



Dated 15 September 2021

ABUNDANCE DEVELOPMENT LIMITED  
as Borrower

ANCIENT WISDOM LIMITED  
as Lender

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FACILITY AGREEMENT  
relating to term loan facility of  
HK\$110,000,000

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This Agreement is made on 15 September

2021

- (1) **Abundance Development Limited**, a BVI business company incorporated in the British Virgin Islands with limited liability, whose registered office is at 4th Floor, Water's Edge Building, Meridian Plaza, Road Town, Tortola, VG1110, British Virgin Islands (**Borrower**); and
- (2) **Ancient Wisdom Limited**, a BVI business company incorporated in the British Virgin Islands with limited liability, whose registered office is situate at the offices of Sertus Incorporations (BVI) Limited, Sertus Chambers, P.O. Box 905, Quastisky Building, Road Town, Tortola, British Virgin Islands (**Original Lender**).

It is agreed

## 1 Definitions and Interpretation

### 1.1 Definitions

In this Agreement:

**Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company

**APLMA** means the Asia Pacific Loan Market Association Limited

**Authorisation** means:

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

**Availability Period** means the period from and including the date of this Agreement up to and including 31 December 2021

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

**BVI** means the British Virgin Islands

**Charged Property** means all of the assets of any or all of the Transaction Obligors which from time to time are, or are expressed to be, the subject of the Transaction Security

**Code** means The Codes on Takeovers and Mergers and Share Buy-backs issued by the Securities and Futures Commission of Hong Kong as in effect from time to time;

**Commitment** means

- (a) in relation to the Original Lender, HK\$110,000,000 and the amount of any other Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement

**Concerted Party** means, in relation to a person, any other person acting in concert with him for the purpose of the Code; for this purpose, the Guarantor's Concerted Party shall be the parties described in Schedule 5.

**Confidential Information** means all information relating to the Borrower, any Transaction Obligor, the Group, the Listco Group, the Finance Documents or the Facility of which the Lender becomes aware in its capacity as, or for the purpose of becoming, the Lender or which is received by the Lender in relation to, or for the purpose of becoming the Lender under, the Finance Documents or that Facility from any Transaction Obligor or any of its advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (a) is or becomes public information other than as a direct or indirect result of any breach by the Lender of clause 28 (Confidential Information) or
- (b) is identified in writing at the time of delivery as non-confidential by any Transaction Obligor or any of its advisers or
- (c) is known by the Lender before the date the information is disclosed to it by any Transaction Obligor or any of its advisers or is lawfully obtained by the Lender after that date, from a source which is, as far as the Lender is aware, unconnected with any Transaction Obligor and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality

**Confidentiality Undertaking** means a confidentiality undertaking substantially in a recommended form of the APLMA or in any other form agreed between the Borrower and the Lender

**Custodian** means Pinestone Securities Limited 鼎石證券有限公司, a licensed corporation (as defined in the SFO) in respect of Type 1 regulated activity (Dealing in Securities)

**Debenture** means a debenture granted or to be granted by the Borrower in favour of the Lender creating first-ranking fixed and floating charges over all assets of the Borrower (other than any assets (a) subject to Transaction Security under the Share Charge or (b) subject to Existing Security)

**Default** means an Event of Default or any event or circumstance specified in clause 17 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default

**Delegate** means any delegate, agent, attorney or trustee appointed by the Lender

**Disruption Event** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties and

- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents or
  - (ii) from communicating with other Party in accordance with the terms of the Finance Documents

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**Event of Default** means any event or circumstance specified as such in clause 17 (Events of Default)

**Existing Lender** has the meaning given to that term in clause 18.1 (Assignments and transfers by the Lenders)

**Existing Security** means the Security created pursuant to the charge over shares in CCASS in relation to shares in the Listco dated 16 November 2017 between the Borrower as chargor and Wan Tai Investments Limited 萬鈦投資有限公司 as chargee

**Facility** means the term loan facility made available under this Agreement as described in clause 2 (The Facility)

**Final Repayment Date** means the date falling 1 year from the Utilisation Date or (if the Parties agree in writing) the date falling 2 years from the Utilisation Date

**Finance Documents** means:

- (a) this Agreement
- (b) the Security Documents
- (c) the Personal Guarantee
- (d) the Securities Account Control Agreement
- (e) the Utilisation Request and
- (f) any other document designated as such by the Lender and the Borrower

**Financial Indebtedness** means any indebtedness for or in respect of:

- (g) moneys borrowed
- (h) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent
- (i) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument
- (j) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability (other than any liability

in respect of a lease or hire purchase contract which would, in accordance with GAAP in force prior to 1 January 2019, have been treated as an operating lease)

- (k) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis)
- (l) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing
- (m) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account)
- (n) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution and
- (o) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above

**First Make-Whole Amount** means, in respect of any applicable prepayment, an amount equal to the amount of interest that would have accrued pursuant to clause 8 (Interest), during the period from and including the date of prepayment to (but excluding) the date falling six Months after the Utilisation Date, on the principal amount of the Loan so prepaid, had no such prepayment been made

**GAAP** means:

- (a) in relation to the Listco and any Transaction Obligor incorporated in Hong Kong, the HKFRS;
- (b) in relation to any Transaction Obligor incorporated outside Hong Kong, the IFRS;

**Governmental Agency** means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute)

**Group** means the Borrower and its Subsidiaries from time to time

**Guarantor** means Wong Man Fai Mansfield (黃文輝), holder of Hong Kong identity card number K241298(5), of Room 47, 7/F, Tower 7, Hong Kong Parkview, 88 Tai Tam Reservoir Road, Repulse Bay, Hong Kong

**HKFRS** means Hong Kong Financial Reporting Standards issued by the Hong Kong Institute of Certified Public Accountants

**Holding Company** means, in relation to a person, any other person in respect of which it is a Subsidiary

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

**IFRS** means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements

**Indirect Tax** means any goods and services tax, consumption tax, value added tax or any tax of a similar nature

**Interest Period** means, in relation to the Loan, each period determined in accordance with clause 9 (Interest Periods) and, in relation to an Unpaid Sum, each period determined in accordance with clause 8.3 (Default interest)

