of the Borrower in connection with the Loan Facility or any Finance Documents (including copies of its constitutional documents) is true, complete, up-to-date and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated, and nothing has occurred or been omitted from the information so provided and no information has been given or withheld that results in the information provided to the Lender being untrue or misleading in any material respect;
  - (i) since the date of its latest financial statements delivered to the Lender, there has been no material adverse change in its financial conditions which would affect its ability to perform its obligations in connection with the Loan Facility;
  - (j) it is not aware of any material facts or circumstances which have not been disclosed to the Lender and which might, if disclosed, have adversely affected the decision of the Lender as to whether or not to grant the Loan Facility or any other decision relating to the Loan Facility;
  - (k) it has complied in all material respects with the Regulatory Requirements (including the Regulatory Requirements relating to anti-bribery and corruption, anti-money laundering and counter-terrorist financing, and sanctions, and the related record-keeping and reporting requirements) applicable to it and its business;
  - (l) neither the Borrower nor (to its knowledge) any of its directors, officers, employees or other persons acting on its behalf is aware of or has taken any action, directly or indirectly, that would result in a violation by such person(s) of any applicable anti-bribery law, including the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act of 1977; and
  - (m) neither the Borrower nor any of its assets is entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceedings (including suit, attachment prior to judgment, execution or other enforcement) in the jurisdiction to which it is subject.
- 3.2 The representations and warranties made above are deemed to be repeated by the Borrower by reference to the facts and circumstances then existing from time to time while any obligations or indebtedness in connection with the Loan Facility owing by the Borrower to the Lender remain outstanding.

#### 4. **Borrower's Undertakings**

The Borrower gives the following undertakings to the Lender which continue to have effect while any obligations or indebtedness in connection with the Loan Facility owing by the Borrower to the Lender remain outstanding:

- (a) the Borrower shall use the Loan Facility solely for the purpose(s) specified in the Letter;

- (b) the Borrower shall notify the Lender of any change or event, and shall provide with the Lender information, relating to any one or more matters set out below as soon as reasonably practicable or becoming aware of it:
  - (i) any litigation, arbitration or administrative proceedings which are current, pending or threatened against the Borrower or the Guarantor in any jurisdiction which, if adversely determined, would have or could reasonably be expected to have a Material Adverse Effect;
  - (ii) any notice being received from any Authority amending, suspending, revoking or terminating or threatening to amend, suspend, revoke or terminate any Authorisation where such action of the Authority would have or could reasonably be expected to have a Material Adverse Effect; and
  - (iii) any other change or event would have or could reasonably be expected to have a Material Adverse Effect;
- (c) the Borrower shall comply in all respects with the Regulatory Requirements to which it is subject and with which the failure to comply would, or could reasonably be expected to, have a Material Adverse Effect;
- (d) the Borrower shall ensure that all information provided by it, or on its behalf, to the Lender from time to time is true, complete and up-to-date;
- (e) the Borrower shall file any tax or other returns or reports in compliance with the Regulatory Requirements to which it is subject;
- (f) the Borrower shall provide the following information to the Lender promptly:
  - (i) details of any substantial change to the general nature of the business of the Borrower;
  - (ii) details of any material change or updates of any information relating to the Borrower (including any change in its shareholding, ownership or control);
  - (iii) details of any difficulty of the Borrower in making payment of interest or principal relating to the Loan Facility or performing its other obligations relating to the Loan Facility;
  - (iv) information relating to its financial condition, business and operations as the Lender may reasonably require from time to time;
  - (v) notice of any change in its authorised signatories, signed by a director, officer or any other individual prescribed or accepted by the Lender, accompanied by the specimen signatures of the new authorised signatories; and
  - (vi) such other information, document or evidence as the Lender may reasonably require in order for the Lender to conduct any “know your customer” or other similar procedures in compliance with the Regulatory

P7/18

Requirements;

