

Attachment to Personal Loan Application Form - General Terms and Conditions for General Banking Facilities and Loan Facility(ies)

(This Attachment shall form an integral part of the Application Form)

Important Notice: These General Terms and Conditions for General Banking Facilities and Loan Facility(ies) set out the terms and conditions upon which the Bank would provide / continue / renew general banking facilities and loan facility(ies) to borrowers. Borrower(s) is / are advised to read and understand these terms and conditions carefully before accepting the general banking facilities and loan facility(ies).

These General Terms and Conditions for General Banking Facilities and Loan Facility(ies) (as amended and in force from time to time) ("**these General Terms and Conditions**") shall apply to all general banking facilities and loan facility(ies) (the "**Facilities**") which **Bank of China (Hong Kong) Limited** (including its successors and assigns, the "**Bank**") may from time to time grant to you as the Borrower.

Part I : Facility Terms and Conditions

Part II : Charge On Deposit(s)

Part I: Facility Terms and Conditions

1. Definitions

In these General Terms and Conditions, the Application Form and the Loan Advice unless the context otherwise requires, the following expressions shall have the following meanings:-

Application Form	means the Personal Loan Application Form in respect of the Facility and its attachment(s);
B Prime	means the prime rate for any currency other than HKD, CNY or USD as may be quoted by the Bank from time to time and subject to fluctuation;
Business Day	means a day on which commercial banks in Hong Kong are open for business but excluding Saturdays, Sundays and public holidays;
Base Rate	means the HKD Prime, USD Prime, CNY Prime, B Prime, HIBOR, LIBOR or CNY HIBOR as may be determined by the Bank from time to time (as the case may be);
B/B L/C	means a letters of credit issuance and inward bills facility on a "back to back" basis against master letters of credit which is available on a "direct shipment" basis only;
Borrower	means any party to whom the Facilities are granted or made available by the Bank;
Charge	means the Charge on Deposit(s) attached to the Application Form;
CIRS	means a Facility granted in connection with currency interest rate swap Transactions pursuant to the Bank's Terms and Conditions for Treasury and Derivative Products, Terms and Conditions for Foreign Exchange and Derivative Transactions or the terms and conditions under the ISDA Documentation (as the case may be);
CNY	means Renminbi, the lawful currency of the People's Republic of China;
CNY HIBOR	means in respect of a particular interest period and in relation to any advance and/or drawing under the Facilities in CNY, the rate per annum quoted by the Bank from time to time at Reuters (Code: "BCHN") and Bloomberg (Code : "BOCH");
CNY O/D	means an overdraft facility made available to the Borrower under current account(s) denominated in CNY;
CNY Prime	means the prime rate for CNY as may be quoted by the Bank from time to time and subject to fluctuation;
Cost of Funds	means the cost of its funding from whatever sources it may select as determined by the Bank from time to time at its absolute discretion (as the case may be);
Currency Option	means a Facility granted in connection with currency option Transactions pursuant to the Bank's Terms and Conditions for Treasury and Derivative Products, Terms and

	Conditions for Foreign Exchange and Derivative Transactions or the terms and conditions under the ISDA Documentation (as the case may be);
DDC O/D	means an overdraft facility made available to the Borrower under current account(s) denominated in HKD against uncleared cheque(s) which is/are due and which shall be expressed as a percentage of the face amount of the relevant cheque(s) as stated in the relevant the Application Form and the Loan Advice;
Default Administrative Charges	means the amount of charges referred to in Clause 6.5;
Default Margin	means, without prejudice to Clause 6.2 below, 6% per annum for Loan Facility(ies), 10% per annum for HKD O/D, DDC O/D, USD O/D and CNY O/D, or the rate specified by the Bank from time to time and displayed or posted in the Bank's banking halls, as the Bank may designate and notify the Borrower;
Deposit(s)	has the meaning given to it under the Charge;
D/L	means a demand loan facility;
D/P / D/A	means an export-bills purchase facility against export collection bills on Documents Against Payment ("D/P") and/or Documents Against Acceptance ("D/A") basis with a tenor and up to a percentage of the relevant bills as stated in the Application Form and the Loan Advice;
EID	means an export invoice discounting facility with a tenor and up to a percentage against invoice(s) issued by the Borrower for goods sold or supplied by the Borrower;
EFAC	means the Maximum Funds in Use available for factoring of export bills pursuant to the terms and conditions of a factoring agreement and its supplement(s), if any, from time to time entered into between the Bank and the Borrower;
Event of Default	means any one of the events mentioned in Clause 22 below and reference to "Events of Default" shall be construed accordingly;
Facility(ies)	means the various general banking facilities and loan facility(ies) granted or made available to the Borrower from time to time as set out in the the Application Form and the Loan Advice and reference to "Facility" shall be construed accordingly;
F/X	means a Facility granted in connection with forward exchange Transactions pursuant to the Bank's Terms and Conditions for Treasury and Derivative Products, Terms and Conditions for Foreign Exchange and Derivative Transactions or the terms and conditions under the ISDA Documentation (as the case may be);
HIBOR	means in respect of a particular interest period and in relation to any advance and/or drawing under the Facilities in HKD, the rate per annum quoted by the Bank in the Hong Kong Interbank Hong Kong Dollar Market and known as "Hong Kong Interbank Offered Rate";
HKD	means Hong Kong dollars, the lawful currency of Hong Kong;
HKD O/D	means an overdraft facility made available to the Borrower under current account(s) denominated in HKD;
HKD Prime	means the prime rate for HKD as may be quoted by the Bank from time to time and subject to fluctuation;
Hong Kong	means the Hong Kong Special Administrative Region of the People's Republic of China;
IIF	means an import invoice financing with a tenor and up to a percentage of the relevant invoice as stated in the relevant the Application Form and the Loan Advice;
I/L	means an import loans facility with a tenor as stated in the relevant the Application Form and the Loan Advice;
IRS	means a Facility granted in connection with interest rate swap Transactions pursuant to the Bank's Terms and Conditions for Treasury and Derivative Products, Terms and Conditions for Foreign Exchange and Derivative Transactions or the terms and conditions under the ISDA Documentation (as the case may be);
ISDA Documentation	means the ISDA Master Agreement, the ISDA Schedule and any other documents ancillary to such documents;
L/C	means a letters of credit issuance and inward bills facility;
L/G	means a letters of guarantee issuance facility;
L/I	means a Facility granted for negotiation of export bills under letters of credits issued by banks acceptable to the Bank (not conforming to terms of such export letter of credit);
LIBOR	means in respect of a particular interest period and in relation to any drawing under the Facilities in a currency other than HKD, the rate per annum as determined by the

	Bank in the London Interbank Market and known as "London Interbank Offered Rate";
Loan Advice	means the loan advice issued from time to time by the Bank to the Borrower (a) confirming the Bank's acceptance of the Borrower's application for the Facility (ies) and/or (b) containing the terms and conditions of the Facility (ies) and/or (c) confirming the Bank's acceptance of the Borrower's request to release any of the Deposit(s), as may be amended, revised or supplemented from time to time;
Loan Facility(ies)	means the Term Loan Facility, Demand Loan Facility, Revolving Loan Facility and any other loan facilities made available to the Borrower whether or not on the securities as stated in the relevant the Application Form and the Loan Advice;
MML	means a money market line facility;
"Obligors"	means the Borrower, any party to a Security Document and any party to the Application Form and the Loan Advice (including by way of counter-signature), but shall not include the Bank and any other party expressly excluded by the Bank in the Application Form and the Loan Advice.
ODB	means a Facility granted for negotiation of export bills under letters of credits issued by banks acceptable to the Bank;
Original Interest Rate	means the respective applicable rate of interest for HKD O/D, DDC O/D, CNY O/D or USD O/D as specified in the Application Form and the Loan Advice;
Payment Order	means bills, drafts, orders and/or other instruments;
P/L	means a packing loans facility which shall be expressed as a percentage of the relevant export letter of credit as stated in the Application Form and the Loan Advice;
POD	means a payment order discounting facility against any Payment Order purchased or discounted by the Bank from the Borrower;
PSF	means a pre-shipment financing facility which shall be expressed as a percentage of the relevant purchase order/contract as stated in the Application Form and the Loan Advice;
R/L	means a revolving loan facility;
S/G	means a shipping guarantees issuance facility;
Security Documents	means the Charge and such documents as may from time to time securing, guaranteeing or supporting the Facility(ies) for the benefit of the Bank;
Standby L/C	means a standby letters of credit issuance facility;
T/L	means a term loan facility;
T/R	means a trust receipt facility with a tenor as stated in the Application Form and the Loan Advice;
Transactions	means the transactions entered into pursuant to the Bank's Terms and Conditions for Treasury and Derivative Products, Terms and Conditions for Foreign Exchange and Derivative Transactions or the terms and conditions under the ISDA Documentation (as the case may be) and has its meaning ascribed therein;
USD	means United States dollars, the lawful currency of the United States of America;
USD O/D	means an overdraft facility made available to the Borrower under account(s) denominated in USD; and
USD Prime	means the prime rate for USD as may be quoted by the Bank from time to time and subject to fluctuation.

2. Availability

- 2.1 Subject to the Borrower's acceptance of and full compliance with the terms and conditions set out in the the Application Form and the Loan Advice and production and where appropriate, execution of all appropriate documentation mentioned in the Application Form and the Loan Advice to the Bank's satisfaction and payment of all required fees and charges, the Facilities set forth in the Application Form and the Loan Advice will be made available to the Borrower for use until such time as the Bank shall notify the Borrower in writing to the contrary.
- 2.2 The Facilities shall be deemed automatically drawn down by the Borrower and/or advanced by the Bank when payment or liability is made or incurred by the Bank under the relevant Facilities. For the avoidance of doubt and subject to the Bank's overriding discretion, setting up of credit limits in respect of any overdraft facility and/or any other Facilities would only be effected on Business Days.
- 2.3 The Bank reserves the absolute right to (i) reject any application from the Borrower to be provided with or utilize the Facilities and (ii) review and make adjustment to the Facilities at any time at its sole and absolute discretion.
- 2.4 Where a Facility (the "**First Facility**") is said to be interchangeable with another Facility (the "**Second**

- Facility**") as stated in the Application Form and the Loan Advice, and any free unutilized balance is available under the First Facility, the whole amount of such free unutilized balance can be made available to the Borrower for utilization under the Second Facility, subject to any limit stated in the Application Form and the Loan Advice, and the reverse shall also apply. For the avoidance of doubt, any balance of any Facility which is withheld by the Bank shall not be treated as free unutilized balance of such Facility.
- 2.5 In case of T/R being granted, it means that T/R and S/G are granted such that the T/R are interchangeable with the S/G.
- 2.6 Unless otherwise stated in the Application Form and the Loan Advice, whenever T/R are granted together with L/C, such T/R are granted by the Bank as part of the L/C so that the utilization of the T/R is subject to the availability of free unutilized balance under the L/C and upon utilization, will reduce the free unutilized balance of the L/C by a corresponding amount.
- 2.7 In case of T/L or D/L, any advance under such Facility shall be made against a drawdown notice, except that no drawdown notice is required if an application by the Borrower for opening a letter of credit has been accepted by the Bank, in which case drawdown shall be deemed to have been made at the time when payment or a commitment to pay is made by the Bank pursuant to the relevant letter of credit. If a shipping guarantee shall be issued by the Bank on behalf of the Borrower, drawdown shall be deemed to have been made at the time when the Bank pays the beneficiary under the shipping guarantee. Any payment by the Bank in a currency other than the currency of the relevant Facility shall be converted at the spot rate of exchange quoted by the Bank for buying the currency of payment with the currency of the relevant Facility.
- 2.8 If a drawdown notice specifies that the relevant advance shall be credited to an account opened in the name of a third party (and not the Borrower), the Borrower shall remain liable for the repayment of the advance once the same has been made to such account.
- 2.9 A drawdown notice shall be irrevocable once given. A drawdown notice shall be in writing and in such form as the Bank may direct.
- 2.10 A notice for rollover or selection of interest period shall be irrevocable once given. Such notice shall be in writing and in such form as the Bank may direct. The Bank may at its absolute discretion and subject to such conditions as the Bank may think fit accept an instruction for rollover or selection of interest period be given to the Bank by phone, facsimile or electronic mail.
- 2.11 Subject to the Bank's overriding discretion, a drawdown will only be effected on a Business Day (which in the case of a Facility being denominated in USD shall mean a day on which commercial banks in Hong Kong, London and New York City are open for business but excluding Saturdays, Sundays and public holidays).
- 2.12 The Bank is not bound to monitor or verify the application of any amount borrowed under the relevant Facilities.
- 2.13 If, at any time, it is or will become unlawful in any applicable jurisdiction for the Bank to perform any of its obligations under the Facilities or to fund or maintain its participation in any loan, the Bank shall notify the Borrower of the same and the commitments of the Bank shall be immediately cancelled and the Borrower shall repay the Facilities in full on the date specified by the Bank in the notice delivered to the Borrower.