**Joint Account** means the designated account in the name of the Borrower opened with Hang Seng Bank with account number 225-837254-001, which shall be under the joint control of the Lender and the Borrower and the Lender is entitled to appoint at least one nominee as authorised signatory to the Joint Account

**Legal Reservations** means

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under applicable statutes of limitation (or equivalent legislation), the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim;
- (c) the limitation of the enforcement of the terms of leases of real property by laws of general application to those leases; and
- (d) similar principles, rights and remedies under the laws of any Relevant Jurisdiction

**Lender** means:

- (a) the Original Lender; and
- (b) any person which has become a Party in accordance with clause 18 (Changes to the Lender),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

**Listco** means Synergy Group Holdings International Limited 滙能集團控股國際有限公司, a company incorporated in the Cayman Islands with limited liability, the shares in which are listed on the Main Board of SEHK under the stock code 1539

**Listco Group** means the Listco and its Subsidiaries from time to time

**Listing Rules** means the Rules Governing the Listing of Securities on SEHK

**Loan** means the single loan to be made under the Facility or the principal amount outstanding for the time being of the loan

**Make-Whole Amount** means the First Make-Whole Amount or the Second Make-Whole Amount, as applicable

**Material Adverse Effect** means a material adverse effect on (a) the business, operations, property or financial condition of any Transaction Obligor, (b) the ability of any of the Transaction Obligors to perform its obligations under the Finance Documents or (c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or purported to be granted pursuant to, or the rights or remedies of the Lender under, the Finance Documents

**Month** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) subject to paragraph (c) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will apply only to the last Month of any period

**New Lender** has the meaning given to it in clause 18 (Changes to the Lender)

**Party** means a party to this Agreement

**Personal Guarantee** means a Hong Kong law-governed personal guarantee to be executed by the Guarantor in favour of the Lender

**Receiver** means a receiver or receiver and manager or administrative receiver or other receiver of the whole or any part of the Charged Property

**Relevant Period** means:

- (a) any period of six Months starting on the date falling six Months after the Utilisation Date or
- (b) (if the said period has elapsed) any period of six Months starting on the last day of the immediately preceding Relevant Period

**Relevant Jurisdictions** means in relation to a Transaction Obligor:

- (a) its jurisdiction of incorporation
- (b) any jurisdiction where any asset subject to any Security created or expressed to be created by it under a Security Document is situated
- (c) the jurisdiction whose laws govern the perfection of any Security created or expressed to be created by it under a Security Document and
- (d) any jurisdiction where it conducts its business



**Repeating Representations** means each of the representations set out in clauses 14 (Representations), other than clauses 14.7 (Deduction of Tax), 14.8 (No filing or stamp taxes), 14.11(Pari passu ranking) and 14.13 (No proceedings pending or threatened)

**Representative** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian

**Scheme of Arrangement** means a proposed scheme of arrangement to be entered into between the Listco and its creditors

**Second Make-Whole Amount** means, in respect of any applicable prepayment, an amount equal to the amount of interest that would have accrued pursuant to clause 8 (Interest), during the period from and including the date of prepayment to (and including) the end date of the Relevant Period, on the principal amount of the Loan so prepaid, had no such prepayment been made

**Secured Party** means the Lender, a Receiver or any Delegate

**Securities Account** means the account in the name of the Borrower and held with the Custodian with the account number 5141011

**Securities Account Control Agreement** means an agreement entered or to be entered into amongst the Custodian, the Borrower and the Lender in respect of the Securities Account

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

**Security Documents** means:

- (a) the Share Charge
- (b) the Debenture and
- (c) any other document or instrument that may at any time constitute or be given as Security for any of the obligations or liabilities pursuant to or in connection with any Finance Document

**Security Perfection Requirements** means the making or the procuring of filings, stampings, registrations, notarisations, endorsements, translations and/or notifications of any Finance Documents (and/or any Security created under it) necessary for the validity, enforceability (as against the relevant Transaction Obligor or any relevant third party) and/or perfection of that Finance Document

**SEHK** means the Stock Exchange of Hong Kong Limited

**SFO** means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong)

**Share Charge** means a first-ranking deed of charge over the Securities Account and the securities deposited therein (including the Target Shares and any Top-up Shares) entered or to be entered into by the Borrower (as chargor) and the Lender (as chargee)

**Specified Time** means a time determined in accordance with Schedule 4 (Timetables)

**Subsidiary** means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation
- (b) more than half the issued equity share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body

**Subscription** means subscription and acquisition of the Target Shares by the Borrower in accordance with the Subscription Agreement

**Subscription Agreement** means a subscription agreement to be entered into between the Listco and the Borrower, pursuant to which the Listco agrees to allot and issue the Target Shares to the Borrower, and the Borrower agrees to subscribe for and acquire the Target Shares, at an issue price of no more than HK\$0.1 per Target Share subject to the terms and conditions therein

**Subscription Completion** means the completion of the transactions contemplated by the Subscription Agreement (including the Subscription)

**Target Shares** means the issued shares in the Listco to be subscribed and acquired by the Borrower in accordance with the Subscription Agreement and held in the Securities Account in accordance with this Agreement, which shares shall, together with any Top-up Shares, represent no less than 52% of the issued shares in the Listco from time to time

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

**Tax Deduction** has the meaning given to it in clause 10.1 (Tax definitions)

**Top-up Shares** means any issued shares in the Listco deposited into the Securities Account from time to time, other than the Target Shares

**Trading Day** means any day or any part of a day on which the SEHK is opened for trading (notwithstanding the SEHK closing prior to its scheduled weekday closing times, and without regard to after hours or any other trading outside of the regular trading session hours)

**Transaction Obligors** means the Borrower and all other parties to the Finance Documents from time to time (other than the Lender and the Custodian), and **Transaction Obligor** means each one of them

**Transaction Security** means the Security created or expressed to be created in favour of the Lender pursuant to or under any or all of the Security Documents