- (g) the Borrower shall ensure that its payment obligations in connection with the Loan Facility rank and continue to rank at least pari passu with the claims (whether present or future, actual or contingent) of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally;
- (h) the Borrower shall not make any substantial change in the nature or scope of its business, its corporate structure or its management control unless with the prior written consent of the Lender;
- (i) the Borrower shall not create or permit to subsist any security over any of its assets except (i) any lien arising by the operation of law in the ordinary course of day-to-day operations and not in connection with any loan, credit facilities or financial accommodation of any kind; and (ii) any encumbrance created with the prior written consent of the Lender;
- (j) the Borrower shall not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary and whether at the same time or over a period of time) to sell, lease, transfer or otherwise dispose of any asset without the Lender's prior written consent, except for any sale, lease, transfer or other disposal of an asset at full value in its ordinary course of trading and at arm's length;
- (k) the Borrower shall not enter into any amalgamation, demerger, merger or corporate reconstruction with any other person without the Lender's prior written consent; and
- (l) the Borrower shall provide such information, execute such documents and do such acts as the Lender may reasonably require from time to time.

**5. Borrower Account**

- 5.1 Upon receiving a Loan drawdown request from the Borrower by the Lender and subject to Clause 2 above, the Lender will credit the requested amount of the Loan to the Borrower Account or in such other manner as the Lender may reasonably specify from time to time.
- 5.2 The Lender will debit from the Borrower Account the amounts payable by the Borrower to the Lender from time to time, or make the debit in such other manner as the Lender may reasonably specify from time to time.

**6. Payments and Repayments**

- 6.1 A Loan must be repaid (including its principal amount and interests) on the Loan Maturity Date of such Loan.



- 6.2 **Subject to Clause 6.3 below, the Borrower shall pay interest on a Loan on a monthly basis at the end of each One-Month Interest Period during the Loan Tenor of such Loan.**

Monthly interest on a Loan is calculated as follows and rounded to two decimal places:

$$\frac{\text{principal amount of the relevant Loan} \times \text{effective annual interest rate}}{365 \text{ days}} \times \text{total number of days in the relevant One-Month Interest Period}$$

- 6.3 In respect of the Borrower’s repayment obligation for the last One-Month Interest Period of a Loan, the Borrower shall repay, on the Loan Maturity Date of such Loan, the principal amount of such Loan plus monthly interest accrued on such Loan during such One-Month Interest Period in one single repayment in one lump sum (“**Final Repayment Amount**”).
- 6.4 The Lender will debit from the Borrower Account the interests of a Loan on a monthly basis at the end of each One-Month Interest Period and the Final Repayment Amount on the Loan Maturity Date of such Loan.
- 6.5 If any Loan Maturity Date or the Loan Facility Expiry Date falls on a non-Business Day, the amount due and payable by the Borrower to the Lender shall become due and payable on the following Business Day. The Lender will not take the deferral of payment to the following Business Day in these circumstances as late repayment and will not charge additional or default interest for such deferral.
- 6.6 **In making payments to the Lender in connection with the Loan Facility, the Borrower shall pay the Lender in Hong Kong Dollars.**
- 6.7 If there are insufficient funds in the Borrower Account to discharge all the amounts then due and payable by the Borrower in connection with the Loan Facility, the Lender has the right to apply the funds towards the indebtedness owing by the Borrower in such order as the Lender considers appropriate. The Lender’s right under this Clause 6.7 overrides any request or direction from the Borrower or the Guarantor for applying the funds in any other order or manner.
- 6.8 If any amount received by the Lender in respect of any indebtedness owing by the Borrower to the Lender is required to be repaid in whole or in part due to any law relating to insolvency, bankruptcy or liquidation or for any other reason, the Lender has the right to enforce these Terms and Conditions or any other Finance Documents as if such amount had not been received.

**7. Interest**

- 7.1 **Interest (including default interest) shall accrue and shall be calculated on such basis and be due and payable at such times and shall be compounded in such manner as the Lender may determine in its sole discretion. In particular, the Lender has the right to vary the interest rate and/or the basis of calculation of interest if the Lender determines that, due to market conditions or other circumstances beyond its reasonable control, the existing interest rate or the basis of calculation of interest does not reflect its actual cost of funding or maintaining the Loan Facility.**

7.2 If the Lender varies the interest rate or the basis of calculation of the interest payable on the Loan Facility, such variation will become effective starting from the next One-Month Interest Period (in respect of an existing Loan) or from the first One-Month Interest Period (in respect of a new Loan) following such variation.