3. Interest

- 3.1 All amounts advanced/drawn under the Facilities shall be charged with interest (before as well as after judgment and subject to fluctuation), commission and/or other charges at such rates as specified in the Application Form and the Loan Advice or at such standard rates specified in any schedule of charges published by the Bank from time to time on the reducing balance. The schedule of charges shall be made available to the Borrower at any time upon request. If any Base Rate is below zero, such Base Rate shall be deemed to be zero when calculating the applicable interest rate chargeable on the Facilities. In addition, if the applicable interest rate chargeable on the Facilities is below zero (after any negative Base Rate has been deemed to be zero), then such applicable interest rate shall be deemed to be zero.
- 3.2 Unless otherwise specified in these General Terms and Conditions or the Application Form and the Loan Advice, interest on the Facilities will accrue from day to day and be calculated on the basis of actual number of days elapsed and a 365-day year for HKD and Pound Sterling or a 360-day year for other currencies (including USD and CNY) or according to the market practice as the Bank may from time to time adopt in its absolute discretion and any change to a prime rate shall immediately apply to any interest rate calculated by reference to such prime rate.
- 3.3 All accrued interest shall be payable on demand, and if no demand is made, shall be paid on the due date of each instalment payable in respect of a Facility or, in the case where the principal sum of the Facilities

- is not payable by periodical instalments, at such interval as the Bank may designate in the Application Form and the Loan Advice or otherwise on the relevant repayment date or according to the Bank's customary practice as may be notified to the Borrower from time to time and if not so paid, the Bank shall have the right to capitalize such unpaid interest as principal advance so that it shall bear interest at the same rate.
- 3.4 Subject to the Bank's approval, if any Facility is drawn in a currency other than that specified in the Application Form and the Loan Advice, the interest rate applicable to such Facility shall be such rate as determined by the Bank from time to time.
- 3.5 In respect of HKD O/D, and DDC O/D, the Bank shall be entitled to charge the highest of (i) the Original Interest Rate applicable to such facilities; or (ii) the overnight HIBOR; or (iii) the Bank's Cost of Funds as may be quoted by the Bank from time to time.
- 3.6 In respect of USD O/D, the Bank shall be entitled to charge the highest of (i) the Original Interest Rate applicable to such facilities; or (ii) the Bank's Cost of Funds as may be quoted by the Bank from time to time.
- 3.7 In respect of CNY O/D, the Bank shall be entitled to charge the highest of (i) the Original Interest Rate applicable to such facilities; or (ii) the Bank's Cost of Funds as may be quoted by the Bank from time to time.
- 3.8 In respect of any overdraft facility (including HKD O/D, DDC O/D, CNY O/D and USD O/D), the interest accrued thereon shall be payable on the last Calendar Day of each month.
- 3.9 In respect of Facilities other than overdraft facilities, if interest on any such Facilities is charged by reference to a Base Rate plus or minus an interest margin or at a fixed rate, and if for any reason whatsoever, the Base Rate is not available, or if the Bank's Cost of Funds, as determined solely by the Bank, for maintaining such Facilities exceeds the Base Rate or the fixed rate, or if the Bank is unable to obtain deposits to fund such Facilities, the Bank shall be entitled, without limiting the right of the Bank under Clause 3.1 to charge interest, commission or charges at such rates as it may determine from time to time, to charge interest at the Bank's Cost of Funds or the overnight HIBOR/ the overnight LIBOR/ the overnight CNY HIBOR (whichever is the highest) plus the said interest margin or where interest is charged at a fixed rate, an interest margin determined by the Bank.
- 3.10 If for any reason whatsoever, interbank offered rates (IBORs) include LIBOR/HIBOR (1) is not available, temporarily or permanently, (2) in the opinion of the Bank ceases to be representative, or (3) in the opinion of the Bank is no longer appropriate for the purposes of calculating interest hereunder, the Bank reserves its absolute right to review and amend the interest rate for the facility(ies) without prior notice. The Lender shall notify the Borrower(s) as soon as the interest rate has been amended.
- 3.11 If for any reason whatsoever, interbank offered rates (IBORs) include LIBOR/HIBOR or the amended rate as decided by the Bank pursuant to Clause 3.10 (if applicable) does not reflect the cost of funds incurred, interest for the advance shall be charged at interest margin over the Bank's cost of funds as may be reasonably determined by the Bank solely. The Lender shall notify the Borrower such cost of funds as soon as it has been fixed.
- 3.12 In respect of a Loan Facility where the Borrower is entitled to choose the duration of interest periods, all accrued interest shall be paid in arrears at the end of each interest period. No interest period shall extend beyond the final maturity date as set out in the Application Form and the Loan Advice and if any interest period would otherwise extend beyond such date, it shall end on such date. If the Bank receives no valid selection of an interest period from the Borrower, that interest period shall be one month. If any interest period would otherwise end on a day which is not a Business Day, it shall end on the immediately succeeding Business Day, if there is one within the same calendar month, and, if not, on the immediately preceding Business Day.
- 3.13 In the case where the principal sum of the Facilities are not payable by periodical instalments and the Bank designates in the Application Form and the Loan Advice that the interest accrued on the Facilities are payable monthly in arrears, the first interest payment date shall be the date in the succeeding month corresponding to the date of the drawdown of the relevant Facilities and thereafter subsequent interest payment dates shall be the corresponding dates in each and every succeeding months provided that no interest payment date shall extend beyond the final maturity date of the relevant Facilities set out in the Application Form and the Loan Advice.

4. Payment

- 4.1 All payments or repayments made by the Borrower to the Bank are to be made in the currency of the payment or liabilities made or incurred by the Bank under the Application Form and the Loan Advice or otherwise in the converted currency if the Bank exercises its rights under Clause 4.4 (the "**Applicable Currency**"), in immediately available funds without set-off or counter-claim and free and clear of and without withholding or deduction of any or all present or future taxes, duties, payments or other charges.

In case any payment under the Application Form and the Loan Advice and/or Security Documents is/are required for such withholding or deduction, it shall be increased by the Borrower to the extent necessary equal to the sum of payment as if no such withholding or deduction has been made. The Borrower shall immediately inform the Bank or pay such sum within the time prescribed. The Borrower shall also within 30 days of making such payment provide documentary evidence to the Bank showing the payment has been made.

- 4.2 If any change in, or in the interpretation of, any law or regulation or directive or compliance with any law or regulation or directive made after the original date of a Application Form and the Loan Advice:
- (a) increases the Bank's cost of making available or maintaining the relevant Facilities; or
 - (b) reduces the amount of any payment receivable by the Bank under the Application Form and the Loan Advice and/or Security Documents, then the Borrower will pay to the Bank on demand all amounts needed to compensate the Bank therefor.
- 4.3 No payment to the Bank (whether under any judgment, court order or otherwise) shall discharge the obligation or liability of the Borrower in respect of which it was made unless and until the Bank shall have received payment in full in the Applicable Currency, and to the extent the amount of any such payment shall on actual conversion into the Applicable Currency fall short of such obligation or liability expressed in the Applicable Currency, the Bank shall have a further separate cause of action against the Borrower.
- 4.4 The Bank hereby expressly reserves the right, at any time at its absolute discretion without giving any reason therefor to the Borrower to:-
- (a) convert all or any outstanding indebtedness, liabilities and/or obligations due, owing or incurred by the Borrower under any Facility denominated in the currency specified in the Application Form and the Loan Advice for the relevant Facility into HKD; or
 - (b) convert all or any outstanding indebtedness, liabilities and/or obligations due, owing or incurred by the Borrower under any Facility denominated in a currency other than that specified in the Application Form and the Loan Advice for the relevant Facility into the currency so specified for the relevant Facility or into HKD, as the Bank may deem fit in its absolute discretion.

The aforesaid conversion shall be at the then prevailing rate of exchange as the Bank may determine conclusively. For the avoidance of doubt, after such conversion, the Bank shall be entitled to re-determine the applicable interest rate for the converted indebtedness, liabilities and/or obligations on the basis that the same are denominated in HKD or (as the case may be) in the currency specified in the Application Form and the Loan Advice for the relevant Facility.

The Bank may also from time to time, without actual conversion, determine the outstanding amount of any Facility by reference to the base currency to which such Facility was originally denominated at the then prevailing rate of exchange as the Bank may determine conclusively. If such outstanding amount under the base currency exceeds the original base currency amount of such Facility, the Bank shall be entitled to request the Borrower to repay such excess amount upon demand in the currency as specified by the Bank.

- 4.5 Any payment made to the Bank in a currency (the "**existing currency**") other than the Applicable Currency may at the Bank's absolute discretion be converted into the Applicable Currency to cover the obligations and liabilities of the Borrower at the then prevailing spot rate of exchange as conclusively determined by the Bank for purchasing the Applicable Currency with the existing currency.
- 4.6 All payments made by the Borrower to the Bank shall be accepted upon and subject to the Bank's practice and terms and conditions and where applicable to the rules of any relevant clearing system for the time being and from time to time in force, and shall be deemed not to have been made until such time as the relevant funds have been cleared and received for value by the Bank.
- 4.7 If a change in any currency of a country occurs and such change relates to the currency or currencies in which the Facilities or the transactions contemplated under the Application Form and the Loan Advice are denominated, these General Terms and Conditions and the Application Form and the Loan Advice will, to the extent the Bank (acting reasonably) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the relevant interbank market and otherwise to reflect the change in currency.

5. Repayment

- 5.1 Notwithstanding anything to the contrary contained in the Application Form and the Loan Advice and in these General Terms and Conditions but subject to Clause 25.8 hereof, the Bank reserves the **overriding right to demand** immediate repayment of all the outstanding indebtedness, liabilities and/or obligations (including interest and default interest thereon) due, owing or incurred by the Borrower (actual or contingent) to the Bank under or in respect of the Facilities.
- 5.2 Unless otherwise provided in the Application Form and the Loan Advice and/or these General Terms and Conditions or agreed by the Bank in writing, in the case of the Facilities being payable by monthly instalments, the first instalment shall be due and payable one month after the drawdown of the relevant

Facilities; in the case of the Facilities being payable by bi-weekly instalments, the first instalment shall be due and payable two weeks after the drawdown of the relevant Facilities.

- 5.3 Subject to the Bank's approval, in the case of the Facilities being payable by the Borrower by monthly instalments, the Borrower may designate a day of each successive month as pre-set payment dates for payment of the monthly instalments to the Bank. The first pre-set payment date shall be the pre-set payment date which immediately follows the date of drawdown of the relevant Facilities. If the first pre-set payment date does not fall on or falls before the date falling one month from the drawdown date of the relevant Facilities :-
- (a) the first monthly instalment shall be due and payable on the second pre-set payment date and the subsequent monthly instalments on the corresponding subsequent pre-set payment dates;
 - (b) interest on the relevant Facilities shall accrue on a daily basis for the period from the drawdown date of the Facilities to the first pre-set payment date (the "Extended Interest");
 - (c) the amount due and payable for the first monthly instalment shall be a sum representing the monthly instalment payable (calculated as if the relevant Facilities were drawn on the first pre-set payment date) together with the Extended Interest.

If the first pre-set payment date falls on or after the date falling one month from the drawdown date of the relevant Facilities, the first monthly instalment shall be due and payable on the first pre-set payment date and there shall be no Extended Interest payable by the Borrower.

- 5.4 If there is any variation in the interest rate resulting from a change in the Base Rate, the Bank may vary either the amount or number of instalments or both at the Bank's sole discretion and will notify the Borrower subsequently.
- 5.5 In respect of T/L or D/L where CNY HIBOR, HIBOR or LIBOR is used as the Base Rate and where repayment is required to be made on an interest payment date or a repayment date only, or in respect of R/L, if a repayment is not made on an interest payment date, the Borrower shall indemnify the Bank for any break-funding cost which would have been incurred in the amount certified by the Bank.
- 5.6 Unless it is provided in the Application Form and the Loan Advice that the principal of the Facilities is payable by instalments, the principal of the Facilities shall be repaid in full on the final maturity date set out in the Application Form and the Loan Advice.
- 5.7 If the Borrower shall anticipate or experience any difficulty in repaying or servicing the Facilities, the Borrower shall inform the Bank as soon as possible.

6. Default interest/charges

- 6.1 Time shall be of the essence of any payment or repayment to be made by the Borrower.
- 6.2 The Bank reserves the right to charge default interest (before as well as after judgment) on a day to day basis on any sum which is not paid when due: -
- (a) In respect of HKD O/D and DDC O/D, at (i) the HKD Prime plus the applicable Default Margin, or (ii) the overnight HIBOR, or (iii) the Bank's Cost of Funds, whichever is the highest, provided that the foregoing default rate and method of calculation shall apply irrespective of whether the due but unpaid overdrafts fall within the overdraft limit previously allowed by the Bank or otherwise.
 - (b) In respect of USD O/D, at (i) the USD Prime plus the applicable Default Margin, or (ii) the Bank's Cost of Funds, whichever is the highest, provided that the foregoing default rate and method of calculation shall apply irrespective of whether the due but unpaid overdrafts fall within the overdraft limit previously allowed by the Bank or otherwise.
 - (c) In respect of CNY O/D, at (i) the CNY Prime plus the applicable Default Margin, or (ii) the overnight CNY HIBOR plus the applicable Default Margin, or (iii) the Bank's Cost of Funds, whichever is the highest, provided that the foregoing default rate and method of calculation shall apply irrespective of whether the due but unpaid overdrafts fall within the overdraft limit previously allowed by the Bank or otherwise.
 - (d) In respect of Loan Facility(ies), at the higher of (i) the applicable Default Margin plus the prime rate for the relevant currency and as may from time to time be quoted by the Bank, and (ii) the Bank's Cost of Funds.
 - (e) For Facilities other than HKD O/D, DDC O/D, USD O/D, CNY O/D and Loan Facility(ies), at (i) the applicable Default Margin plus the prime rate for the relevant currency and as may from time to time be quoted or determined by the Bank, or (ii) the overnight inter-bank offered rate for the relevant currency and as may from time to time be quoted or determined by the Bank, or (iii) the Bank's Cost of Funds whichever is the highest.
- 6.3 (a) In respect of HKD O/D and DDC O/D, the Bank shall have the right to charge default interest at the higher of (i) such default rate and in such method of calculation as set out in Sub-clause 6.2(a) on any sum which is overdrawn in excess of the applicable pre-agreed overdraft limit, whether such excess is allowed by the Bank in the exercise of its discretion or upon the request of the Borrower or otherwise, or (ii) the Original Interest Rate.
- (b) In respect of USD O/D, the Bank shall have the right to charge default interest at (i) the USD Prime plus 6% per annum, or (ii) the Bank's Cost of Funds, or (iii) the Original Interest Rate applicable to the USD O/D, whichever is the highest, on any sum which is overdrawn in excess of the applicable

- pre-agreed overdraft limit, whether such excess is allowed by the Bank in the exercise of its discretion or upon the request of the Borrower or otherwise.
- (c) In respect of CNY O/D, the Bank shall have the right to charge default interest at (i) the CNY Prime plus the applicable Default Margin, or (ii) the overnight CNY HIBOR plus the applicable Default Margin, or (iii) the Bank's Cost of Funds, or (iv) the Original Interest Rate, whichever is the highest, on any sum which is overdrawn in excess of the applicable pre-agreed overdraft limit, whether such excess is allowed by the Bank in the exercise of its discretion or upon the request of the Borrower or otherwise.
- 6.4 If any instalment or interest payment is overdue, default interest shall be calculated from the due date of the relevant instalment or interest payment on a daily basis up to the day on which actual payment in full has been made. The provisions in this Clause 6.4 shall not prejudice or affect the Bank's rights to charge default interest under Clause 6.2 above.
- 6.5 Apart from default interest, the Bank reserves the right to charge the Borrower Default Administrative Charges of **HKD500.00** or such other amount as determined by the Bank from time to time, on each time when the Borrower fails to make a payment on its due date. In addition, if the Bank shall determine in its absolute discretion that it is necessary to instruct lawyers to issue letter of demand to the Borrower or to take any other recovery action against the Borrower after the Borrower has failed to make any payment on its due date, the Bank shall have the right to recover all legal costs reasonably incurred by the Bank and the Borrower shall be obliged to pay such costs to the Bank upon demand.
- 6.6 For the avoidance of doubt, in case the Original Interest Rate chargeable on the overdue sum shall exceed the default rate specified in Clause 6.2, the Bank shall have the right to continue to apply such Original Interest Rate notwithstanding the sum is overdue.
- 6.7 The Bank reserves the right to compound default interest at such intervals as it deems fit.