**Unpaid Sum** means any sum due and payable but unpaid by a Transaction Obligor under the Finance Documents

**Utilisation** means the utilisation of the Facility

**Utilisation Date** means the date of the Utilisation, being the date on which the Loan is to be made

**Utilisation Request** means the notice substantially in the form set out in Schedule 2 (Form of Utilisation Request)

## 1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
- (i) the **Borrower**, the **Lender**, any **Transaction Obligor**, any **Secured Party** or any **Party** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) **assets** includes present and future properties, revenues and rights of every description;
  - (iii) a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (iv) **including** shall be construed as **including without limitation** (and cognate expressions shall be construed similarly);
  - (v) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (vi) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
  - (vii) a **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 organisation;
  - (viii) a document in **agreed form** means the form of the document as agreed by the Lender and the Borrower;
  - (ix) a gender includes the other genders;
  - (x) a provision of law is a reference to that provision as amended or re-enacted; and
  - (xi) a time of day is a reference to Hong Kong time.
- (b) Section, clause and Schedule headings are for ease of reference only.
- (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (d) A Default (other than an Event of Default) is **continuing** if it has not been remedied within fourteen 14 calendar days of the earlier of (i) the Lender giving notice to the

Borrower of the failure to comply and (ii) any Transaction Obligor becoming aware of the failure to comply or waived and an Event of Default is **continuing** if it has not been waived.

- (e) Where this Agreement specifies an amount in a given currency (**specified currency**) or its **equivalent**, the **equivalent** is a reference to the amount of any other currency which, when converted into the specified currency utilising the Lender's spot rate of exchange for the purchase of the specified currency with that other currency at or about 11 a.m. on the relevant date, is equal to the relevant amount in the specified currency.
- (f) **Currency Symbols and Definitions**
  - (i) **HK\$, HK dollars or Hong Kong dollars** denote the lawful currency of Hong Kong for the time being.
  - (ii) **%** means per cent.

### 1.3 **Third party rights**

- (a) Unless expressly provided to the contrary in this Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) (**Third Parties Ordinance**) to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of this Agreement, the consent of any person who is not a party to this Agreement is not required to rescind or vary this Agreement.
- (c) Any Receiver, Delegate or any director, officer, employee, Affiliate or agent of the Lender may, subject to this clause 1.3 (Third party rights) and the Third Parties Ordinance, rely on any clause of this Agreement which expressly confers rights on it.

## 2 **The Facility**

Subject to the terms of this Agreement, the Lender makes available to the Borrower a Hong Kong dollar term loan facility in an aggregate amount equal to the Commitment.

## 3 **Purpose**

### 3.1 **Purpose of the Facility**

The Borrower shall apply all amounts borrowed by it under the Facility towards payment of the subscription price for the Target Shares in accordance with the Subscription Agreement.

### 3.2 **Monitoring**

The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

## 4 **Conditions of Utilisation**

### 4.1 **Initial conditions precedent**

The Borrower may not deliver the Utilisation Request unless the Lender has received all of the documents and other evidence listed in Schedule 1 (Conditions Precedent) in form and

substance satisfactory to the Lender. The Lender shall notify the Borrower as soon as reasonably practicable upon receiving such documents and other evidence.

#### **4.2 Further conditions precedent**

The Lender shall be obliged to comply with clause 5.4 (Advance of Loan) only if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) no Default is continuing or would result from the proposed Loan; and
- (b) the Repeating Representations and the repeating representations in other Finance Documents to be made by each Transaction Obligor are true in all material respects.

#### **4.3 Maximum number of Loan**

There shall be no more than one Loan.

### **5 Utilisation**

#### **5.1 Delivery of the Utilisation Request**

The Borrower may utilise the Facility by delivery to the Lender of the duly completed Utilisation Request not later than the Specified Time.

#### **5.2 Completion of the Utilisation Request**

- (a) The Utilisation Request once given is irrevocable and will not be regarded as having been duly completed unless:
  - (i) the proposed Utilisation Date is a Business Day within the Availability Period;
  - (ii) the currency and amount of the Utilisation comply with clause 5.3 (Currency and amount); and
  - (iii) the proposed Interest Period of the requested Loan complies with clause 9 (Interest Periods).
- (b) Only one Loan may be requested in the Utilisation Request.

#### **5.3 Currency and amount**

- (a) The currency specified in the Utilisation Request shall be Hong Kong dollar.
- (b) The amount of the proposed Loan to be made under the Facility shall be an amount which is not more than the Commitment.

#### **5.4 Advance of Loan**

If the conditions set out in clauses 4 (Conditions of Utilisation) and 5.1 (Delivery of the Utilisation Request) to 5.3 (Currency and amount) above have been met, the Lender shall make the requested Loan available by the Utilisation Date by transferring such amount to the Joint Account.

## **5.5 Cancellation of Commitment**

The Commitment which, at that time, is unutilised shall be immediately cancelled at the earlier of:

- (a) the close of business of the last day of the Availability Period or
- (b) the time immediately after the Utilisation.

## **6 Repayment**

### **6.1 Repayment of Loan**

The Borrower shall repay the Loan in full on the Final Repayment Date.

### **6.2 Reborrowing**

The Borrower may not reborrow any part of the Facility which is repaid.

## **7 Prepayment and cancellation**

### **7.1 Illegality**

If, at any time, it is or will become unlawful in any applicable jurisdiction for the Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain the Loan or it is or will become unlawful for any Affiliate of the Lender for the Lender to do so:

- (a) the Lender shall promptly notify the Borrower upon becoming aware of that event;
- (b) upon the Lender notifying the Borrower, the Commitment will be immediately cancelled; and
- (c) the Borrower shall prepay the Loan on the date specified by the Lender in the notice delivered to the Borrower (being no earlier than the last day of any applicable grace period permitted by law).