7.3 **If the Borrower defaults in payment of any interest or the principal amount of any Loan in whole or in part when it is due, or if there are insufficient funds in the Borrower Account to discharge any of the amounts then due and payable by the Borrower in connection with the Loan Facility or any Loan, default interest shall accrue without further notice on the overdue amount at the rate specified by the Lender from time to time (both before and after judgment). Such default interest shall accrue from day to day from the due date up to the date on which the Lender actually receives irrevocable and unconditional payment of the overdue amount in full. Any default interest accruing shall be immediately payable by the Borrower on demand by the Lender.**

## 8. Early Redemption

8.1 **The Borrower may at any time send a request to the Lender via the Lender's mobile banking App to prepay the principal amount of a Loan in full, together with the accrued interest and other amounts (if any) of such Loan payable by the Borrower to the Lender up to (and including) the date of prepayment, provided that the Borrower shall pay for (i) any cost or expense incurred by the Lender arising from or in connection with such prepayment, and (ii) unless it is waived by the Lender in writing, an early redemption fee prescribed by the Lender. For the avoidance of doubt however, partial prepayment of the principal amount of a Loan (whether or not such partial prepayment is made together with the accrued interest and other amounts (if any) of such Loan payable by the Borrower) is not allowed.**

8.2 **Any prepayment request sent by the Borrower to the Lender is irrevocable unless with the Lender's prior written consent.**

## 9. Repayment on Demand

**The Lender has the right, at any time, to demand immediate repayment in full of the outstanding principal amount of any Loan. If the Lender exercises such right, the Borrower is required to repay:**

- (a) **the outstanding principal amount of the relevant Loan; and**
- (b) **the interest at the rate specified by the Lender at the time, starting from the date of demand up to (and including) the date of repayment (whether before or after judgment), accrued on the outstanding principal amount of the relevant Loan and accrued on any overdue interest repayment(s).**

## 10. Annual Renewal

10.1 Not earlier than three (3) months before the Loan Facility Expiry Date (excluding the Loan Facility Expiry Date), renewal of the Loan Facility is available upon request of the Borrower to the Lender and subject to the Lender's sole discretion and availability of funds.

**10.2 Any renewal of the Loan Facility granted by the Lender is subject to an annual renewal fee at a rate specified by the Lender from time to time.**

10.3 Details of renewal are subject to the Lender's renewal assessment result.

**11. Fees, Costs and Expenses**

**11.1 The Borrower shall pay to the Lender on demand all costs and expenses (including legal and out-of-pocket expenses) incurred by the Borrower in any one or more of the following matters, in each case together with interest from the date it is incurred or becomes payable to the date the relevant cost or expense is actually received by the Lender (both before and after judgment), accruing from day to day at the rate of default interest:**

- (a) in connection with the Lender's negotiation, preparation, execution and registration and any amendment to or waiver or consent under the Letter or any other Finance Documents;
- (b) as a result of any failure by the Borrower or the Guarantor to perform any of its obligations in connection with the Loan Facility;
- (c) in contemplation of, or in connection with, the preservation, exercise or enforcement (or attempted preservation, exercise or enforcement) of any rights and interests under or in connection with the Loan Facility; and
- (d) in obtaining any advice in relation to any matter or question arising from or in connection with the Loan Facility.

**11.2 The Borrower shall pay to the Lender any handling fees, commissions, arrangement fees, commitment fees and other fees or charges at such rate or amount as the Lender may prescribe and notify the Borrower from time to time.**

**12. Tax Gross Up; Indemnities**

12.1 Tax gross-up

- (a) All payments made or to be made by or on behalf of the Borrower to the Lender in connection with the Loan Facility shall be made to the Lender free and clear of and without any deduction or withholding of any kind. If at any time the Borrower is required to make any deduction or withholding (whether for or on account of Tax or any other reason) from any payment to the Lender, the sum due from the Borrower to the Lender in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lender actually receives on the due date for such payment (and retains, free from any liability in respect of such deduction or withholding) a net sum equal to the sum which the Lender would have received had no such deduction or withholding been made or required to be made.
- (b) It is the sole responsibility of the Borrower to effect payment of any deduction or withholding to the relevant Authority within the applicable time limit. Within thirty (30) days of effecting the required payment, deduction or withholding, the Borrower shall deliver to the Lender evidence to the reasonable satisfaction of

*P11/18*

the Lender that the required payment, deduction or withholding has been made.