7. F/X and other Treasury and Derivative Products

- 7.1 All F/X and other treasury and derivative products Transactions shall be subject to the terms and conditions stipulated by the Bank from time to time and the market practices prevailing for the time being and must be settled before 3:00 p.m. Hong Kong time on the relevant value date or delivery date for any particular Transactions or such other time as may be required by the Bank.

8. Facilities granted to two or more Borrowers severally

- 8.1 If, under any Application Form and the Loan Advice, the Facilities are granted to two or more Borrowers severally, such Facilities or any part or parts thereof may, subject to the Bank's prior approval, be utilized by any one of the relevant Borrowers within such sub-limits (the "**Sub-Limits**") (if they are expressly stipulated in the relevant Application Form and the Loan Advice or otherwise imposed by the Bank) and upon such terms as the Bank may determine from time to time. In any event, the Borrowers may not in aggregate borrow more than the amount of the Facilities. For the purpose of this Clause 8, the Facilities that are granted to two or more Borrowers severally are hereinafter called the "**Global Facilities**" and the facility limit in respect of the Global Facilities is called the "**Global Limit**".
- 8.2 For the avoidance of doubt, unless Sub-Limits are stipulated in the Application Form and the Loan Advice or otherwise imposed by the Bank, the Bank may allow any one or more of the Borrowers to utilize the Global Facilities up to the full extent of the Global Limit, provided that unless the Bank in its absolute discretion agrees, the aggregate utilization of the Global Facilities at any time by all of the relevant Borrowers in respect of each type of the Global Facilities shall not exceed the relevant Global Limit(s) of such Global Facilities.
- 8.3 Where there are Sub-Limits stipulated in the Application Form and the Loan Advice or otherwise imposed by the Bank, all the Borrowers acting together by themselves or through an authorized representative(s) may apply to the Bank to vary the Sub-Limits allocated to each of the Borrowers by giving the Bank not less than three (3) Business Days' prior notice. The Bank reserves the absolute discretion to determine whether to accept or reject any such application.
- 8.4 Upon approval by the Bank of any application to vary the Sub-Limits, each of the relevant Borrowers shall be bound by the variation and any condition imposed by the Bank in respect of such variation.
- 8.5 Notwithstanding anything herein contained, the Bank reserves the absolute right to re-allocate the Global Facilities and/or the Global Limits and/or the Sub-Limits (if any) at any time and at the Bank's sole and absolute discretion.
- 8.6 For the avoidance of doubt, all provisions contained in these General Terms and Conditions applicable to the Facilities shall equally apply to the Global Facilities and insofar as the relevant Borrower's utilization of and liabilities under or relating to the Global Facilities are concerned, each of the Borrowers to whom the Global Facilities is granted shall be bound by the provisions contained in these General Terms and

Conditions.

9. Facilities to be used by third parties

- 9.1 Subject to the Bank's prior approval, the Bank may, at the request of the Borrower, allow the Facilities granted to the Borrower to be utilized by third parties (the "**Co-user(s)**") upon the following conditions and other additional conditions as the Bank may from time to time impose:-
- (a) any utilization of the Facilities by the Co-user(s) shall be booked under the account(s) of the Borrower and the Borrower shall be fully liable for the same to the Bank as if it were the party actually utilizing the Facilities;
 - (b) in addition and without prejudice to sub-clause (a) above, the Co-user(s) shall, in addition to the Borrower, be fully liable to the Bank in respect of their utilization of the Facilities as if the Facilities were granted in their favour and utilized by them under their own account(s). In this regard, the Co-user(s) shall be bound by these General Terms and Conditions and any other terms and conditions under which the Bank has agreed to grant the Facilities to the Borrower, as if the Co-user(s) is/are the Borrower named therein; and
 - (c) in case the Borrower has given any guarantee in favour of the Bank for the obligations and liabilities of the Co-user(s) under general banking facilities granted or to be granted by the Bank in favour of the Co-user(s), such guarantee shall for all intent and purposes cover the obligations and liabilities of the Co-user(s) under sub-clause (b) above. For the avoidance of doubt, this provision shall not be affected in case the liability of the Borrower under sub-clause (a) above is or becomes unenforceable or avoided for whatever reason.

10. Prepayment

- 10.1 Unless otherwise provided in the Application Form and the Loan Advice, prepayment under the Loan Facility(ies) shall be subject to the following conditions:-
- (a) where the principal sum of the Loan Facility(ies) is repayable by instalments, all prepayments (whether total or partial) must be paid on an instalment payment date of the Loan Facility(ies), otherwise the Bank shall be entitled to charge interest on the amount to be prepaid up to the next coming instalment payment date;
 - (b) in respect of Loan Facility(ies) where CNY HIBOR, HIBOR or LIBOR is used as the Base Rate, if a prepayment is not made on an interest payment date or a repayment date, the Borrower shall indemnify the Bank for any break-funding cost which would have been incurred in the amount certified by the Bank;
 - (c) the Borrower shall give to the Bank at least 1 month's prior notice in writing of the Borrower's intention to prepay whether in whole or in part the outstanding amount of the Loan Facility(ies). Such notice shall be irrevocable once given. If the Borrower fails to give such notice in the prescribed manner, a prepayment fee as may be specified by the Bank from time to time and displayed or posted in the Bank's banking halls shall be payable by the Borrower on or before the prepayment;
 - (d) any partial prepayment shall be in the minimum sum of HKD50,000.00 or its equivalent in other foreign currencies. In the case of any partial prepayment, the Bank may, at its discretion, vary either the amount of the monthly instalment or the number of future instalments;
 - (e) amount prepaid shall be subject to the Bank's right of appropriation under Clause 15 below;
 - (f) any prepayment of the principal of the Loan Facility(ies) shall include all interest accrued thereon and may not be re-borrowed;
 - (g) all or any sums or liabilities (actual or contingent) payable by the Borrower in connection with the prepaid portion of the Loan Facility(ies) shall be paid or discharged by the Borrower on or before the prepayment; and
 - (h) due payment of any prepayment charges or fees as may be stipulated in the Application Form and the Loan Advice.

11. Conclusive Statement

- 11.1 Any statement of account (including, without limitation, the monthly statement) relating to the Facilities signed as correct by any one of the Bank's officers shall be conclusive evidence of the indebtedness of the Borrower to the Bank and be binding on the Borrower, save for manifest error.
- 11.2 Any certificate relating to the Bank's Cost of Funds or any Base Rate in respect of any Facilities signed as correct by any one of the Bank's officers shall be conclusive and binding on the Borrower.
- 11.3 Any opinion, determination or decision by the Bank as to any materiality, effect or otherwise relating to

anything herein mentioned or referred to shall be conclusive and binding on the Borrower.

- 11.4 Instruction given by the Borrower to the Bank through telephone, facsimile or electronic mail shall be binding against the Borrower and the Bank may (but shall not be obliged to) act upon such instructions subject to such conditions as the Bank may think fit. The Bank may at its absolute discretion take recording or keep record of such instructions. The Borrower consents to such recording and record keeping and agrees to the use of such records for any purpose that the Bank deems desirable including for use as evidence, in any proceedings, against the Borrower or any other person.

12. Termination of the Facilities

- 12.1 Notwithstanding anything contained in the Application Form and the Loan Advice (including any review date stated therein), the Bank reserves the overriding right to:-
- (a) review the Facilities at any time (if applicable, prior to the review date stated in the Application Form and the Loan Advice) and the Facilities shall terminate forthwith (if applicable, even if prior to the said review date) as and when the Bank has given to the Borrower notice of termination; and
 - (b) increase, reduce and/or cancel the Facilities or any part or parts thereof or to vary or amend the terms and conditions thereof at any time at its sole and absolute discretion to be effective forthwith (if applicable, even if prior to the said review date) by notice in writing to the Borrower.
- 12.2 A renewal fee shall be payable by the Borrower when the Facilities or any part or parts thereof are renewed, extended or otherwise revised by the Bank.

13. Indemnity

- 13.1 The Borrower shall indemnify the Bank on a fully indemnity basis from and against all action, suits, proceedings, claims, demands, losses, damages, costs, fees, expenses and/or liabilities of whatsoever nature which the Bank may suffer, incur or sustain, whether actual or contingent, by reason of or in maintaining or enforcing the Facilities granted to the Borrower (including the Facilities used by Co-user(s) as mentioned in Clause 9 above) or by accepting any instruction/notice given by the Borrower through telephone, facsimile or electronic mail unless caused by the negligence or wilful default of the Bank.
- 13.2 Without prejudice to Clause 4.1, if the Bank is required to make any payment for such withholding or deduction referred to in Clause 4.1 or incur any liability with respect to such withholding or deduction, the Borrower shall promptly indemnify the Bank against such payment or liability.

14. Expenses

- 14.1 Whether or not the Facilities are drawn or utilized by the Borrower, all expenses including but not limited to legal fees, communications and other out-of-pocket expenses reasonably incurred by the Bank in connection with the Facilities or any documents executed in respect of the Facilities or any enforcement, or attempted enforcement, of the Bank's rights under the Application Form and the Loan Advice or other documents executed in respect of the Facilities, are to be borne by the Borrower on a full indemnity basis.

15. Appropriation

- 15.1 The Borrower hereby irrevocably waives any right or power which it may have by way of appropriation and the Bank shall have the sole and absolute right to appropriate either at the time of payment or at any time thereafter any moneys paid to the Bank by or otherwise coming into the Bank's possession or control from the Borrower in or towards discharging whichever part or parts of liabilities of the Borrower to the Bank as the Bank shall think fit. Any such appropriation shall override any purported appropriation by the Borrower.

16. Set-off and Lien

- 16.1 In addition and without prejudice to any general banker's lien, right of set-off or similar right to which the Bank may be entitled, the Bank shall have the right and is hereby irrevocably and unconditionally authorized, to the fullest extent permitted by law, from time to time and at any time without prior notice to the Borrower (any such notice being expressly waived):-
- (a) to set off and appropriate and apply any credit balance in any of the account(s) and/or deposit(s) of the Borrower (whether in its sole name or jointly with others) in whatever currency maintained with any of the Bank's branches or sub-branches (whether subject to notice or not and whether matured or not) and/or any of the liability of the Bank (whether actual or contingent) due or owing to the Borrower (whether alone or jointly with others) against or on account of the obligations and liabilities whatsoever of the Borrower (whether actual or contingent, future or existing) due, owing

or incurred to the Bank; and

- (b) to apply any credit balance in any of the account(s) and/or deposit(s) of the Borrower (whether in its sole name or jointly with others) in whatever currency maintained at any of the Bank's offices or branches or sub-branches (whether the credit balance was originally available in any account maintained with the Bank (formerly known as Po Sang Bank Limited) or any one or more of Bank of China (Hong Kong Branch), The Kwangtung Provincial Bank (Hong Kong Branch), Sin Hua Bank Limited (Hong Kong Branch), The China & South Sea Bank Limited (Hong Kong Branch), Kincheng Banking Corporation (Hong Kong Branch), The China State Bank Limited (Hong Kong Branch), The National Commercial Bank Limited (Hong Kong Branch), The Yien Yieh Commercial Bank Limited (Hong Kong Branch) and Hua Chiao Commercial Bank Limited (collectively the "Merging Banks") prior to the merger of the said Merging Banks on 1st day of October 2001 (the "Date of Merger")) (whether subject to notice or not and whether matured or not) and/or to set off any of the liability of the Bank (whether actual or contingent) due or owing to the Borrower (whether alone or jointly with others) including but not limited to any liability of any one or more of the Merging Banks (whether actual or contingent) which was originally due or owing to the Borrower (whether alone or jointly with others) prior to the Date of Merger, towards satisfaction of or against the Borrower's obligations and liabilities, whether actual or contingent, future or existing, due, or owing or incurred to the Bank, including but not limited to any such obligations and liabilities of the Borrower originally due, owing or incurred to the Bank or any one or more of the Merging Banks prior to the Date of Merger.

The Bank shall notify the Borrower promptly after exercising its rights under this Clause 16.1.

- 16.2 For the purposes aforesaid, the Bank may convert all or any part of the said credit balance or deposit of the Borrower or such liability of the Bank to the Borrower to such other currencies at the applicable rate of exchange quoted and determined by the Bank as may be necessary.
- 16.3 If any sum is due but unpaid under the Facilities and/or these General Terms and Conditions, the Bank may at any time without further reference to the Borrower, retain all or any securities, valuables or any other property whatever and wherever situate which may be deposited with or otherwise held by the Bank for or in the name of the Borrower whether for safe custody or otherwise and sell the same or any part thereof at such price as the Bank shall determine whether by public auction, private treaty or tender and the Bank may engage such agent or broker therefor and apply the proceeds thereof in satisfaction of any or all sums owing under the Facilities and/or these General Terms and Conditions after first deducting all costs and expenses reasonably incurred by the Bank and the Bank shall not be liable for any loss arising from the sale or other disposition of any such securities, valuables or other property unless caused by the negligence or wilful misconduct of the Bank.
- 16.4 The rights herein conferred on the Bank are in addition and without prejudice to any rights conferred on the Bank under any Security Documents at any time and from time to time held by the Bank.

17. Authorization to debit account(s)

- 17.1 The Bank shall be entitled to debit at any time and from time to time all or any of the interests, fees, charges, commissions, costs, expenses and other sums due and payable by the Borrower in respect of the Facilities from any of the account(s) of the Borrower without prior notice to the Borrower. Such sums shall be deemed duly drawn or overdrawn from the account(s) by the Borrower.

18. Debt Collection

- 18.1 The Bank shall be entitled to employ debt collecting agent(s) to collect any sum due but unpaid by the Borrower under the Facilities. The Borrower agrees, and acknowledges that the Borrower has been warned, that the Borrower shall indemnify and keep the Bank indemnified on a full indemnity basis against all costs and expenses which the Bank may reasonably incur in the employment of debt collecting agent(s). The Bank shall be entitled to disclose to such debt collecting agent(s) any or all information relating to the Borrower, the Facilities or the Application Form and the Loan Advice.