### **7.2 Mandatory prepayment – Change of Control**

- (a) If a Change of Control has occurred:
  - (i) the Borrower must promptly notify the Lender upon becoming aware of the occurrence of the Change of Control;
  - (ii) the Lender shall not be obliged to fund the Utilisation; and
  - (iii) the Lender may, by not less than three Business Days' notice to the Borrower, cancel the Commitment in whole and declare that the Loan, together with accrued interest and all other amounts payable under the Finance Documents (including, without limitation, any applicable Make-Whole Amount), immediately due and payable, whereupon the Commitment will be cancelled and the Loan and all such amounts will become immediately due and payable.
- (b) **Change of Control** means any one of the following events:

- (i) the Guarantor ceasing to own, directly or indirectly, all of the issued shares in the Borrower; or
- (ii) (at any time after the date of the Subscription Completion) the Borrower and the Guarantor's Concerted Party(ies) ceasing to own, directly or indirectly, at least 50% of the issued shares in the Listco in aggregate.
- (iii) (at any time after the date of the Subscription Completion) the Borrower and the Guarantor's Concerted Party(ies) ceasing to have the power directly or indirectly to appoint or remove (or control the appointment or removal of) over 50% of the directors of the Listco in aggregate.

### **7.3 Voluntary prepayment of Loan**

The Borrower may, if it gives the Lender not less than two Business Days' (or such shorter period as the Lender may agree) prior notice, prepay the whole or any part of the Loan (but if in part, being an amount that reduces the Loan by a minimum amount of HK\$10,000,000).

### **7.4 Make-Whole Amount**

- (a) If any prepayment of the Loan is made pursuant to this clause 7 (Prepayment and cancellation) during the period from the Utilisation Date up to (but excluding) the date falling six Months after the Utilisation Date, such prepayment shall be made together with the First Make-Whole Amount.
- (b) If any prepayment of the Loan is made pursuant to this clause 7 (Prepayment and cancellation) during the period from the date falling six Months after the Utilisation Date up to (but excluding) the Final Repayment Date, such prepayment shall be made together with the Second Make-Whole Amount.

### **7.5 Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this clause 7 (Prepayment and cancellation) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and any applicable Make-Whole Amount, without premium or penalty.
- (c) The Borrower may not re-borrow any part of the Facility which is prepaid.
- (d) The Borrower shall not repay or prepay all or any part of the Loan or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Commitment cancelled under this Agreement may be subsequently reinstated.

## **8 Interest**

### **8.1 Calculation of interest**

The rate of interest on the Loan for each Interest Period is 18% per annum.

### **8.2 Payment of interest**

The Borrower shall pay accrued interest on the Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six-monthly intervals after the first day of the Interest Period).

### **8.3 Default interest**

- (a) If a Transaction Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date to the date of actual payment (both before and after judgment) at a rate which is, subject to clause 8.3(b), 7% per annum higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Lender. Any interest accruing under this clause 8.3 (Default interest) shall be immediately payable by such Transaction Obligor on demand by the Lender.
- (b) If any Unpaid Sum consists of all or part of the Loan which became due on a day which was not the last day of an Interest Period relating to the Loan:
  - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to the Loan; and
  - (ii) the rate of interest applying to the Unpaid Sum during that first Interest Period shall be 7% per annum higher than the rate which would have applied if the Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but shall remain immediately due and payable.

## **9 Interest Periods**

### **9.1 Interest Periods**

- (a) Each Interest Period relating to the Loan shall be six Months. For avoidance of doubt, if any part of the Loan is repaid earlier than the Final Repayment Date, the Interest Period for the early repaid portion shall still be six Months.
- (b) Subject to clause 9.1(a), an Interest Period for the Loan shall not extend beyond the Final Repayment Date.
- (c) Each Interest Period for the Loan shall start on its Utilisation Date or (if the Loan has already been made) on the last day of the preceding Interest Period of the Loan.



## 9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

## 10 Tax gross-up and indemnities

### 10.1 Tax definitions

- (a) In this clause 10 (Tax gross-up and indemnities):

**Tax Credit** means a credit against, relief or remission for, or repayment of any Tax

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document

**Tax Payment** means an increased payment made by a Transaction Obligor to the Lender under clause 10.2 (Tax gross-up) or a payment under clause 10.3 (Tax indemnity)

- (b) Unless a contrary indication appears, in this clause 10 (Tax gross-up and indemnities) a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

### 10.2 Tax gross-up

- (a) All payments to be made by a Transaction Obligor to the Lender under the Finance Documents shall be made free and clear of and without any Tax Deduction unless such Transaction Obligor is required to make a Tax Deduction, in which case the sum payable by such Transaction Obligor (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that the Lender receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.
- (b) The Borrower shall promptly upon becoming aware that a Transaction Obligor shall make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender accordingly. Similarly, the Lender shall notify the Borrower and that Transaction Obligor on becoming so aware in respect of a payment payable to the Lender.
- (c) If a Transaction Obligor is required to make a Tax Deduction, that Transaction Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (d) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Transaction Obligor making that Tax Deduction shall deliver to the Lender evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

### 10.3 Tax indemnity

- (a) Without prejudice to clause 10.2 (Tax gross-up), if the Lender is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for purposes of Tax to be received or receivable by the Lender whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against the Lender, the Borrower shall, within ten Business Days of demand of the Lender, promptly indemnify the Lender which suffers a loss or liability as a result against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection therewith, provided that this clause 10.3 (Tax indemnity) shall not apply to any Tax imposed on and calculated by reference to the net income actually received or receivable by the Lender (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by the Lender but not actually receivable) by the jurisdiction in which the Lender is incorporated.
- (b) The Lender intending to make a claim under clause 10.3(a) shall notify the Borrower of the event giving rise to the claim.

### 10.4 Tax credit

If a Transaction Obligor makes a Tax Payment and the Lender determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) the Lender has obtained and utilised that Tax Credit,

the Lender shall pay an amount to the Transaction Obligor which the Lender determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Transaction Obligor.

### 10.5 Stamp taxes

The Borrower shall:

- (a) pay all stamp duty, registration and other similar Taxes payable in respect of any Finance Document, and
- (b) within ten Business Days of demand, indemnify each Secured Party against any cost, loss or liability that it incurs in relation to any stamp duty, registration or other similar Tax paid or payable in respect of any Finance Document.

### 10.6 Indirect tax

- (a) All amounts set out or expressed in a Finance Document to be payable by any Transaction Obligor to the Lender shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by the Lender to any Transaction Obligor in connection with a Finance Document, that Transaction Obligor shall pay to the Lender (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.