- (c) The Borrower shall as soon as reasonably practicable on becoming aware that it is required to make a payment, deduction or withholding (or that there is any change in the rate or basis of a payment, deduction or withholding) notify the Lender accordingly.

## 12.2 Tax indemnity

Without limiting or reducing the effect of Clause 12.1 above, if the Lender is required to make any payment of or on account of Tax on or in relation to any sum received or receivable in connection with the Loan Facility (including any sum deemed for purposes of Tax to be received or receivable by the Lender whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against the Lender, the Borrower will promptly indemnify the Lender on demand against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection with it.

## 12.3 Other Taxes

- (a) The Borrower shall pay any and all stamp duties, registration and other Taxes that are payable in respect of the Loan Facility, any Finance Document or any transaction contemplated by it.
- (b) All fees and consideration expressed to be payable in connection with the Loan Facility or any Finance Document by the Borrower to the Lender are exclusive of any goods and services tax, consumption tax, value added tax or any other indirect Tax of a similar nature. If any indirect Tax is chargeable on any supply made by the Lender to the Borrower in connection with the Loan Facility or any Finance Document, the Borrower shall pay to the Lender (in addition to and at the same time as paying the fees or consideration) an amount equal to the amount of the indirect Tax.
- (c) Where the Loan Facility or any Finance Document requires the Borrower to reimburse the Lender for any costs or expenses, the Borrower shall also at the same time pay and indemnify the Lender against all indirect Tax incurred by the Lender in respect of the costs or expenses to the extent that the Lender reasonably determines that it is not entitled to credit or repayment in respect of the indirect Tax.

## 12.4 Other indemnities

- (a) If any change in an applicable Regulatory Requirement shall:
  - (i) increase the cost to the Lender of maintaining or funding the Loan Facility;
  - (ii) reduce the amount of any payment received or receivable by the Lender in respect of the Loan Facility;
  - (iii) oblige the Lender to make a payment in respect of any amount received

*P12/18*

or receivable by it in respect of the Loan Facility;

- (iv) cause the Lender to forgo any interest or other amount received or receivable by it in respect of the Loan Facility; or
- (v) render the Lender otherwise unable to obtain the rate of return on its overall capital which it would otherwise have been able to achieve,

then the Borrower will promptly indemnify the Lender on demand against such amount of increased cost, reduction, payment or forgone interest or other amount.

- (b) The Borrower shall indemnify the Lender, its directors, officers and employees against all liabilities, claims, demand, losses, damages, Taxes, costs, charges and expenses of any kind (including legal fees on a full indemnity basis and other expenses reasonably incurred) which may be incurred or suffered by any of them and all actions or proceedings which may be brought by or against any of them as a result of or in connection with:
  - (i) any failure of the Borrower to pay any indebtedness as it falls due or any failure to perform or observe any other provisions of any Finance Document (including any representation given by the Borrower being or becoming untrue in any material respect or misleading);
  - (ii) any information provided by or on behalf of the Borrower to the Lender being or being alleged to be untrue, incomplete, inaccurate, out of date, misleading or deceptive in any respect;
  - (iii) any enquiry, investigation, subpoena (or similar order) or litigation with respect to the Borrower or the transactions contemplated by any Finance Document;
  - (iv) any payment in connection with the Loan Facility or any Finance Document being impeached or declared void for any reason;
  - (v) the Lender acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised by the Borrower; and
  - (vi) preserving, enforcing or exercising any rights or interests of the Lender in connection with the Loan Facility or any Finance Document, including interpreting or invoking any provision of any Finance Document, taking legal proceedings and enforcing any judgment.

### **13. Tax Compliance**

**13.1 Without limiting or reducing the effect of Clause 12 above, the Borrower is solely responsible for complying with its obligations relating to Tax under the Regulatory Requirements applicable to it.**

**13.2 The Borrower shall provide such information, certificates, declarations, documents or records which the Lender may reasonably require and within such time prescribed by the Lender to enable the Lender to comply with the Regulatory**

*P13/18*

**Requirements relating to Tax.** These Regulatory Requirements relating to Tax may be prescribed by the laws and the Authorities of Hong Kong and overseas respectively, including FATCA and the automatic exchange of financial account information regime amongst tax authorities.