19. Information

- 19.1 The Borrower agrees that it is necessary to supply the Bank with data/information related to the Borrower (including for the purpose of this subclause, that of any party/ies or individual(s) who is/are related to a corporate borrower in whatever capacity) or any information as required by the Bank for assessing the grant, revision and renewal of the Facilities. The Borrower (which for this subclause refers to itself in the case of an incorporated entity and its capacity as the duly authorised agent acting on behalf of the related party/ies and individual(s) including but not limited to the Borrower's holding companies, subsidiaries, affiliates, shareholders, directors and authorized persons, all these parties and individuals are hereinafter

- collectively referred as the "**Related Parties**") authorize the Bank to use any data, information and documents relating to the Borrower and the Related Parties, the Facilities, the Application Form and the Loan Advice or any other agreements or transactions or dealings between the Borrower and/or the Related Parties and /or the Bank in accordance with the Bank's Conditions for Services (as amended and in force from time to time) (the "**Conditions**") (provided that in the case of an individual, such use will be subject to the Data Policy Notice issued and/or revised by the Bank from time to time (the "**Notice**"), and the contents and the receipt of which are hereby acknowledged by the Borrower) and notes that such data/information/documents (including the Application Form and the Loan Advice or anything in respect of the Facilities) held by the Bank will be kept confidential but permits the Bank to provide such data/information/documents to the parties referred to in the Conditions or listed in the Notice (as the case may be) or to any of its branches, subsidiaries and holding companies and the branches, subsidiaries and affiliates of any of its holding companies (together the "**Bank's Related Parties**") or other persons including but not limited to any person permitted by the Borrower, the professional advisers and any other persons providing services to the Bank or any of the Bank's Related Parties (including, without limitation, credit reference agencies, debt collection agencies, rating agencies, insurers or insurance brokers, credit protection providers), any actual or potential assignee, transferee, participant or sub-participant or any subsequent chargee, or encumbrancer in respect of securities held by the Bank for the Facilities or to any person to the extent required by or for compliance of any laws, regulations, guidelines or rules of stock exchange binding on or applicable to the Bank or any of the Bank's Related Parties or to any person to whom information is required or requested to be disclosed by any court or governmental or regulatory authority to which the Bank or any of the Bank's Related Parties are subject to or to any person to whom information is required to be disclosed in connection with, and for the purposes of any litigation, arbitration, administrative, mediation or other investigations, proceedings or disputes relating to the Bank or any of the Bank's Related Parties. The Borrower further authorizes the Bank to contact any of the employers of the Borrower (if applicable), bank, referee, credit reference agencies or any other source for the purpose of obtaining or exchanging any information and to compare the information provided by the Borrower with other information collected by the Bank for checking purposes. The Bank is entitled to use the result of such comparison to take any action which may be adverse to the interest of or against the Borrower. The Borrower also consents to the data/information/documents being transferred to another jurisdiction outside Hong Kong.
- 19.2 The Borrower undertakes at all times to notify the Bank in writing of any change of the particulars of the Borrower including without limitation the Borrower's address, telephone number and facsimile number.
- 19.3 The Borrower agrees that the Bank may provide the following information to any Obligors in respect of any Facilities extended by the Bank to the Borrower:-
- (a) a copy of the contract evidencing the obligations to be guaranteed or secured by any Obligors or a summary thereof;
 - (b) a copy of any formal demand for overdue payment served on the Borrower from time to time; and
 - (c) a copy of the latest statement of accounts provided to the Borrower from time to time on request by any Obligors.
- 19.4 In the case of an individual Borrower, the Borrower acknowledges that the Bank has provided him with the following information:
- (a) the Borrower's data may be supplied to a credit reference agency and/or, in the Event of Default, to a debt collection agency;
 - (b) the Borrower's right to be informed, upon request, about what items of data are routinely disclosed to such credit reference agency and/or debt collection agency, and the Borrower's right to be provided with further information to enable the making of a data access and correction request to the relevant credit reference agency or debt collection agency, as the case may be;
 - (c) that, in the event of any default in payment, unless the amount in default is fully paid before the expiry of 60 days from the date such default occurred, the Borrower shall be liable to have his account data retained by the credit reference agency until the expiry of five years from the date of final settlement of the amount in default; and
 - (d) that the Borrower, upon termination of the account by full payment and on condition that there has not been, within five years immediately before such account termination, any material default on the account, will have the right to instruct the Bank to make a request to the credit reference agency to delete from its database any account data relating to the terminated account.
- 19.5 The Borrower shall promptly supply, or procure the supply of, such documentation and other evidence as reasonably requested by the Bank or pursuant to or in satisfaction of any law or regulation to which the Bank is subject.
- 19.6 This Clause 19 shall also apply, mutatis mutandis, to any party who has entered into or countersigned the Application Form and the Loan Advice in favour of the Bank, but is not otherwise a party to any other

20. Assignment

- 20.1 The Bank may at any time, without consent of or notice to the Borrower, assign or transfer to any party all or any of its rights, benefits, obligations and liabilities under the Facilities and these General Terms and Conditions and the related guarantees, collateral securities and support documents provided that the Borrower, at any time of such assignment or transfer, will not be liable to pay any greater amount than the Borrower would have been liable to pay had no assignment or transfer been made. The Borrower may not assign or transfer any of its rights, benefits, obligations and/or liabilities under the Facilities and/or these General Terms and Conditions to any party except with the prior written consent of the Bank.

21. Representations, warranties and undertakings

- 21.1 The Borrower makes the following representations and warranties to the Bank on the date of its execution of the relevant Application Form and the Loan Advice:-
- (a) it is a company duly incorporated with limited liability under the laws of the place where it was incorporated (applicable where the Borrower is a limited company);
 - (b) it has a valid and subsisting business registration certificate pursuant to the Business Registration Ordinance (Cap.310 of the Laws of Hong Kong) (where applicable);
 - (c) it has the power and authority and the legal capacity to perform and observe its obligations under the Application Form and the Loan Advice, Security Documents and any other ancillary documents executed in the Bank's favour;
 - (d) all necessary corporate and other action (including but not limited to any corporate resolutions required to be passed by the Borrower's shareholders and/or directors) under all applicable laws and regulations (including but not limited to the Borrower's Memorandum and Articles of Association) to which the Borrower is subject has been taken to authorise the use of the Facilities and the execution, delivery and performance of these General Terms and Conditions, the Application Form and the Loan Advice, the Security Documents (if applicable) and any other ancillary documents;
 - (e) these General Terms and Conditions, the Application Form and the Loan Advice, the Security Documents (if applicable) and any other ancillary documents constitute valid and legally binding obligations of the Borrower in accordance with their terms;
 - (f) it is not in default of any payment of any principal of or interest on any indebtedness for borrowed money and is not in breach of or in default under any other provision of any indenture, deed of trusts, agreement or other instrument to which it is a party and under or subject to which any such indebtedness for borrowed money has been issued or incurred and is outstanding and no event, condition or act which with the giving of notice or lapse of time, or both, would constitute an event of default under any such indenture, deed of trust, agreement or other instrument has occurred or is continuing which has not, in each case, been properly waived and/or remedied thereunder;
 - (g) the entry into and performance by it of, and the transactions contemplated by, these General Terms and Conditions, the Application Form and the Loan Advice, the Security Documents (if applicable) and any other ancillary documents, do not and will not conflict with any law or regulation applicable to it, its constitutional documents or any agreement, or instrument binding on it or any of its assets;
 - (h) all information provided by the Borrower was true, complete and accurate in all material respects as at the date it was given or as at the date (if any) at which it is stated and was not misleading in any respect;
 - (i) it is not subject to any existing litigation or arbitration or administrative proceeding or petition for bankruptcy or winding up before any court, tribunal, arbitrator or governmental authority and is not pending any litigation or arbitration or administrative proceeding or petition for bankruptcy or winding up and it has no knowledge of (having made all reasonable enquiries) any litigation, arbitration or administrative proceeding or petition for bankruptcy or winding up threatened against the Borrower, or any of its properties or assets, which might, in each case, result in a material adverse change or effect on the business, assets, condition (financial or otherwise) or prospects of the Borrower;
 - (j) no Event of Default has occurred, or will occur as a result of execution of any of the Application Form and the Loan Advice, Security Documents and other ancillary documents and/or utilizing any of the Facilities, which has not been duly remedied or waived under the Application Form and the Loan Advice and/or these General Term and Conditions;
 - (k) the above representations and warranties shall be repeated and deemed to be made by the Borrower,

- where applicable, on each advance or drawing of the Facility(ies) and on each interest payment date, in each case by reference to the facts and circumstances then existing.
- 21.2 The Borrower undertakes with the Bank that it will:
- (a) promptly notify the Bank in writing on becoming aware of the occurrence of any Event of Default or potential Event of Default or any other events or circumstances which has or might have a material adverse change in or effect on the Borrower's operations, prospects, business or condition (financial or otherwise) or the Borrower's ability to perform its obligations hereunder and under the Application Form and the Loan Advice, other Security Document(s) or any other ancillary documents;
 - (b) duly pay or cause to be paid all taxes, duties and other governmental charges imposed upon the Borrower;
 - (c) from time to time (including in respect of the net exposure of one or more transactions under the Facilities) upon the demand of the Bank provide or procure to be provided to the Bank further cash or security acceptable to the Bank having current market value of not less than the then outstanding Facilities and/or the net exposure thereunder ;
 - (d) ensure that the Borrower's obligations hereunder and under the Application Form and the Loan Advice, whether actual or contingent, are not subordinated to, and that they will at all times rank at least pari passu in priority of payment and in all other respects with any other of the Borrower's unsecured obligations, except to the extent that such obligations are preferred solely by operation of law;
 - (e) comply in all respects with all laws and regulations to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Facilities and Security Documents to which it is a party;
 - (f) promptly notify the Bank in writing of any change of the Borrower's particulars or the particulars of any third party guarantor(s) or security provider(s) in respect of the Borrower's liabilities including without limitation its/their address(es) and/or telephone number(s) and/or facsimile number(s);
 - (g) (in case of the Borrower being a firm, partnership or company) promptly upon the Bank's request supply or procure to be supplied to the Bank all information, books, documents, accounts, instruments, computer or other records, orders, correspondence (whether original or copy) and other evidence (in whatever form) relating to the Facility(ies) and collection and enforcement of the Facility(ies). The Borrower shall allow any officer, employee, advisors, duly authorized representative or agent of the Bank, at all reasonable times, to attend any premises of or occupied by the Borrower or where the Borrower carries on business to inspect, check, verify and copy (at the Borrower's expense) any of the above as the Bank may require from time to time;
 - (h) promptly supply or procure to be supplied to the Bank such other documents or information reasonably required by the Bank from time to time; and
 - (i) (in case of the Borrower being a firm, partnership or company) comply with, and (in any other case where any third party guarantor(s) or security provider(s) is involved) ensure any such third party guarantor(s) or security provider(s) to comply with, in each case in all material respects, with all environmental laws (including but not limited to obtain and maintain all environmental permits relevant to the operation of their business activities in the relevant countries) applicable to it or the relevant third party guarantor(s) or security provider(s).
- 21.3 In the case where the Borrower is a firm, partnership or company, that it undertakes with the Bank that it will NOT unless the Bank otherwise expressly agrees in writing:
- (a) merge, or consolidate with or into any other corporation or take any step with a view to dissolution, liquidation or winding up;
 - (b) make any material change to the nature of the Borrower's business as presently carried on;
 - (c) create, incur or suffer or permit to exist any charge or security interest upon any of the Borrower's property, assets, revenues and rights, present or future, except (i) in favour of the Bank or (ii) being any lien arising by operation of law and in the ordinary course of trading or entered into in the ordinary course of its banking arrangements provided that in each case the debt secured thereby is paid when due or contested in good faith;
 - (d) make loans, advance moneys, grant credit to or guarantee or indemnify the liability of any person, firm or company, except for any trade credit extended to its customers on normal commercial terms and in the ordinary course of its trading activities or as permitted by the purpose of the Facility(ies);
 - (e) make any change(s) to the Borrower's Memorandum and Articles of Association (applicable if the Borrower is a limited company); or
 - (f) sell, assign or dispose any of its major assets or business (as determined by the Bank) to any third party unless the proceeds of such sale, assignment or disposal are for the repayment of any outstanding under the Facilities.
- 21.4 In the case where the Borrower is a firm or partnership, it undertakes with the Bank that it will promptly inform all withdrawing, retiring and joining partners in writing of the representations and warranties in this Clause 21.

22. Events of Default

- 22.1 Without prejudice to the other provisions herein, all amounts (including principal and interest) due or owing by the Borrower to the Bank shall, without any demand, become immediately due and payable by the Borrower and the Bank shall not be required to make any further advances under any of the Facility(ies) upon the occurrence of any of the following events of default:-
- (a) the failure by any Obligor to pay any principal, interest, charges or other costs and expenses payable to the Bank in connection with the Facility(ies) on the due date;
 - (b) the Borrower's failure to pay any money, debts and liabilities owing or incurred, due but unpaid to the Bank in any manner howsoever or on any account whether as principal or surety and whether alone or jointly with any other person, firm or corporation;
 - (c) any of the representations, warranties, undertakings, covenants or statements of any Obligor under the Application Form and the Loan Advice and/or these General Terms and Conditions and/or the Security Documents and any other ancillary documents or any information or document delivered by any Obligor to the Bank is incorrect or misleading in any material respect;
 - (d) any distress, attachment, sequestration, execution or other legal process is levied, enforced or sued out on or against the assets of any Obligor;
 - (e) an event occurs which, in the opinion of the Bank, has or might have a material adverse change in or effect on the business, assets condition (financial or otherwise) or prospects of any Obligor or affect or prevent the ability of any Obligor to perform its obligations under the Application Form and the Loan Advice and/or the Security Documents;
 - (f) a payment default occurs under the provisions of any agreement or instrument evidencing or securing any financial indebtedness of any Obligor or any such financial indebtedness becomes payable or capable of being declared payable before its stated maturity;
 - (g) a petition is presented or proceedings are commenced or an order is made or an effective resolution is passed for the bankruptcy or winding up of any Obligor or for the appointment of a liquidator, receiver, official administrator or similar officer in respect of any Obligor or all or any part of its business or assets or if any Obligor otherwise becomes insolvent or bankrupt under any court of law;
 - (h) without prejudice to paragraph (a) above, failure of any Obligor to comply with any provision contained in these General Terms and Conditions, the Application Form and the Loan Advice and/or the Security Documents and any other ancillary documents which is not capable of remedy or, if can be remedied, has not been remedied within seven days of the earlier of notice from the Bank requiring its remedy or any Obligor becoming aware of the failure to comply;
 - (i) any change to the direct or indirect shareholding of the Borrower or any guarantor without the prior written consent of the Bank (except if the Borrower or such guarantor is a company listed on any stock exchange);
 - (j) any governmental, tax, monetary or other approval required by any Obligor in connection with the Facilities is withdrawn or revised in a way prejudicial to the interest of the Bank under the Facilities, these General Terms and Conditions, the Application Form and the Loan Advice or any Security Documents or any other ancillary documents;
 - (k) any present or future security on or over the assets of any Obligor becomes enforceable;
 - (l) it becomes unlawful for any Obligor to perform any of its obligations under these General Terms and Conditions, the Application Form and the Loan Advice, any Security Document or any other ancillary documents; and
 - (m) the occurrence of any event which under the law of any relevant jurisdiction, has an analogous or equivalent effect to any event mentioned in this Clause 22.1.