- (b) Where a Finance Document requires any Transaction Obligor to reimburse the Lender for any costs or expenses, that Transaction Obligor shall also at the same time pay and indemnify the Lender against all Indirect Tax incurred by the Lender in respect of the costs or expenses to the extent the Lender reasonably determines that it is not entitled to credit or repayment in respect of the Indirect Tax.

## **11 Mitigation by the Lender**

### **11.1 Mitigation**

- (a) The Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 7.1 (Illegality) or clause 10 (Tax gross-up and indemnities) including:
  - (i) providing such information as the Borrower may reasonably request in order to permit the Borrower to determine its entitlement to claim any exception or other relief (whether pursuant to a double taxation treaty or otherwise) from any obligation to make a Tax Deduction; and
  - (ii) in relation to any circumstances which arise following the date of this Agreement, transferring its rights and obligations under the Finance Documents to another Affiliate.
- (b) Paragraph (a) does not in any way limit the obligations of any Transaction Obligor under the Finance Documents.

### **11.2 Limitation of liability**

- (a) The Borrower shall, within five Business Days of written demand of the Lender, indemnify the Lender for all costs and expenses reasonably incurred by the Lender as a result of steps taken by it under clause 11.1 (Mitigation).
- (b) The Lender is not obliged to take any steps under clause 11.1 (Mitigation) if, in the opinion of the Lender (acting reasonably), to do so might be prejudicial to it.

### **11.3 Conduct of Business by The Lender**

No provision of this Agreement will:

- (a) interfere with the right of the Lender to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige the Lender to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige the Lender to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

## **12 Other indemnities**

### **12.1 Currency indemnity**

- (a) If any sum due from a Transaction Obligor under the Finance Documents (**Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from

the currency (**First Currency**) in which that Sum is payable into another currency (**Second Currency**) for the purpose of:

- (i) making or filing a claim or proof against that Transaction Obligor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Transaction Obligor shall as an independent obligation, within ten Business Days of demand, indemnify each Secured Party against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Transaction Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

## 12.2 Other indemnities

- (a) The Borrower shall, within ten Business Days of demand, indemnify each Secured Party against any cost, loss or liability incurred by that Secured Party as a result of:
  - (i) the occurrence of any Event of Default;
  - (ii) any information provided by any Transaction Obligor to the Lender being misleading or deceptive in any respect;
  - (iii) any enquiry, investigation, subpoena (or similar order) or litigation with respect to the transactions contemplated or financed under this Agreement;
  - (iv) a failure by a Transaction Obligor to pay any amount due under a Finance Document on its due date or in the relevant currency;
  - (v) funding, or making arrangements to fund, the Loan requested by the Borrower in the Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone);
  - (vi) the Loan (or part of the Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower;
  - (vii) investigating any event which the Lender reasonably believes is a Default;
  - (viii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
  - (ix) the taking, holding, protection or enforcement of the Transaction Security;
  - (x) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted or contemplated under any Finance Document or

- (xi) the exercise of any of the rights, powers, discretions and remedies vested in the Lender and each Receiver and Delegate by the Finance Documents or by law.

- (b) The Lender and every Receiver and Delegate may indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 12.2 (Other indemnities) and shall have a lien on the Transaction Security and the proceeds of enforcement of the Transaction Security for all monies payable to it.

### **13 Costs and expenses**

#### **13.1 Transaction expenses**

Each Party shall bear its own costs and expenses (including legal fees) incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this Agreement and any other Finance Documents.

#### **13.2 Amendment costs**

If:

- (a) a Transaction Obligor requests an amendment, waiver or consent; or
- (b) an amendment is required pursuant to clause 21.5 (Change of currency), the Borrower shall, within ten Business Days of demand, reimburse the Lender for the amount of all actual costs and expenses (including legal fees) reasonably incurred by the Lender in responding to, evaluating, negotiating or complying with that request or requirement.

#### **13.3 Enforcement costs**

The Borrower shall, within ten Business Days of demand, pay to each Secured Party the amount of all actual costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document and the Transaction Security and any proceedings instituted by or against that Secured Party as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

### **14 Representations**

The representations and warranties set out in this clause 14 (Representations) are made by the Borrower to the Lender on the dates set out in clause 14.18 (Times for making representations).

#### **14.1 Status**

- (a) It is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

#### **14.2 Binding obligations**

Subject to the Legal Reservations and completion of the Security Perfection Requirements:

- (a) the obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) without limiting the generality of paragraph (a) above, each Security Document to which it is a party creates the security interests which that Security Document purports to create and those security interests are valid and effective.

#### **14.3 Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents to which it is a party do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

#### **14.4 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

#### **14.5 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to make the Finance Documents to which it is a party admissible in evidence in its Relevant Jurisdictions; and
- (c) for it to carry on its business, and which are material,

have been obtained or effected and are in full force and effect, except for the completion of the Security Perfection Requirements.

#### **14.6 Governing law and enforcement**

Subject to the Legal Reservations:

- (a) any choice of the governing law of the Finance Documents will be recognised and enforced under the laws of its Relevant Jurisdictions; and
- (b) any judgment obtained in relation to a Finance Document in the courts to whose jurisdiction it submitted will be recognised and be enforceable by the courts of its Relevant Jurisdictions.

#### **14.7 Deduction of Tax**

It is not required to make under the law applicable where it is incorporated or resident or at the address specified in this Agreement to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

#### **14.8 No filing or stamp taxes**

Subject to the completion of the Security Perfection Requirements, under the law of its Relevant Jurisdictions it is not necessary that any Finance Documents to which it is a party be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to such Finance Documents or the transactions contemplated by such Finance Documents except Cayman Islands stamp duty may be payable on any Finance Document that is executed in, or brought before a court in, the Cayman Islands.

#### **14.9 No default**

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of the Utilisation.
- (b) No other event or circumstances is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject to an extent or in a manner which might have a Material Adverse Effect.

#### **14.10 No misleading information**

- (a) All information provided by it or on its behalf to the Lender in connection with the Finance Documents was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated to be given.
- (b) Nothing has been omitted from the information so provided and no information has been given or withheld, that results in the information provided being untrue or misleading in any material respect.

#### **14.11 Pari passu ranking**

Its payment obligations under the Finance Documents rank at least pari passu with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law.