- 13.3 The Borrower shall consult its own professional adviser on the Tax matters in connection with the Loan Facility, the Finance Documents and the transactions contemplated by them.

#### **14. Connected Parties**

- 14.1 **The Borrower shall notify the Lender whether the Borrower or the Guarantor is in any way connected with the Lender within the meaning of Part 8 of the Banking (Exposure Limits) Rules.** The Lender will assume that neither the Borrower nor the Guarantor is connected with the Lender in the absence of such notice.

- 14.2 **If the Borrower or the Guarantor becomes connected with the Lender within the meaning of Part 8 of the Banking (Exposure Limits) Rules subsequent to the signing of the Letter by the Borrower or the Guarantor, the Borrower shall notify the Lender in writing without delay.**

#### **15. Information and Personal Data**

- 15.1 The Borrower consents to the following:

- (a) any information relating to the Borrower and the Finance Documents being used, processed, disclosed, transferred and stored, within or outside Hong Kong for the purposes relating to the Loan Facility and/or the Finance Documents, by the Lender and any other person providing services or support to the Lender or the Borrower. These other persons may include (i) the group member of the Lender, credit reference agencies, debt collection agencies and any other agents, contractors and third party service providers which provide services or support for the general operation of the Lender or any group member of the Lender, and (ii) any person to whom the Lender proposes to assign, transfer or sub-participate, or has assigned or transferred or entered into sub-participation, any of its rights and obligations in relation to the Loan Facility and/or the Finance Documents;
- (b) the use, disclosure or transfer of any information relating to the Borrower and the Finance Documents by the Lender or any group member of the Lender in compliance with the Regulatory Requirements and/or to any Authority; and
- (c) the Lender verifying any information provided by or on behalf of the Borrower with any source or person as the Lender may consider appropriate.

- 15.2 Before providing the Lender with any personal data of an authorised person or any other individual related to the Borrower (including the Guarantor(s) and any of the Borrower's shareholders, directors, officers, employees or representatives), the Lender shall provide a copy of the Lender's Personal Information Collection Statement to the relevant individual and obtain such individual's consent for providing his personal data to the Lender and the use and handling of his personal data in relation to the Loan Facility and other matters and activities contemplated by the Finance Documents from time to time.

15.3 (applicable if there is a guarantee or third party security) The Borrower expressly consents to the Lender providing to any person proposing to give a guarantee or third party security in support of the Loan Facility (a “**Surety**”) or the legal advisers of any Surety (i) a copy of the Letter and any document in connection with the Loan Facility evidencing the obligations to be guaranteed or secured, (ii) a copy of any formal demand for overdue payment that is sent to the Borrower if it fails to settle any overdue amount in connection with the Loan Facility following a customary reminder, and (iii) if requested by the Surety, a copy of the latest statement of account provided to the Borrower (if any).

## **16. Other Rights of the Lender**

16.1 The Lender has the right to apply any moneys received by it in payment of any indebtedness owing by the Borrower in or towards satisfaction of the moneys, liabilities or obligations owing by the Borrower to the Lender from time to time, and/or credit such moneys into a non-interest bearing suspense account and hold them for so long and in such manner as the Lender may consider appropriate with a view to preserving its rights to prove for all indebtedness owing by the Borrower to the Lender.

16.2 The Lender may, at any time without notice, combine or consolidate all the Borrower’s accounts with the Lender and apply any credit balance to which the Borrower is entitled, either alone or jointly, in or towards satisfaction of any obligation or indebtedness owing by the Borrower to the Lender, regardless of the currency of the respective obligations or indebtedness or the place of payment.

16.3 The Lender may, at any time without notice or demand, set off any obligation or indebtedness (whether or not matured) owing by the Borrower to the Lender against any obligation or indebtedness (whether or not matured) owing by the Lender to the Borrower, regardless of the currency of the respective obligations or indebtedness or the place of payment.

16.4 The Lender is authorised to purchase, at the Exchange Rate, such other currencies as may be necessary to effect the application of any amount standing to the credit of the Borrower’s accounts as contemplated above. If the respective obligations or indebtedness as referred to above are in different currencies, the Lender is also authorised to convert such obligation or indebtedness at the Exchange Rate for the purpose of exercising its set-off right.