23. Liability of the Bank

- 23.1 The Bank shall not be liable for any loss or damage suffered by the Borrower or any other person as a result of:-
- (a) the withdrawal or suspension of any transaction of the Borrower or for any failure to effect or execute any of the order or instruction from the Borrower whether it is attributable, either directly or indirectly, to any circumstances or events outside the control of the Bank; and/or
 - (b) (i) any mechanical, electronic or other failure, malfunction, interruption, inaccuracy or inadequacy of the Bank's telecommunication and computer system or other equipment or its installation or operation; (ii) any incomplete or erroneous transmission of any instruction or order of the Borrower or any error in the execution of any such instruction or order (except negligence or wilful misconduct of the Bank's authorized officers) nor for any delay, loss (including loss of profit or any economic loss), expenses or damages whatsoever incurred or suffered by the Borrower as a result of

- (i) and /or (ii) above; and/or
 - (c) any delay, interruption or suspension howsoever caused by any third party, including but not limited to service providers or equipment suppliers, which interferes with, affects or disrupts the performance of the Bank hereunder; and/or
 - (d) any instruction / notice given by the Borrower through telephone, facsimile or electronic mail having been acted upon by the Bank.
- 23.2 In the case of any POD, the Bank shall have absolute discretion to refuse to purchase or discount any Payment Order without giving any reason therefor. In addition and without prejudice to the Bank's right under all existing terms and conditions, the Bank has full recourse against the Borrower in respect of any or all of the Payment Orders purchased or discounted by the Bank from the Borrower and the Borrower shall refund to the Bank on demand at any time, whether prior to the maturity of the Payment Order or otherwise, the sum paid to the Borrower by way of the purchase or discount of the Payment Order together with interest thereon from the date of the Bank's payment to the Borrower up to the refund by the Borrower in full.

24. Financial Statements/Information

- 24.1 In case the Borrower and/or any Obligors is a limited company, the Bank shall be entitled, at any time and from time to time require the Borrower to furnish to the Bank :-
- (a) within ninety (90) days after the end of every six (6) months of each accounting period, copies of the unaudited consolidated and/or unconsolidated financial statements of the Borrower and (if applicable), any Obligors and the Borrower's subsidiary companies duly certified by the Borrower's director(s) and (if applicable) the director(s) of any Obligors and/or the Borrower's subsidiary companies to be true copies of the original unaudited consolidated and/or unconsolidated financial statements; and
 - (b) within one hundred and eighty (180) days from the close of the financial year of the Borrower, or (if applicable) any Obligors and the Borrower's subsidiary companies, the original audited consolidated and/or unconsolidated annual financial statements of the Borrower or (if applicable) any Obligors and the Borrower's subsidiary companies for such year or copies of such audited consolidated and/or unconsolidated annual financial statements duly certified by the Borrower's director(s) and (if applicable) the director(s) of any Obligors and/or the Borrower's subsidiary companies to be true copies of the original audited consolidated and/or unconsolidated annual financial statements.
- 24.2 In case the Borrower is a sole-proprietorship or partnership, the Borrower shall furnish to the Bank at the request of the Bank copies of the Borrower's financial statements duly certified by the sole-proprietor or partner(s) of the Borrower to be true copies of the original and such other information about the Borrower.
- 24.3 In case the Borrower is an individual, the Borrower shall furnish to the Bank at the request of the Bank certified copies of the Borrower updated income tax return, bank statements and such other information as the Bank shall from time to time require.
- 24.4 The Borrower shall procure that each set of financial statements delivered pursuant to Clauses 24.1 and 24.2 are prepared according to relevant generally accepted accounting principles.

25. Miscellaneous

- 25.1 Subject to prior notice to the Borrower, the Bank reserves the absolute right to vary the terms of the Facilities, to increase, reduce and/or cancel any Facility or any part thereof at any time and from time to time, including without limitation, the basis of calculation of any interest, charges, commissions, fees or default interest payable under the Application Form and the Loan Advice and to vary these General Terms and Conditions (including without limitation the Default Margin or the Default Administrative Charges), to impose a commitment fee on the daily undrawn balance of the Facilities granted, and/or to impose any additional handling charges at such rate as determined by the Bank at its sole discretion. Any variation, amendment or supplement shall be binding on the Borrower(s) if the Borrower(s) do(es) not terminate the Facility(ies) after receiving any notice of such variation, amendment or supplement.
- 25.2 No failure, delay or omission by the Bank in exercising any right, power, privilege or remedy shall impair such right, power, privilege or remedy or be construed as a waiver thereof, nor shall any single or partial exercise of any right, power, privilege or remedy preclude any further exercise of any other right power, privilege or remedy. Rights, powers, privileges and remedies herein provided are cumulative and do not exclude those provided by law.
- 25.3 Subject to Clause 25.4, any notice, demand or other communication to the Borrower shall be sent to the

- Borrower's last known address or such other address as may have been notified in writing by the Borrower to the Bank and, if (i) delivered personally, shall be deemed to have been given at the time of such delivery; (ii) despatched by letter postage prepaid, shall be deemed to have been given twenty-four (24) hours after posting; and (iii) transmitted by facsimile or other electronic means, shall be deemed to have been given at the time of despatch, provided that the Bank may give oral notice to the Borrower and if it consists of more than one person, any one of them, whether personally or through the telephone, and any oral notice so given shall be immediately effective and binding upon the Borrower. Subject to Clause 11.4, any notice or communication to the Bank shall not be effective until actually received by the Bank. If the Borrower consists of more than one person, any notice, demand or other communication shall be effective on the Bank only if given by each of them and on all of them if given by the Bank to any of them.
- 25.4 The Bank reserves the right to notify the Borrower of any variation of these General Terms and Conditions or any fees or changes in the standard charges for or relating to the Facilities, the Default Margin, the default interest set out in Clause 6.2 above, the Default Administrative Charges or the basis of calculation of any of them by notice displayed or posted up in the Bank's banking halls.
- 25.5 These General Terms and Conditions are in addition and without prejudice to the Bank's rights under all existing or future security and/or legal documents (if any) held by the Bank.
- 25.6 If the Borrower shall consist of more than one person and any Facilities are made available to such Borrowers jointly, the liabilities of the Borrowers to the Bank under those Facilities shall be joint and several and each and every provision of the Application Form and the Loan Advice and the terms herein shall be construed accordingly. If the Borrower is a firm (whether partnership or sole proprietorship), the Application Form and the Loan Advice and the terms herein shall be binding jointly and severally on all persons now or for the time being or at any time hereafter carrying on business in the name of the said firm or in succession to the said firm notwithstanding any change of members or constitution thereof.
- 25.7 Any provision in the Application Form and the Loan Advice and/or these General Terms and Conditions which is or is declared by any court or tribunal of competent jurisdiction to be illegal, invalid or unenforceable in any respect under applicable law shall be severed from the Application Form and the Loan Advice and/or these General Terms and Conditions (as the case may be) to the maximum extent permissible by such applicable law without in any manner affecting the legality, validity or enforceability of the remaining provisions of the Application Form and the Loan Advice and/or these General Terms and Conditions (as the case may be), all of which shall continue in full force and effect.
- 25.8 In the case where a facility is subject to a separate set of General Terms and Conditions, if there is any conflict between these General Terms and Conditions and the General Terms and Conditions for the specific facility, the latter shall prevail.
- 25.9 Unless contrary intention appears, words importing the singular number shall include the plural number and vice versa and words importing the masculine gender shall include the feminine gender and the neuter gender.
- 25.10 References to any regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organization.

26. Language

- 26.1 The Chinese version of the Application Form and the Loan Advice and these General Terms and Conditions are for reference only and if there is any conflict between the English version and the Chinese version, the English version shall prevail.

27. Governing Law

- 27.1 The Application Form and the Loan Advice and these General Terms and Conditions shall be governed by and construed in accordance with the laws of Hong Kong. The Borrower hereby irrevocably submits to the non-exclusive jurisdiction of the courts of Hong Kong.

28. Third Party Rights

- 28.1 Subject to Clause 28.3, a person who is not a party to any Application Form and the Loan Advice has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) (the "Third Parties Ordinance") to enforce or to enjoy the benefit of any term of such Application Form and the Loan Advice and/or these General Terms and Conditions.
- 28.2 Notwithstanding any term of any Application Form and the Loan Advice and/or these General Terms and Conditions, the consent of any person who is not a party to such Application Form and the Loan Advice is not required to rescind or vary such Application Form and the Loan Advice and/or these General

Terms and Conditions at any time.

- 28.3 Any director, officer, employee, affiliate or agent of the Bank may, by virtue of the Third Parties Ordinance, rely on any provision of any Application Form and the Loan Advice and/or these General Terms and Conditions (including without limitation any indemnity, limitation or exclusion of liability) which expressly confers rights or benefits on that person.

Part II : Charge On Deposit(s)**IMPORTANT NOTICE TO THE CHARGOR**

This Charge will create legal obligations and liabilities on the Chargor. The Chargor is strongly advised to seek independent legal advice before the Chargor executes this Charge.

Without prejudice to any provision of this Charge, please take note of the following :-

- (1) The Chargor 's maximum liability under this Charge is unlimited as to amount.
- (2) The Chargor will be required to pay all sums of money, debts and liabilities incurred by us on account of the Bank Undertaking referred to in the First Schedule of this Charge, either on demand by us or upon occurrence of any events of default set out in Clause 4.4 of this Charge.
- (3) We shall have the right, without prior notice or reference to you, to set-off and apply any of the Deposit(s) at any time and from time to time and/or on or after the occurrence of any event of default set out in Clause 4.4 of this Charge against or in satisfaction of your liabilities (whether actual or contingent) to us.
- (4) If this Charge is signed or intended to be signed by or on behalf of more than one person and subsequently this Charge proved not to be binding on or becomes invalid or unenforceable against any one or more of the signatories (whether by reason of his or their lack of capacity or improper execution or absence of execution or any other reason whatsoever), the liability of the remaining signatories under this Charge shall not be affected thereby and shall remain intact, valid, binding and enforceable.
- (5) We shall be entitled to retain this Charge for at least 25 months after the chargor has extinguished his/her liabilities under this Charge.

Bank of China (Hong Kong) Limited

In consideration of **Bank of China (Hong Kong) Limited** (hereinafter called the "Bank") agreeing at the request of the Borrower from time to time or at any time to do, perform, provide or refrain from doing (as the case may be) such acts, things, deeds or services as set out in the First Schedule hereto (hereinafter called "the Bank Undertaking"), the Borrower hereby agree and undertake with the Bank as follows:-

1.0 Indemnity

- 1.1 Indemnity and payment on demand:** The Borrower shall INDEMNIFY the Bank and keep the Bank fully indemnified from and against all actions, suits, proceedings, claims, demands, losses, damages, costs, fees, expenses and/or liabilities of whatsoever nature which the Bank may from time to time suffer, incur or sustain, whether actual or contingent, by reason, arising out or on account of the Bank Undertaking and shall PAY to the Bank ON DEMAND or upon the occurrence of an event of default as set out in Clause 4.4 below (a) all sums (whether actual or contingent) so suffered, incurred or sustained by the Bank (hereinafter called the "Suffered Sum"); and (b) interest accrued on the Suffered Sum (hereinafter called the "Interest") from the date when the same were first paid, suffered, incurred or sustained by the Bank until actual payment in full by the Borrower at the Bank's default interest rate (before and after judgment) as may be specified by the Bank from time to time and displayed or posted in the Bank's banking halls.

The Borrower hereby expressly acknowledge and agree that references in this Charge to the Bank shall include any or all of the Bank's branches and offices whether located or operating in Hong Kong or elsewhere and this Charge shall cover all debts, obligations and liabilities (whether actual or contingent) of the Borrower under the Bank Undertaking to the Bank anywhere in the world whether to any one or more of the Bank's branches and/or offices in Hong Kong or elsewhere. The Bank or any of its branches and offices in Hong Kong or elsewhere shall be entitled to enforce this Charge against the Borrower in Hong Kong or elsewhere notwithstanding that any debts, obligations and liabilities (whether actual or contingent) of the Borrower under the Bank Undertaking

are owing or incurred to the Bank acting through any of its other branches or offices in any other jurisdiction.

- 1.2 Authority to debit any account:** The Borrower hereby irrevocably authorize the Bank, without prejudice to any other rights or remedies which the Bank may have against the Borrower and without prior notice to the Borrower, to debit the sums due and payable by the Borrower as mentioned in Clause 1.1 above to any account of whatever nature, in whatever capacity, or in whatever currency which the Borrower entitled (whether in my/any of our names or jointly with other person(s)) with the Bank at any or all of its branches or offices in Hong Kong or elsewhere.
- 1.3 Authority to make payments:** The Borrower hereby irrevocably authorize the Bank to make any payments or to comply with any demands which appear or purport to be claimed or made under or pursuant to the Bank Undertaking without any reference to or further authority from the Borrower, without inquiry into the justification for them or into the validity, genuineness or accuracy of any statement or certificate received by the Bank with respect to or under the Bank Undertaking and despite any contestation on the Borrower's part and the Borrower agree that any such claim or demand shall be binding on the Borrower and will, as between the Bank and the Borrower, be accepted by the Borrower as conclusive evidence that the Bank was liable to pay or comply with it.
- 1.4 Modification of the Bank Undertaking:** The Bank Undertaking may be modified, amended, renewed or extended, either in accordance with its original terms, or in accordance with any other agreement between the Bank and the Borrower. The Borrower's liability under this Charge shall continue to apply to the Bank Undertaking as so modified, amended, renewed or extended from time to time.
- 1.5 Conclusive evidence:** Any of the Borrower's statement of account with the Bank and signed as correct by any one duly authorized officer of the Bank shall be conclusive evidence of the Borrower's indebtedness due and owing to the Bank and shall be binding upon the Borrower save for manifest error.

2.0 The Deposit(s)

- 2.1 Definition of Deposit(s):** Subject always to the proviso below, the expression "Deposit(s)" whenever used in this Charge shall mean the initial deposit or deposits of whatever nature placed with the Bank in any currency or in the form of a notional precious metals account, whether by way of time or fixed deposit(s) or otherwise and whether principal or interest and whether in connection with any currency swap or currency contracts (whether spot or forward) as set out in the Application and the Loan Advice and all interest accrued thereon. Without prejudice to the generality of the foregoing, the Deposit(s) shall include:-

- (a) all subsequent renewals, extensions and/or re-deposits of the initial deposit(s) notwithstanding that a different deposit number may be assigned to the initial deposit(s) on each renewal, extension and/or re-deposit and all interest accrued thereon; and/or
- (b) all deposit(s) and all interest accrued thereon and funds representing or traceable to the proceeds (principal and/or interest) of the initial deposit(s) and its/their renewal, extension or re-deposit in whatever currency and form, and where such deposit(s) consist(s) of funds mixed with funds from other sources, such part(s) or portion(s) of such deposit(s) attributable to or representing the funds and money so traceable as above mentioned.