#### **14.12 Ranking of Security**

Subject to the Legal Reservations and Security Perfection Requirements, each Security Document to which it is a party creates (or, once entered into, will create) in favour of the Lender the Security which it is expressed to create with the ranking and priority it is expressed to have and is not subject to any prior ranking or pari passu ranking Security.

#### **14.13 No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it.

#### **14.14 Authorised Signatures**

Any person specified as its authorised signatory under Schedule 1 (Conditions Precedent) or clause 15.1(c) (Information: miscellaneous) is authorised to sign the Utilisation Request and other notices on its behalf.

#### **14.15 Good title to assets**

- (a) It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.
- (b) It has good title to the assets subject to the Transaction Security created by it pursuant to any Security Document to which it is a party, free from all Security except the Transaction Security created pursuant to, or permitted by, the Finance Documents.

#### **14.16 Shares in Listco**

- (a) The Target Shares, once issued, are fully paid up and not subject to any option to purchase or similar rights.
- (b) The constitutional documents of the Listco do not and could not restrict or inhibit the transfer of any shares in the Listco which are subject to Transaction Security on creation or enforcement of the Transaction Security.
- (c) The Target Shares, once issued, are listed on the SEHK and are freely and fully transferable and not subject to or the subject of any pre-emption rights, "lock up" periods or restrictions on transfer, save as announced in the joint announcement dated 15 September 2021 issued by the Borrower and the Listco on SEHK.

#### **14.17 Director of Listco**

The Guarantor is an executive director of the Listco.

#### **14.18 Times for making representations**

- (a) The representations and warranties set out in this clause 14 (Representations) are made by the Borrower on the date of this Agreement.
- (b) Unless a representation and warranty is expressed to be given at a specific date, the Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the date of the Utilisation Request and the first day of each Interest Period.

### **15 Information undertakings**

The undertakings in this clause 15 (Information undertakings) remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or the Commitment is in force.

#### **15.1 Information: miscellaneous**

The Borrower shall supply to the Lender:

- (a) all documents dispatched by it to its shareholders (or any class of them) or its creditors generally at the same time as they are despatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any Transaction Obligor, and which might, if adversely determined, have a Material Adverse Effect;



- (c) promptly, notice of any change in authorised signatories in respect of the Finance Documents or any document in connection with the Facility of any Transaction Obligor signed by a director or company secretary of such Transaction Obligor accompanied by specimen signatures of any new authorised signatories;
- (d) promptly following the execution of the Subscription Agreement by the parties thereto, a copy of the Subscription Agreement;
- (e) promptly following any progress of satisfaction and/or waiver of the conditions precedent to the Subscription Completion under the Subscription Agreement, an update in writing in respect of the same in reasonable detail; and
- (f) promptly upon becoming aware of the same, details of the date of Subscription Completion, and if so requested by the Lender, evidence of the Subscription Completion.

## 15.2 Financial statements

The Borrower shall supply to the Lender:

- (a) as soon as the same become available, but in any event within:
  - (i) 180 days after the end of each of its financial years, the audited unconsolidated financial statements of the Borrower and each Transaction Obligor incorporated in Hong Kong for that financial year;
  - (ii) 180 days after the end of each of its financial years, the audited consolidated financial statements of the Borrower and each Transaction Obligor for that financial year;
  - (iii) 90 days after the end of each of its financial years, the draft form of the consolidated management accounts of the Borrower and each Transaction Obligor for that financial year; and
  - (iv) 75 days after the end of each quarter of each of its financial years, the management accounts of the Borrower and each Transaction Obligor for that financial quarter.
- (b) as soon as they are available, but in any event within 60 days after the end of each quarter of its financial years, the trial balances of the Borrower and each Transaction Obligor for that financial quarter and the trial balance should have reflected the financial position of such entity for such financial quarter.

## 15.3 Requirements as to financial statements

- (a) Each set of financial statements delivered by the Borrower or a Transaction Obligor pursuant to Clause 15.2 (Financial statements) (except the draft form consolidated management accounts to be delivered pursuant to Clause 15.2(a)(iii)) shall be certified by a director of the relevant company as giving a true and fair view of (in the case of any such financial statements which are audited) or fairly representing (in the case of any such financial statements which are unaudited) its financial condition as at the date as at which those financial statements were drawn up.

- (b) Each Transaction Obligor shall procure that each set of financial statements delivered pursuant to Clause 15.2 (Financial statements) is prepared using GAAP, accounting practices and financial reference periods in manner generally adopted and accepted in the jurisdiction of its incorporation.

#### 15.4 Notification of default

The Borrower shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless it is aware that a notification has already been provided by another Transaction Obligor).

### 16 General undertakings

The undertakings in this clause 16 (General undertakings) remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or the Commitment is in force.

#### 16.1 Authorisations

The Borrower shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Lender of,

any Authorisation required to enable it to perform its obligations under the Finance Documents to which it is a party and to ensure the legality, validity, enforceability or admissibility in evidence in each of its Relevant Jurisdictions of such Finance Documents.

#### 16.2 Compliance with laws

The Borrower shall (and shall ensure that each other Transaction Obligor will) comply in all respects with all laws (including sanctions, any anti-bribery, anti-money laundering and anti-corruption laws and regulations) to which it may be subject.

#### 16.3 Pari passu ranking

The Borrower shall ensure that its payment obligations under the Finance Documents to which it is a party rank and continue to rank at least pari passu with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law.

#### 16.4 Negative pledge

In this clause 16.4 (Negative pledge), **Quasi-Security** means an arrangement or transaction described in clause 16.4(b) below.

- (a) The Borrower shall not create or permit to subsist any Security over any of its assets.
- (b) The Borrower shall not:
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Borrower;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

- (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts;
- (iv) enter into any retention of title arrangement; or
- (v) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- (c) Clauses 16.4(a) and (b) do not apply to:
  - (i) any Security or (as the case may be) Quasi-Security permitted by the Lender in writing;
  - (ii) any Security or (as the case may be) Quasi-Security which is created pursuant to the Finance Documents;
  - (iii) any Existing Security;
  - (iv) any netting or set-off arrangement entered into by the Borrower in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances; or
  - (v) any lien arising by operation of law and in the ordinary course of trading provided that the debt which is secured thereby is paid when due or contested in good faith by appropriate proceedings and properly provisioned.