16.5 The Lender is authorised to exercise a lien over any or all of the assets of the Borrower coming into the possession or control of the Lender, for custody or any other reason and whether or not in the ordinary course of banking business. The Lender is authorised to sell any or all of such assets and apply the net proceeds in or towards discharge or satisfaction of any obligations or indebtedness owing by the Borrower to the Lender.

16.6 The Lender will give written notice to the Borrower as soon as practicable after it has exercised its set-off right.

## **17. Calculations and Certificates**

17.1 In any litigation or arbitration proceedings arising from or in connection with the Loan Facility or any Finance Document, the entries made in the records maintained by the Lender are prima facie evidence of the matters to which they relate.

17.2 Any certification or determination by the Lender of a rate or amount under any Finance Document shall, in the absence of manifest error, be conclusively binding on the Borrower.

## **18. Assignment**

18.1 The Borrower shall not assign or transfer any of its rights or obligations in connection with the Loan Facility or any Finance Document.

18.2 The Lender may at any time, upon giving written notice to the Borrower, assign any or all of its rights and transfer any or all of its obligations in connection with the Loan Facility or any Finance Document to any other person without the consent of the Borrower.

## **19. Additional Rights**

The rights and remedies conferred on the Lender by the Finance Documents are cumulative and additional to and not exclusive of any rights or remedies provided by law.

## **20. No Waivers**

20.1 No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy in connection with the Loan Facility or any Finance Document shall operate as a waiver of any such right or remedy. No single or partial exercise of any right or remedy by the Lender shall preclude any further or other exercise of that right or remedy, or the exercise of any other right or remedy.

20.2 No waiver on the part of the Lender shall be effective unless it is made or confirmed in writing.

## **21. Severability**

If any provision of any Finance Document is or becomes illegal, invalid or unenforceable in any jurisdiction, this will not affect:

- (a) the legality, validity or enforceability of any other provision of that Finance Document in that jurisdiction; or
- (b) the legality, validity or enforceability of that provision or any other provision of that Finance Document in any other jurisdiction.

## **22. Communications**

### **22.1 Communications**

- (a) Any communication to be made or given under or in connection with any Finance Document (including any notice, waiver or consent) shall be made in writing and sent by such means as prescribed or accepted by the Lender.



- (b) The Lender may send the communications according to the correspondence details of the Borrower on the Lender's records from time to time. The Borrower shall notify the Lender of any change of its correspondence details as soon as reasonably practicable.

## 22.2 Notice to the Lender

**Any communication by the Borrower to the Lender must be given via the Lender's website or mobile application or in any other means prescribed or accepted by the Lender, and shall only be effective when actually received by the Lender.**

## 22.3 Notice to the Borrower

Any communication made by the Lender to the Borrower will be deemed to be received by the Borrower:

- (a) if delivered by hand, at the time when left at the relevant address;
- (b) if delivered by post, two (2) days (in the case of local mail) and five (5) days (in the case of overseas mail) after posting; or
- (c) if delivered by electronic mail or other electronic means, upon dispatch to the relevant email address or upon dispatch by the other electronic means.

## 23. Amendment

The Lender may by notice to the Borrower vary, amend or supplement any provisions of these Terms and Conditions. Such variation, amendment or supplement shall take effect on the date of the notice or any later date specified in the notice. Such variation, amendment or supplement shall be binding on the Borrower.

## 24. Third Party Rights

No person other than the Borrower and the Lender has any right under the Third Parties Ordinance to enforce or to enjoy the benefit of any provision of these Terms and Conditions. Any director, officer, employee or agent of the Lender may rely on any provision of these Terms and Conditions (including any indemnity) which expressly confers rights or benefits on him, but his consent is not required for amending the provisions of these Terms and Conditions.

## 25. Governing Law and Jurisdiction

These Terms and Conditions are governed by and construed in all respects in accordance with the laws of Hong Kong. The Borrower submits to the non-exclusive jurisdiction of the Hong Kong courts. The Lender also has the right to bring any action or proceedings against the Borrower in any other court of competent jurisdiction.

## 26. Language

The English version of these Terms and Conditions is the governing version. The Chinese version is for reference only. The English version shall prevail if there is any inconsistency between the English and the Chinese versions.