For the avoidance of doubt,

- (i) where any of the deposit(s) is/are made in connection with a currency swap or in the form of a currency swap deposit, the related swap and/or currency exchange transactions and contracts shall be deemed part of the deposit(s) concerned and the term "Deposit(s)" shall include any such deposit(s) and any money in whatever currency payable by the Bank to the Borrower in connection with such related swap and/or currency transactions and contracts; and
- (ii) where any currency option contract is created between the Bank and the Borrower upon the Bank's acceptance of any deposit(s), the term "Deposit(s)" shall include any such deposit(s) and any interest accruing and/or payable thereon and any money in whatever currency payable by the Bank to the Borrower upon the exercise or squaring of the relevant currency option contract, and nothing herein contained shall in any way affect the Bank's rights under or with respect to the relevant currency option contract,

PROVIDED THAT:-

- (I) where the Application Form and the Loan Advice hereto makes reference to a deposit balance placed with the Bank under a current or savings account or any other account (including club deposit account) into or from which funds may be withdrawn or deposited from time to time, the term "Deposit(s)" whenever used in this Charge shall mean the balance now or at any time hereafter standing to the credit of such account up to the amount specified in the Application Form and the Loan Advice (if any). For the avoidance of doubt,

if no such amount is specified, the term "Deposit(s)" shall mean the entire balance at any time standing to the credit of such account; and

- (II) where the Application Form and the Loan Advice makes reference to all the fixed deposit(s) and/or all call deposit(s) of whatever nature and in whatever currency now or at any time hereafter maintained or to be maintained by the Borrower with the Bank under a specified customer number, then the term "Deposit(s)" whenever used in this Charge shall mean and include each and every such fixed deposit(s) and/or call deposit(s) accredited by the Bank to such customer number. Clauses 2.1(a), 2.1(b), 2.1(i) and 2.1(ii) above shall apply in full force and effect to each and every such deposit(s), notwithstanding that the deposit confirmation or notice to be issued by the Bank upon subsequent renewal, extension and/or re-deposit of any such deposit(s) may or may not contain any express reference to the specified customer number. For the avoidance of doubt, the records as maintained and certified by the Bank as to the deposit number and/or customer number of any fixed deposit or call deposit shall be conclusive and binding upon the Borrower, save for manifest error. Further, any reference to "Deposit(s)" in this Charge shall, unless the context requires otherwise, be deemed to be made to each and every such deposit(s) bearing the specified customer number.

2.2 Flawed assets: It is hereby expressly agreed and declared that the standard account mandate governing the Deposit(s) shall be amended by this Charge to the extent that the Deposit(s) shall not be repayable by the Bank to the Borrower unless and until all debts and liabilities (whether actual or contingent) due and owing by the Borrower under the Bank Undertaking to the Bank shall be satisfied and discharged in full and where such debts and liabilities are contingent, unless and until they are no longer capable of arising. Save and except amended as aforesaid, all terms and conditions of the account mandate of the Deposit(s) shall remain in full force and effect.

2.3 Not to deal with the Deposit(s): The Borrower hereby covenant with the Bank that while this Charge is still in force and unless with the Bank's prior written consent, the Borrower will not and will have no right to withdraw, mortgage, charge, pledge, assign, sell, transfer, dispose of or howsoever deal with or encumber or, where applicable, convert into any other currency the Deposit(s) or any part thereof or grant or suffer to arise any third party rights over or against the whole or any part of the Deposit(s) or purport so to do. For the avoidance of doubt, any consent from the Bank, if given, shall not prejudice the rights of the Bank under this Charge in respect of the balance of the Deposit(s).

2.4 Title to the Deposit(s): The Borrower hereby represent and warrant to the Bank that the Deposit(s) is/are solely and beneficially owned by the Borrower and, except as created pursuant to this Charge, the Borrower have unencumbered and absolute title to the Deposit(s) which is/are free and clear of and not subject to any charge, lien, trust, negative pledge or other adverse interest and claim and the Deposit(s) is/are still valid and subsisting.

3.0 Charge Over The Deposit(s)

3.1 Charge: As a continuing security for the discharge and due payment and performance of the Suffered Sum and Interest thereon and my/our obligations hereunder, The Borrower, as beneficial owner, HEREBY CHARGE by way of first fixed charge and RELEASE to the Bank all the Borrower's estate, right, title, claim, demand, benefit and interest, present and future, to and in the Deposit(s) and all interest from time to time payable thereon together with all title deeds or documents relating thereto. If this Clause 3.1 is for any reason whatsoever declared by any competent court having jurisdiction to be illegal, unlawful or unenforceable, this Clause 3.1 should be severed from this Charge without modifying or affecting the remaining provisions of this Charge.

3.2 The Bank's power to square currency option in relation to Deposit(s): In the event that The Borrower have written in favour of the Bank any currency option the performance of which is related to the Deposit(s), the Bank is hereby irrevocably and unconditionally authorized, without prior notice to or demand on the Borrower, at any time when the spot exchange rate of relevant currencies favours an exercise of the currency option by the Bank, to square the currency option on my/our behalf by way of paying to the Bank such sum as the Bank may determine in return for the surrender of the currency option by the Bank. For the avoidance of doubt, the Borrower will have no claim against the Bank for its having squared the Borrower's currency option written by the Borrower pursuant to this Clause 3.2, even though the subsequent movement of the spot exchange rate of the relevant currencies does not favour an exercise of the currency option by the Bank.

3.3 The Bank's power to appropriate the Deposit(s): The Bank is hereby irrevocably authorized, without prior notice, legal process or any other action with respect to the Borrower or any other person, at any time without restriction to appropriate, retain and/or apply the whole or any part or parts of the Deposit(s) in or towards

payment or discharge of any or all of my/our obligations hereunder in any way the Bank deems appropriate free from any restrictions and claims and for the purpose of such appropriation, retention and/or application to convert the whole or any part or parts of the Deposit(s) at the Borrower's expense into any currency other than that in which the same is or are then held by the Bank, at one time or from time to time at the sole discretion of the Bank. The Bank shall not be liable for any loss arising out of such appropriation, retention and/or application unless due to its gross negligence or wilful default and only to the extent of direct and reasonably foreseeable loss and damage (if any) arising directly and solely therefrom.

3.4 Deposit(s) being credit balance up to a specified amount:

- (a) Without prejudice to the generality of Clause 6.4 below if the Deposit(s) shall mean, under Clause 2.1(I), the balance now or at any time hereafter standing to the credit of a certain account up to an amount specified in the Application Form and Loan Advice (the "Amount"), the Bank shall have the absolute discretion to release or discharge at any time and from time to time any amount from the relevant account so that the resultant balance standing to the credit of the relevant account becomes less than the Amount or (if, prior to the release or discharge, the credit balance of the relevant account is below the Amount) becomes further less than the Amount. In such event, the provision in Clause 6.4 below shall apply in full force and effect such that the release or discharge of such amount shall be deemed an act of releasing and discharging the Deposit(s) or (as the case may be) part thereof under Clause 6.4 and the Borrower will remain fully liable for the monies hereby secured and remaining outstanding, and the balance remains standing to the credit of the relevant account (if any) shall remain charged under Clause 3.1 hereof and subject to the provisions of this Charge as if it were the Deposit(s) herein mentioned.
- (b) For the avoidance of doubt, the release or discharge referred to in Sub-clause 3.4(a) above shall not in any way affect or vary the Amount.
- (c) *The Borrower hereby further agree that if the balance standing to the credit of the relevant account aforesaid shall at any time fall below the Amount and if the Borrower will make any payment into the relevant account, the credit balance of the relevant account, as so increased by the payment and to the extent up to the Amount, shall, without further consent from or notice to the Borrower, constitute the Deposit(s) herein mentioned and shall be charged to the Bank under Clause 3.1 hereof and be subject to the provisions of this Charge*

3.5 Early termination of Deposit(s):

- (a) If at any time the Bank has power under this Charge to apply or appropriate the whole or any part or parts of any Deposit(s) before their maturity date in or towards payment of my/our obligations, the Bank may designate a day as an "Early Termination Date" in respect of any or all such Deposit(s) (which will mature or terminate on the designated date).
- (b) The amount of such terminated Deposits shall equal to the Close-out Amounts as calculated below. All such amounts will be expressed in Hong Kong dollars or in another currency chosen by the Bank. The Bank will convert amounts in another currency at its spot exchange rate.

"Close-out Amount" means, in respect of a terminated Deposit,

- (i) in the case of a Deposit which is a simple deposit where the full amount of the principal is repayable together with interest thereon at an agreed fixed rate, the amount of the principal and an amount in respect of interest determined by the Bank in good faith to be payable in respect of the shortened period of deposit;
- (ii) in the case of any other Deposit, the amount of the principal and, at the discretion of the Bank, any accrued and unpaid interest, plus (or, in the case of a negative number, minus) the net amount that the Bank determines in good faith to be its gains (if any) minus its losses or costs (if any) that are or would be incurred or realized under then prevailing circumstances in terminating the Deposit. The Bank may apply different valuation methods to different Deposits depending on type, complexity or other relevant factors. The Bank will determine each Close-out Amount as of a commercially reasonable date and to produce a commercially reasonable result. The Bank may take into account any relevant information including market data and information from internal sources, and without duplication:
 - (A) any cost of funding;
 - (B) any loss or cost incurred in connection with its terminating any hedge related to a terminated Deposit;
 - (C) the Bank's good faith estimate of the market value of the Deposit on the Early Termination Date.

- (c) As soon as reasonably practicable after an Early Termination Date, the Bank will provide to the Borrower a statement showing, in reasonable detail, the calculations and any amount payable under paragraph (b) above. Such amount will be payable on the day specified in the notice, together with interest thereon (before and after judgment) from (and including) the Early Termination Date to (but excluding) the date such amount is paid, at the rate determined by the Bank.
- (d) The Borrower agree that an amount recoverable under paragraph (b) above is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for loss of bargain and loss of protection against future risks. Except as otherwise provided in this Charge, the Borrower will not be entitled to recover any additional damages for such losses.

3.6 Depreciation in the Value of and Additional Deposit(s): In the event that the Deposit is a notional precious metals account, the Bank shall not be responsible for any depreciation in the value of the underlying precious metal(s) (the "Precious Metal(s)") or any part thereof howsoever arising. If at any time the aggregate net value of the Deposit(s), as absolutely determined by the Bank (which shall be conclusively binding on the Borrower), taken at cost or market price, whichever is the lower (in the case of Precious Metal(s)), or at the Bank's then prevailing spot rate of exchange or such other valuation method(s) as absolutely determined by the Bank (in the case of other deposits forming the Deposit(s)), does not exceed my/our total obligations and liabilities (whether actual or contingent) outstanding and secured by this Charge by such a margin as the Bank may consider safe or adequate, the Borrower will, forthwith upon the request of the Bank, deposit and charge to the Bank further deposits or precious metal(s) acceptable to the Bank (as determined by the Bank in the same aforesaid manner as regards valuation of the Deposit(s)) as the Bank may consider sufficient to maintain or restore the said margin and such additional deposits or precious metal(s) shall be deemed to be part of the Deposit(s) and shall stand charged to the Bank as continuing security for the payment of all monies and the discharge of all obligations and liabilities covenanted to be paid or otherwise secured by this Charge. The Borrower further undertake that the Borrower will execute such further deeds or documents as the Bank may require or deem necessary to charge or in perfecting the Bank's security over such additional Deposit(s).

4.0 Enforcement of Security and Set Off

- 4.1 Express set-off:** In addition and without prejudice to any other provisions of this Charge and any general banker's lien, right of set-off or similar right to which the Bank may be entitled, the Bank shall have the right and are authorized, to the fullest extent permitted by law, from time to time and at any time without notice to the Borrower (any such notice being expressly waived) to combine, set-off, transfer, appropriate and apply any credit balance on any of the Deposit(s) and/or any of my/our account(s) with the Bank (whether in my/any of our names or jointly with other person(s)) (whether subject to notice or not and whether matured or not) against or on account of my/our obligations and liabilities whatsoever (whether actual or contingent) due, owing and incurred to the Bank under this Charge.
- 4.2 Conversion of currency:** Where such combination, set-off, transfer, appropriation or application as mentioned in Clause 4.1 above requires the conversion of one currency into another, such conversion shall be calculated at the Bank's then prevailing spot rate of exchange (as conclusively determined by the Bank) for purchasing the currency in which the moneys, obligations or liabilities were due, owing or incurred with the existing currency.
- 4.3 Maturity of Deposit(s) for set-off:** It is hereby agreed and declared that for the purpose of the application of any express right of set-off conferred upon the Bank hereunder, all moneys from time to time standing to the credit of any of the Deposit(s) or any of my/our account(s) with the Bank (whether in my/any of our names or jointly with other person(s)) shall, without any demand or notice from the Borrower and notwithstanding any other stipulations to the contrary, become immediately mature and be repayable on the occurrence of any event of default as hereinafter mentioned and accordingly shall be available for set-off against all moneys, obligations and liabilities (whether actual or contingent) of the Borrower due, owing or incurred to the Bank hereunder.
- 4.4 Events of default:** Without prejudice and in addition to any other provisions herein set out, it shall be lawful for the Bank at any time on or after the occurrence of any one or more of the following events without prior notice or reference to the Borrower to exercise all or any of the Bank's rights hereunder and/or appropriate, realise and apply any of the Deposit(s) together with the accrued interest or any part thereof towards payment of the moneys, obligations and liabilities (whether actual or contingent) which are now or at any time hereafter may be due, owing and payable by the Borrower to the Bank hereunder:-
 - (a) The Borrower make default in the payment of any sum covenanted to be paid to the Bank after demand has

been duly made; or

- (b) The Borrower fail to furnish and charge to the Bank further deposits or precious metal(s) forthwith after a request has been made by the Bank pursuant to Clause 3.6; or
- (c) The Borrower make default in the payment of any sum undertaken and/or covenanted to be paid by the Borrower to any party, including the Bank, under any loan agreement, indemnity, guarantee, bond or undertaking upon maturity or where demand is required after demand has been duly made; or
- (d) there is any breach of or omission to observe any of the covenants or obligations under the terms of this Charge and/or under the terms of any loan agreement, indemnity, guarantee, bond or undertaking of whatsoever nature given by the Borrower to any party (including the Bank); or
- (e) The Borrower become bankrupt or otherwise become insolvent or a petition for bankruptcy or winding up has been filed by or against the Borrower; or
- (f) the security for any of the Borrower's liabilities whether present or future becomes enforceable, or an encumbrancer takes possession or a receiver or other similar officer is appointed over the whole or any part of my/our assets and undertakings; or
- (g) any judgment or order made against the Borrower is not complied with within seven (7) days, or a distress execution or sequestration or other process is levied or enforced upon any of the Borrower's chattels or property and is not discharged within seven (7) days of being levied; or
- (h) any part of the security hereby granted or any guarantee, indemnity, bond, undertaking or other security given by the Borrower to the Bank for any money, obligation or liability thereby secured in any respect ceases to be in full force and effect or to be continuing, or is or purports to be determined or disputed, or becomes in jeopardy, invalid or unenforceable, or if any and all necessary or desirable licence, authorization, consent or approval is removed, withheld, materially modified or fails to be granted or fails to remain in full force and effect; or
- (i) the aggregate net value of the Deposit(s), as absolutely determined by the Bank (which shall be conclusively binding on the Borrower), taken at cost or market price, whichever is the lower (in the case of Precious Metal(s)), or at the Bank's then prevailing spot rate of exchange or such other valuation method(s) as absolutely determined by the Bank (in the case of other deposits forming the Deposit(s)), does not exceed my/our total obligations and liabilities (whether actual or contingent) outstanding and secured by this Charge by such a margin as the Bank may consider safe or adequate.