#### **16.5 Disposals**

- (a) The Borrower shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Clause 16.5(a) does not apply to any sale, lease, transfer, assignment or other disposals:
  - (i) made in the ordinary course of trading of the Borrower;
  - (ii) arising as a result of a transaction permitted under clause 16.4 (Negative pledge);
  - (iii) arising as a result of the deposit of issued shares in the Listco into the Securities Account; or
  - (iv) with the prior written consent of the Lender.

#### **16.6 Taxation**

The Borrower shall (and shall ensure that each Transaction Obligor will) duly and punctually pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties, save to the extent that (a) payment is being contested in good faith, (b) adequate reserves are being maintained for those Taxes and (c) payment can be lawfully withheld.

#### **16.7 Financial Indebtedness**

- (a) The Borrower shall not incur any additional Financial Indebtedness on or after the date of this Agreement.
- (b) Paragraph (a) above does not apply to:
  - (i) any Financial Indebtedness incurred under any Finance Documents;
  - (ii) any Financial Indebtedness incurred before the date of this Agreement or in connection with the Existing Security; or
  - (iii) any Financial Indebtedness incurred with prior written consent of the Lender.
- (c) The Borrower shall ensure that the Listco will not incur any additional Financial Indebtedness on or after the date of this Agreement.
- (d) Paragraph (c) above does not apply to:
  - (i) any Financial Indebtedness incurred with prior written consent of the Borrower and the Lender; or
  - (ii) any Financial Indebtedness incurred before the date of this Agreement.

#### **16.8 Security**

The Borrower shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)):

- (a) to perfect the Security created or intended to be created under or evidenced by the Security Documents to which it is a party (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to the Finance Documents or by law;
- (b) to confer on the Lender such Security over any of its property and assets located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Security Documents; and/or
- (c) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security of the Security Documents to which it is a party.

#### **16.9 Subscription arrangement**

- (a) The Borrower undertakes that:
  - (i) it shall duly and punctually observe and perform its obligations under the Subscription Agreement after as well as before the Subscription Completion (including applying the proceeds of the Loan towards paying the subscription price for the Target Shares as and when it falls due and payable);

- (ii) in proceeding with the Subscription Completion, it shall comply with all applicable laws and regulations, including the SFO, the Code and the Listing Rules;
  - (iii) the Subscription Completion shall take place no later than five Business Days after the Utilisation Date; and
  - (iv) it shall promptly notify the Lender in writing upon termination of the Subscription Agreement howsoever arising.
- (b) The Borrower shall, on or before the Utilisation Date, open and thereafter maintain the Securities Account.
- (c) The Borrower shall ensure that, after the Subscription Completion:
  - (i) all Target Shares shall be immediately deposited into the Securities Account;
  - (ii) if the Target Shares represent less than 52% of the issued shares in the Listco at any time, Top-Up Shares shall be deposited into the Securities Account within ten Business Days such that the shares held in the Securities Account represent no less than 52% of the Listco's issued shares;
  - (iii) it shall promptly execute and deliver to the Lender in form and substance reasonably satisfactory to it any documents as may be reasonably required for the transfer of the legal and beneficial title of the Target Shares and Top-up Shares upon the occurrence of an Event of Default that is continuing; and
  - (iv) all necessary disclosures in respect of the holding of any interests in the Target Shares and Top-up Shares are made in accordance with any applicable law and/or regulation including the SFO.

#### **16.10 Listco**

The Borrower shall ensure that the Guarantor will be and continue to be an executive director of the Listco.

#### **16.11 Loan in the Joint Account**

The Borrower shall ensure that any withdrawal from, transfer out of, and/or release of all or part of the Loan from the Joint Account is authorised and confirmed by an authorised signatory of the Lender nominated to the Joint Account.

### **17 Events of Default**

Each of the events or circumstances set out in the following sub-clauses of this clause 17 (other than clause 17.13 (Acceleration)) is an Event of Default.

#### **17.1 Non-payment**

Any Transaction Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless (a) payment is made within five Business Days of its due date and (b) its failure to pay is caused by administrative or technical error or a Disruption Event.

## **17.2 Other obligations**

- (a) Any Transaction Obligor does not comply with any provision of the Finance Documents (other than those referred to in clause 17.1 (Non-payment)).
- (b) No Event of Default under clause 17.2(a) will occur if the failure to comply is capable of remedy and is remedied within seven Business Days of the earlier of (i) the Lender giving notice to the Borrower of the failure to comply and (ii) any Transaction Obligor becoming aware of the failure to comply.

## **17.3 Misrepresentation**

Any representation or statement made or deemed to be made by a Transaction Obligor in the Finance Documents or any other document delivered by or on behalf of any Transaction Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

## **17.4 Insolvency**

- (a) Any Transaction Obligor or the Listco is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of any Transaction Obligor or the Listco is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of any Transaction Obligor or the Listco.

No Event of Default will occur under this clause 17.4 (Insolvency) if the relevant event arises out of or in connection with the Scheme of Arrangement.

## **17.5 Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, bankruptcy, dissolution, administration, provisional supervision or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Transaction Obligor or the Listco;
  - (b) a composition or arrangement with any creditor of any Transaction Obligor or the Listco or an assignment for the benefit of creditors generally of any Transaction Obligor or the Listco, or a class of such creditors;
  - (c) the appointment of a liquidator, trustee-in-bankruptcy, receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of any Transaction Obligor or the Listco, or any of its assets; or
  - (d) enforcement of any Security over any assets of any Transaction Obligor or the Listco,
- or any analogous procedure or step is taken in any jurisdiction.

Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 Business Days of commencement.

No Event of Default will occur under this clause 17.5 (Insolvency proceedings) if the relevant event arises out of or in connection with the Scheme of Arrangement.

#### **17.6 Creditors' process**

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of any Transaction Obligor and is not discharged within 30 Business Days.