4.5 No Restriction: To the fullest extent permitted by law, any restrictions imposed by any law on any intermediate or other power of sale, application of proceeds or on any other right or on the consolidation of mortgages or other encumbrances shall not apply to this Charge, the Bank or to any encumbrance given to the Bank pursuant to this Charge.

5.0 Power of Attorney

5.1 Bank as attorney: The Borrower, by way of security, hereby irrevocably appoint the Bank and any of its delegates or sub-delegates severally to be my/our attorney in the name and on behalf and as the act and deed of the Borrower or otherwise to execute and complete in favour of the Bank or its nominee(s) or agent(s) or representative(s) or correspondent(s) or any purchaser, any other documents which the Bank may require for perfecting its title to or for vesting the Deposit(s) in the Bank or its nominee(s) or agent(s) or representative(s) or correspondent(s) or in any purchaser and otherwise generally to sign, seal and deliver and otherwise perfect any such other documents and any such legal or other charges or assignments over the Deposit(s) required by the Bank and do all such acts and things as may be required for the full exercise of all or any of the powers hereby conferred or which may be deemed expedient on or in connection with any other disposition, realization or getting in by the Bank or its nominee(s) or agent(s) or representative(s) or correspondent(s) of the Deposit(s) or any part thereof or in connection with any other exercise of any power hereunder. This power of attorney is coupled with an interest and is irrevocable and shall remain irrevocable as long as this Charge remains outstanding. The Borrower ratify and confirm whatever any attorney does or purports to do under its appointment under this Clause.

6.0 General

6.1 Warranties and Representations: The Borrower hereby warrant, represent and undertake to the Bank (such warranties, representations and undertakings to continue and be deemed to be repeated each day with reference to the facts and circumstances then existing for so long as this Charge remains subsisting) that:-

- (a) The Borrower have the power and authority to execute, deliver and perform my/our obligations under this Charge, that all necessary actions have been taken by the Borrower to authorise the execution, delivery and performance of this Charge and that this Charge has been validly created and constitute valid and legally

- binding obligations on the Borrower enforceable in accordance with its terms;
- (b) the creation of this Charge and the performance and observance of the obligations hereunder does not and will not contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit (where applicable, including but not limited to all the rules governing the listing of securities as prescribed by The Stock Exchange of Hong Kong Limited from time to time), or, where applicable, any constitutional documents, to which the Borrower is subject;
 - (c) The Borrower is not and is not deemed to be insolvent or unable to pay my/our debts as they fall due;
 - (d) The Borrower has read and understood the contents of this Charge and the Important Notice printed at the beginning of this Charge and understand the implications of this Charge;
 - (e) The Borrower will obtain and maintain in full force, validity and effect any and all governmental and other approvals, authorities, licences, permission and/or consents required in connection with this Charge, and to do or cause to be done all other acts and things necessary for the performance of all my/our obligations pursuant to this Charge; and
 - (f) The Borrower will pay all stamp, documentary, registration or similar duties, taxes, fees and/or charges in connection with this Charge, whether in Hong Kong or in any other jurisdiction or territory, and shall on demand indemnify the Bank against any liability arising from any delay or omission by the Borrower to pay any such duties, taxes, fees and/or charges.

6.2 Undertakings: The Borrower undertake to the Bank that:

- (a) The Borrower is and will continue to be the sole beneficial owner of the Deposit(s) free from any charge, lien, trust, negative pledge or other encumbrance, adverse interest and claim, except created pursuant to this Charge;
- (b) The Borrower will deposit with the Bank or to its order all certificates and documents which evidence the Deposit(s) and, if applicable, duly executed account withdrawal, transfer or closing documents in such form as the Bank may from time to time require. The Borrower further authorise the Bank to complete any of such documents which may be incomplete;
- (c) The Borrower will promptly provide to the Bank copies of such information and records in respect of the Deposit(s) as the Bank may from time to time request;
- (d) The Borrower will give such instructions and directions as the Bank may require for perfecting the security created or intended to be created by this Charge; and
- (e) The Borrower will not take or omit to take any action which might prejudice the value of the Deposit(s), the Bank's right to receive payment thereof and/or the effectiveness of this Charge.

6.3 Continuing security: This Charge shall be a continuing security and shall cover and secure the ultimate balance from time to time due and owing to the Bank by the Borrower hereunder notwithstanding the Borrower's death, bankruptcy, insolvency or incapacity or change in the Borrower's name, constitution or composition or any intermediate payment or satisfaction of the whole or any part of the Borrower's obligations or any settlement of account or other matter whatsoever and such continuing security shall not be affected or discharged by the taking or release of any security collateral additional or other security whatsoever which the Bank may for the time being hold or which may be held by the Bank hereafter.

6.4 Partial release: Notwithstanding anything herein contained, it is expressly declared and agreed by and between the parties hereto that the Bank shall have absolute discretion to release or discharge the whole or any part of the Deposit(s) at any time and from time to time charged under this Charge without receiving any payment or on payment of an amount less than the total amount hereby secured or the value of the security released or discharged, and in such event, the Borrower will remain fully liable for the monies hereby secured and remaining outstanding and the part of the Deposit(s) that has not been released or discharged shall remain charged under Clause 3.1 hereof and subject to the provisions of this Charge as if it were the Deposit(s) herein mentioned. In case there is any partial release or discharge as aforesaid, any certification by the Bank as to the Deposit(s) remaining at any time charged under this Charge shall be binding on the Borrower save for manifest error.

6.5 Security additional: For the avoidance of doubt, this Charge shall be in addition to and shall not affect or otherwise jeopardize any other guarantee, indemnity, and/or agreement made between the Bank and the Borrower and/or given by any third party or parties in favour of the Bank and/or any securities now or at any time hereafter held by the Bank in respect of any or all of the moneys, obligations and liabilities which are now or may at any time hereinafter due, owing or incurred by the Borrower to the Bank.

6.6 Expenses and Indemnity:

- (a) The Borrower will pay the Bank, on demand, all the Bank's expenses (including legal and out-of-pocket

expenses) of reasonable amount and reasonably incurred:

- (i) in connection with the negotiation, preparation and execution of this Charge and any amendment to, or waiver or consent or release of or under, this Charge; and/or
 - (ii) in contemplation of, or in connection with, the preservation, enforcement or exercise of any rights under this Charge.
- (b) The Borrower will indemnify the Bank and keep the Bank fully indemnified, on demand and on a reasonable basis, from and against all actions, suits, proceedings, claims, demands, losses, damages, costs, fees, expenses and/or liabilities of whatsoever nature which the Bank may from time to time suffer, incur or sustain :
- (i) for anything done or omitted in the exercise or purported exercise or non-exercise of the rights contained in this Charge;
 - (ii) as a result of any breach by the Borrower of any of my/our covenants or other obligations to the Bank or any other person;
 - (iii) in consequence of any payment in respect of my/our obligations to the Bank secured by this Charge being impeached or declared void for any reason whatsoever; and/or
 - (iv) as a result of any taxes, duties, rates or outgoings assessed upon or payable in respect of the Deposit(s) or in connection with the entry into, preservation, enforcement or exercise of any rights under this Charge
- unless such actions, suits, proceedings, claims, demands, losses, damages, costs, fees, expenses and/or liabilities are principally caused by the gross negligence or wilful default of the Bank, its nominee(s) or any of its officer(s) or employee(s) or agent(s).
- (c) The amounts payable under this Clause 6.6 shall carry interest from the date on which they were first incurred by the Bank until actual payment in full by the Borrower at the Bank's default interest rate (before and after judgment) as may be specified by the Bank from time to time and displayed or posted in the Bank's banking halls and such amount and interest shall form part of my/our obligations secured by this Charge.
- (d) The Bank shall not be liable to the Borrower or any other person for any act, delay or failure to act, on the part of the Bank or any other person, in respect of the Deposit(s) unless due to the gross negligence or wilful default of the Bank, its nominees or any of its officers or employees or agents and only to the extent of direct and reasonably foreseeable loss and damage (if any).

6.7 Further assurance: The Borrower will at any time if and when required by the Bank execute such further legal or other charges or assignments in favour of the Bank as the Bank shall from time to time require over all or any of the Deposit(s) and all rights relating thereto both present and future and execute or do such other documents, assurances, acts and things as the Bank may from time to time require for perfecting, protecting or improving its title to the same or for vesting or enabling it to vest the same in itself or its nominee(s) or agent(s) or representative(s) or correspondent(s) to secure all moneys, obligations and liabilities hereby covenanted to be paid or otherwise hereby secured, or facilitating the exercise or proposed exercise by the Bank of any of its rights under this Charge. All further charges, assignments or documents to be executed by the Borrower shall be prepared by or on behalf of the Bank at my/our cost.

6.8 Realization account for contingent debts: In the realization of the Deposit(s) in satisfaction of contingent debts hereunder, such sums so realized shall be paid by the Bank into a non-interest bearing suspense realization account with the Bank pending actual settlement of the contingent debts.

6.9 Payment into suspense account: Any money paid to the Bank under this Charge may be placed and kept by the Bank in a separate suspense account bearing no interest for so long and in such name as the Bank may in its absolute discretion think fit without applying the same or any part thereof in or towards discharge of the debts or liabilities due or incurred as a result of the Bank Undertaking so as to enable the Bank to preserve intact the Bank's right to sue or prove in arrangement, composition, liquidation, bankruptcy, winding up or such similar proceedings against the Borrower the entirety of the debts or liabilities owing without taking into account any sum so paid under this Charge. The Borrower hereby irrevocably waive any right or power which the Borrower may have of appropriation in respect of any sum paid by the Borrower to the Bank pursuant to or in connection with this Charge.

6.10 Application of Proceeds: All moneys received or recovered by the Bank pursuant to this Charge shall, subject to any claims ranking in priority of the Bank's claim to the extent of such priority, be applied, in or towards discharging, in the following order of priority :

- (a) the amount of all fees and remuneration of, and all other costs, charges, expenses and liabilities incurred by the Bank in connection with or as a result of the exercise of its rights under this Charge or any other

- agreement entered into between the Bank and the Borrower in such order as the Bank may from time to time determine;
- (b) all other obligations secured by this Charge in such order as the Bank may from time to time determine; and
 - (c) the claims of those entitled to any surplus.

6.11 Currency indemnity:

- (a) All moneys received or held by the Bank under this Charge may from time to time after demand has been made be converted into such other currency as the Bank considers necessary or desirable to cover my/our obligations and liabilities in that currency at the then prevailing spot rate of exchange of the Bank (as conclusively determined by the Bank) for purchasing the currency to be acquired with the existing currency.
- (b) If and to the extent the Borrower fail to pay the amount due on demand the Bank may in its absolute discretion without notice to the Borrower purchase at any time thereafter so much of a currency as the Bank considers necessary or desirable to cover my/our obligations and liabilities in such or another currency at the then prevailing applicable spot rate of exchange of the Bank (as conclusively determined by the Bank) and the Borrower hereby agree to indemnify the Bank in respect of all costs, charges and expenses paid by the Bank in doing so.
- (c) No payment to the Bank (whether under any judgment or court order or otherwise) shall discharge my/our obligation or liability in respect of which it was made unless and until the Bank shall have received payment in full in the currency in which such obligation or liability was incurred and to the extent the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Bank shall have a further separate cause of action against the Borrower and shall be entitled to enforce the security hereby created to recover the amount of the shortfall.

6.12 Enforcing other means of payment: The Bank is at liberty, but not bound, to resort for its own benefit to any other means of payment at any time and in any order it thinks fit without in consequence diminishing my/our liability to the Bank hereunder and the Bank may enforce its rights under this Charge either for the payment of the ultimate balance after resorting to other means of payment or for the balance due at any time notwithstanding that other means of payment have not been resorted to and in the latter case without entitling the Borrower to any benefit from such other means of payment so long as money remains due or owing or payable (whether actually or contingently) from or by the Borrower to the Bank.

6.13 Assignment: The Borrower may not assign or transfer any or my/our rights or obligations under this Charge. The Bank may assign any of its rights whether wholly or in part under this Charge to any person without further reference to the Borrower and for the purpose of effecting any such assignment.

6.14 Rights cumulative, waivers: No delay or omission on the part of the Bank in exercising or enforcing any right, power, privilege or remedy in respect of this Charge shall impair such right, power, privilege or remedy, or be construed as a waiver of it, nor shall any single or partial exercise of any such right, power, privilege or remedy preclude any further exercise of it or the exercise of any other right, power, privilege or remedy. The rights, powers, privileges and remedies provided in this Charge are cumulative and in addition to and not exclusive of any rights, powers, privileges or remedies provided by law.

6.15 Liabilities joint and several: Where this Charge is signed by or on behalf of two or more persons the obligations and liabilities of such persons hereunder shall be joint and several and any demand for payment made by the Bank to any one or more of the persons so jointly and severally liable hereunder shall be deemed to be demand made to all such persons. The Bank shall be entitled to deal separately with any one or more of such persons on any matter and without notice or consent from the others to release or discharge any one or more of such persons from his or their obligations and/or liabilities under this Charge or any part thereof or to accept or enter into any settlement or compromise or composition or make any other arrangements with or grant any time, indulgence, waiver or accommodation to any one or more of such persons without discharging, releasing or affecting the liabilities and obligations of any other party to this Charge or otherwise prejudicing or affecting the Bank's rights and remedies against any such other party.

6.16 Happening of Specified Events: This Charge shall be binding as a continuing security on the Borrower and shall not be discharged or affected by the occurrence of any one or more or all of the Specified Events.

6.17 Joint signatories: If this Charge is signed or intended to be signed by or on behalf of more than one person (such persons being hereinafter called "the Original Signatories") and this Charge proves not to be binding on or becomes invalid or unenforceable against any one or more of the Original Signatories (whether by reason of his or their lack of capacity or improper execution of this Charge or failing to sign/execute this Charge or for

any other reason whatever), the liability of the remaining Original Signatory or Signatories shall remain intact, valid, binding and enforceable and the remaining Original Signatory or Signatories shall continue to be bound by the provisions of this Charge as if such other Original Signatory or Signatories had never been or had never intended to be party hereto.

- 6.18 Conditions to discharge:** Any settlement or discharge between the Bank and the Borrower shall be subject to the condition that no security or payment to the Bank by the Borrower or any other person shall be avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, liquidation or insolvency for the time being in force and if any such security or payment shall be so avoided or reduced the Bank shall be entitled to recover the value or amount of it from the Borrower subsequently just as if such settlement or discharge had not occurred. For the purpose of this Clause 6.18, the Bank shall be entitled to retain this Charge for a period of twenty-five (25) months after the full payment, or satisfaction of all debts, obligations and liabilities due and owing by the Borrower hereunder and if during the said twenty-five months' period, bankruptcy, liquidation or insolvency proceedings have been commenced against the Borrower or any other person providing the security or making the payment, the Bank is entitled to retain this Charge for such further period as the Bank deems fit.
- 6.19 Indulgence:** My/Our liability under this Charge shall not be affected by any arrangement which the Bank may make with the Borrower or with any other person which (but for this provision) might operate to diminish or discharge my/our liability or otherwise provide a defence to a surety. Without prejudice to the generality of the foregoing the Bank is to be at liberty at any time without reference to the Borrower to give time for payment or to grant any other indulgence and to give up, deal with, vary, exchange or abstain from perfecting or enforcing any other security or guarantees held by the Bank at any time and to discharge any party to them, and to realize such security or guarantees or any of them, as the Bank thinks fit and to compound with, accept compositions from and make any other arrangements with the Borrower or any person or persons liable on bills, notes or other security or guarantee held or to be held by the Bank without affecting my/our liability under this Charge.
- 6.20 New account:** The Bank may at any time continue any existing account or accounts and/or open any new account or accounts in my/our name(s) and no subsequent transactions, receipts or payments involving such new accounts shall affect my/our liability hereunder.
- 6.21 Payment not subject to deduction:** All sums payable by the Borrower under this Charge shall be paid to the Bank in Hong Kong or otherwise as the Bank may from time to time direct, in full, free and clear of any present or future taxes, levies, imposts, duties, charges, fees or withholdings and without set-off or counterclaim or any restriction, condition or deduction whatsoever. If the Borrower is compelled by law to make any deduction or withholding, the Borrower will promptly pay to the Bank such additional amount as will result in the net amount received by the Bank being equal to the full amount which would have been receivable had there been no deduction or withholding. Any additional amount paid under this Clause 6.21 shall not be treated as interest but as agreed compensation.
- 6.22 Notice of subsequent encumbrance:** If the Bank receives notice of any subsequent encumbrance affecting the Deposit(s) or any part thereof or interest thereon, the Bank may open a new account for the Borrower; if the Bank does not open a new account for the Borrower then unless the Bank gives notice to the contrary to the Borrower, it shall nevertheless be treated as if the Bank had done so at the time when the Bank receives such notice and as from that time all payments made by or on behalf of the Borrower to the Bank shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount due from the Borrower to the Bank at the time when the Bank receives notice.
- 6.23 Redemption of prior encumbrances:** The Bank may at any time redeem any prior encumbrance in respect of the Deposit(s), procure the transfer of that encumbrance to itself and/or settle and pass the accounts of the prior mortgagee, chargee or encumbrancer (any accounts so settled and passed shall be conclusive and binding on the Borrower) and all principal moneys, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Borrower to the Bank on demand and the Deposit(s) shall stand charged and secure such principal moneys, interest, costs, charges and expenses.
- 6.24 Lien:** In addition to any general lien or similar right to which the Bank as bankers may be entitled by law, if any sum is due but unpaid hereunder, the Bank may at any time, without prior notice to the Borrower, retain all or any securities, valuables or any other property whatever and wherever situate which may be deposited with or otherwise held by the Bank for or in the name of the Borrower or any one or more of us whether for safe custody or otherwise and to sell the same or any part thereof at such price as the Bank shall determine whether by public auction, private treaty or tender and the Bank may engage such agent or broker therefor and apply the

proceeds thereof in satisfaction of any or all sums owing hereunder after first deducting all costs and expenses and the Bank shall not be liable for any loss arising from the sale or other disposition of any such securities, valuables or other property.

6.25 Change in constitution:

- (a) If the Borrower is a partnership or a company or a committee or association or other unincorporated body, this Charge shall remain in full force and effect notwithstanding any change in my/our name or constitution (or, in the case of a firm, the retirement or death of any partner or the introduction of any additional partner).
- (b) This Charge shall continue to bind the Borrower notwithstanding any change in the name or constitution of the Bank or any amalgamation or merger that may be effected by the Bank with any other company or companies and notwithstanding any re-construction by the Bank involving the formation of and transfer of the whole or any part of the Bank's undertaking and assets to a new company and notwithstanding the sale or transfer of the whole or any part of the Bank's undertaking and assets to another company, whether the company or companies with which the Bank amalgamates or merges or the company or companies to which the Bank transfers the whole or any part of its undertaking and assets on a reconstruction or sale or transfer as stated above shall or shall not differ from the Bank in their or its objects, character or constitution, it being the intent of the Borrower that this Charge shall remain valid and effectual in all respects and that the benefit of this Charge and all rights conferred upon the Bank by this Charge may be assigned to and enforced by any such company or companies and proceeded on in the same manner to all intents and purposes as if such company or companies had been named in this Charge instead of and/or in addition to the Bank.

6.26 Clauses severable: Each of the clauses and provisions of this Charge is severable and distinct from the others and if at any time one or more of such clauses or provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining clauses and provisions shall not in any way be affected or impaired thereby.

6.27 Notice:

- (a) Any notice, request, certificate, demand or other communication to the Borrower in connection herewith is to be sent to me or any one of us at my/our last known address from time to time or to such other address as may have been notified in writing by the Borrower to the Bank in accordance with this Clause 6.27.
- (b) Any notice, request, certificate, demand or other communication delivered personally or left at my/our address shall be deemed to have been given at the time of such delivery or leaving it at such address. Any notice, request, certificate, demand or other communication despatched by letter postage prepaid shall be deemed to have been given forty-eight (48) hours after posting. Any notice, request, certificate, demand or other communication sent by telex or facsimile transmission shall be deemed to have been given at the time of despatch or transmission and any notice sent by cable shall be deemed to have been given twenty-four (24) hours after despatch.

6.28 Information:

- (a) The Borrower undertake at all times to notify the Bank in writing of any change of my/our particulars including but without limitation my/our address(es), telephone number(s) and facsimile number(s).
- (b) The Borrower agree that it is necessary to supply the Bank with data under the Application Form or any information as required by the Bank in order that the Bank will accept this Charge. The Borrower (which for this sub-clause refers to itself in the case of an incorporated entity and its capacity as the duly authorised agent acting on behalf of the relevant party/ies and individual(s) including but not limited to our holding company, subsidiaries, affiliates, shareholders, directors and authorized persons, all these parties and individuals are hereinafter collectively referred as the "**Related Parties**") further authorize the Bank to use any data/information provided by the Borrower for the purposes set out in the Bank's Conditions for Services (the "**Conditions**") (provided that in the case of an individual, such use will be subject to the Data Policy Notice issued and/or revised by the Bank from time to time (the "**Notice**"), and the contents and the receipt of which are hereby acknowledged by the Borrower) and note that data/information held by the Bank will be kept confidential but permit the Bank to provide such data/information to the parties referred to in the Conditions or listed in the Notice (as the case may be) or in compliance with any laws, regulations, guidelines, directions or orders binding on or observed by the Bank or any of its branches, subsidiaries and holding company and the branches, subsidiaries and affiliates of the holding company or other persons including but not limited to credit reference agencies, debt collecting agents and any actual or potential assignee, transferee, participant or sub-participant. The Borrower further authorize the Bank to contact any of my/our employers (if applicable), banks, referees or any other sources for the purpose of

- obtaining or exchanging any information and to compare the information provided by the Borrower with other information collected by the Bank for checking purposes. The Bank is entitled to use the result of such comparison to take any action which may be adverse to the interest of or against the Borrower. The Borrower consent to the data/information being transferred to another jurisdiction outside Hong Kong.
- (c) For the purpose of Clause 6.28(b) above, the Borrower (where applicable) shall be deemed to be "data subjects" as referred to in the Notice.
- (d) (i) In the case where we are an incorporated entity and the Conditions are not applicable to us, we agree that it is necessary to supply the Bank with data under the Application Form or any information as required by the Bank in order that the Bank will accept this Charge. (ii) We (which for this sub-clause refers to ourselves and our capacity as the duly authorised agent acting on behalf of our related parties and individuals including but not limited to our holding company, subsidiaries, affiliates, shareholders, directors and authorized persons, all these parties and individuals are hereinafter collectively referred as the "**Related Parties**") authorize the Bank that any data, information and documents which are provided by us at the Bank's request or collected in the course of dealings between the Bank and us or comes into the possession of the Bank at any time which shall include but not be limited to any information and documents relating to us and the Related Parties, our and the Related Parties' accounts, financial condition, business and affairs, this Charge or any other agreements or transactions or dealings between us and/or the Related Parties and also between them and the Bank, may be disclosed by the Bank from time to time to the parties and for the purposes stated in (iii) below except that in the case where the data and information is related an individual such shall be subject to the limitations that are contained in the personal information collection statement issued and revised from time to time by the Bank. (iii) Such parties shall include all the parties which the Bank may in its discretion consider appropriate (including the Bank's head or home office, holding company, and its and the holding company's branches and subsidiaries, affiliates, agents and any actual or potential assignee, transferee, participant or sub-participant) and for whatever purposes as it may at its sole and absolute discretion deem fit (including without limitation meeting the requirements to make disclosure under the provisions of any law, regulations, guidelines, directions or orders binding on or observed by the Bank or any of its branches, subsidiaries and holding company and the branches, subsidiaries and affiliates of its holding company).

6.29 Delegation: The Bank may delegate by power of attorney or in any other manner to any person any right exercisable by it under this Charge on such terms (including power to sub-delegate) as the Bank sees fit and/or employ agents, managers, employees, advisers and others on such terms as the Bank sees fit for the purpose of this Charge. The Bank will not in any way be liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

6.30 Debt collection: The Bank shall be entitled to employ debt collecting agents to collect any sum due but unpaid by the Borrower hereunder. The Borrower hereby agree, and acknowledge that the Borrower have been warned, that the Borrower will indemnify and keep the Bank indemnified on a full indemnity basis against all reasonable costs and expenses which the Bank may reasonably incur in employing debt collecting agents. The Bank is authorized to disclose to such agent any details of and information relating to the Borrower, my/our account(s), the Deposit, the Precious Metal(s), this Charge and/or all or any transactions or dealings between the Borrower and the Bank.

6.31 Amendments: Except as expressly provided in this Charge, no amendment to this Charge will be effective unless in writing and executed by all the parties to this Charge.

6.32 Law and jurisdiction: This Charge shall be governed by and interpreted in accordance with the laws of Hong Kong. The Borrower hereby irrevocably and unconditionally submit to the non-exclusive jurisdiction of the Hong Kong Courts but without prejudice to the foregoing, this Charge may be enforced in any court of competent jurisdiction.

6.33 Interpretation: In this Charge,

- (a) "The Borrower", has the meaning as defined in Part I of these General Terms and Conditions and being the party or parties who executed this Charge. Where there are more than one party, "the Borrower", and "undersigned" mean and refer to all the parties executing this Charge or any one or more of them and all covenants, undertakings and agreements of the Borrower in this Charge and in respect of the Bank Undertaking shall extend and apply only to any sums, money, debts and liabilities owing or incurred by such parties **jointly** or, in the case of a firm, means each of the present and future partners of the firm and include also such party's or parties', or in the case of a firm, each of such partner's respective estate(s), successor(s), assign(s) and personal and/or legal representative(s) and "my/our" shall be so construed

- accordingly;
- (b) the "Bank" includes the Bank's successors and assigns and any or all of the Bank's offices and/or branches whether in Hong Kong or elsewhere and for the avoidance of doubt, this Charge shall cover all debts and liabilities owing or incurred by or from the Borrower under the Bank Undertaking to the Bank anywhere in the world whether to any one or more of the Bank's offices and/or branches in Hong Kong or elsewhere;
 - (c) "Specified Events" means the death, bankruptcy, liquidation, insolvency, winding up, incapacity, dissolution, incorporation or any change in the name, constitution or composition of, or the retirement or death of any partner or the introduction of any additional partner, or mental illness or other disability whatsoever of the Borrower and "Specified Event" means any one of the foregoing events;
 - (d) "encumbrance" means a mortgage, debenture, charge, pledge, lien, assignment or any security interest or any other agreement having the effect of conferring security;
 - (e) "Hong Kong" means the Hong Kong Special Administrative Region of the People's Republic of China;
 - (f) References to any "party" or "person" in this Charge includes an individual, firm, company, corporation and an unincorporated body of persons;
 - (g) the various matters set out as consideration in the opening paragraph of this Charge are in the disjunctive and alternative and the provision for considerations herein shall be deemed to have been absolutely and fully complied with and fulfilled if any one of the matters set out therein have been done; and
 - (h) where the context permits, the singular includes the plural and vice versa, the masculine includes feminine and neuter and vice versa and reference to persons include references to companies.

6.34 Heading: In this Charge, headings to clauses are inserted for convenience only and has no legal effect and reference to clauses and schedules are to clauses and schedules of this Charge unless otherwise stated.

6.35 Language: The Chinese version of this Charge is for reference only and if there is any conflict between the English and Chinese versions, the English version shall prevail.

6.36 Third Party Rights:

- (a) Subject to Clause 6.36(c), a person who is not a party to this Charge has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) (the "**Third Parties Ordinance**") to enforce or to enjoy the benefit of any term of this Charge.
- (b) Notwithstanding any term of this Charge, the consent of any person who is not a party to this Charge is not required to rescind or vary this Charge at any time.
- (c) Any director, officer, employee, affiliate or agent of the Bank may, by virtue of the Third Parties Ordinance, rely on any provision of this Charge (including without limitation any indemnity, limitation or exclusion of liability) which expressly confers rights or benefits on that person.

The First Schedule Above Referred To

The Bank Undertaking:

The Bank granting or continuing to grant, or agreeing at the request of the Borrower to grant or continue to grant, to the Borrower (in the case where the Borrower consists of one person, whether to such person alone or jointly with any other person, or in the case where the Borrower consists of two or more persons, only to those persons **jointly**) general banking facilities (including but not limited to term loans, on-demand loans, overdraft, hire purchase/lease facilities, issuance of bank guarantees/bonds/standby letters of credit/letters of credit/trust-receipt facilities, negotiation of bills of exchange/documents, clean/documentary collections, foreign exchange transactions and swap or other derivatives arrangements), forbearance, indulgence or other accommodation of whatever nature, in whatever currency or currencies, up to such extent, on such terms, conditions, manner or form, at such time and for so long as the Bank may at its absolute discretion think fit.