#### **17.7 Unlawfulness and invalidity**

- (a) It is or becomes unlawful for a Transaction Obligor to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Security Documents ceases to be effective.
- (b) Any obligation or obligations of any Transaction Obligor under any Finance Documents are not (subject to the Legal Reservations and the Security Perfection Requirements) or cease to be legal, valid, binding or enforceable and the cessation individually cumulatively materially and adversely affects the interests of the Lender under the Finance Documents.
- (c) Any Finance Document ceases to be in full force and effect or any Transaction Security ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than the Lender) to be ineffective.

#### **17.8 Repudiation**

Any Transaction Obligor repudiates or rescinds a Finance Document or any Transaction Security or evidences an intention to repudiate or rescind a Finance Document or any Transaction Security.

#### **17.9 Material adverse change**

An event or circumstance (including modifications to any Authorisation) occur which has or could reasonably be expected to have a Material Adverse Effect.

#### **17.10 Trade Suspension**

The Listco is suspended from listing on SEHK for a continuous period of seven or more consecutive Trading Days, other than for the purpose of clearance of any announcement to be issued pursuant to the Code, the Listing Rules or the SFO.

#### **17.11 Delist**

The Listco ceases to be listed on the SEHK.

#### **17.12 Cessation of business**

The Listco suspends or ceases to carry on all or a material part of its business or of the business of the Listco Group taken as a whole.

### 17.13 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Lender may by notice to the Borrower:

- (a) without prejudice to the Loan then outstanding:
  - (i) cancel the Commitment (and reduce it to zero), whereupon it shall immediately be cancelled (and reduced to zero); or
  - (ii) cancel any part of the Commitment (and reduce the Commitment accordingly), whereupon the relevant part shall immediately be cancelled (and the relevant Commitment shall be immediately reduced accordingly); and/or
- (b) declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loan be payable on demand, whereupon they shall immediately become payable on demand by the Lender; and/or
- (d) enforce all or any of the Security Documents and/or preserve the Security constituted by any Security Document and/or to exercise any right, power, remedy or discretion available to the Lender under any Finance Document.

## 18 Changes to the Lender

### 18.1 Assignments and transfers by the Lender

Subject to this clause 18 (Changes to the Lender), the Lender (the **Existing Lender**) may, with the prior written consent of the Borrower:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

under the Finance Documents to a bank or financial institution or to a trust, fund or other entity (**New Lender**).

### 18.2 Limitation of responsibility of Existing Lender

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
  - (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
  - (ii) the financial condition of any Transaction Obligor;
  - (iii) the performance and observance by any Transaction Obligor of its obligations under the Finance Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,



and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender that it:
  - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Transaction Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of each Transaction Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
  - (i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this clause 18 (Changes to the Lender); or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Transaction Obligor of its obligations under the Finance Documents or otherwise.

#### **18.3 Exclusion of Lender's liability**

In relation to any assignment or transfer pursuant to this clause 18 (Changes to the Lender), each Party acknowledges and agrees that the Lender shall not be obliged to enquire as to the accuracy of any representation or warranty made by a New Lender in respect of its eligibility as a Lender.

#### **18.4 Existing consents and waivers**

A New Lender shall be bound by any consent, waiver, election or decision given or made by the relevant Existing Lender under or pursuant to any Finance Document prior to the coming into effect of the relevant assignment or transfer to such New Lender.

#### **18.5 Procedure for transfer**

A transfer of obligations will be effective by mutual agreement in writing between the Lender and the New Lender. On the transfer becoming effective in this manner, the Lender will be released from its obligations under this Agreement to the extent that they are transferred to the New Lender.

#### **18.6 Security over Lender's rights**

In addition to the other rights provided to Lender under this clause 18 (Changes to the Lender), the Lender may without consulting with or obtaining consent from any Transaction Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of the Lender including, without limitation:

- (a) any charge, assignment or other Security; and

- (b) in the case of the Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release the Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by a Transaction Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the Lender under the Finance Documents.

## **19 Changes to the Transaction Obligors**

None of the Transaction Obligors may assign or transfer any of its rights or obligations under any Finance Document, except with the prior written consent of the Lender.

## **20 Application of Proceeds**

### **20.1 Order of application**

Subject to clause 20.2 (Prospective liabilities), all amounts from time to time received or recovered by the Lender or any receiver pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of any security created by the Security Documents (for the purposes of this clause 20 (Application of Proceeds), the **Recoveries**) shall be held by the Lender to apply them at any time as the Lender (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this clause 20 (Application of Proceeds)), in the following order:

- (a) in or towards payment of all costs and expenses incurred by the Lender, any Receiver or any Delegate in connection with any realisation or enforcement of the Security Documents and of all remuneration due to such receiver in relation thereto; and
- (b) in payment to the Lender in accordance with this Agreement.

### **20.2 Prospective liabilities**

After the Lender exercises any of its rights under clause 17.13 (Acceleration), the Lender may, in its discretion, hold any amount of the Recoveries in one or more interest bearing suspense or impersonal accounts in its name with any financial institution (including itself) and for so long as the Lender thinks fit (the interest being credited to the relevant account) for later application under clause 20.1 (Order of application) in respect of:

- (a) any sum payable to the Lender or any receiver; and
- (b) any part of the obligations and liabilities secured by the Security Documents,

that the Lender reasonably considers, in each case, might become due or owing at any time in future.

### **20.3 Currency conversion**

- (a) For the purpose of, or pending the discharge of, any of the obligations and liabilities secured by the Security Documents, the Lender may convert any moneys it receives or recovers from one currency to another, at a market rate of exchange.
- (b) The obligations of any Transaction Obligor to pay in the due currency may only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

### **20.4 Permitted deductions**

The Lender may, in its discretion:

- (a) set aside by way of reserve amounts required to meet, and make and pay, any deductions and withholdings (on account of Taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
- (b) pay all Taxes which may be assessed against it in respect of any of the assets subject to a Security under the Security Documents, or as a consequence of performing its duties, or by virtue of its capacity as Lender, under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

## **21 Payment mechanics**

### **21.1 Payments**

- (a) On each date on which a Transaction Obligor or the Lender is required to make a payment under a Finance Document, that Transaction Obligor or the Lender shall make the payment available to the Lender or, as the case may be, that Transaction Obligor (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Lender as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account with such bank and at such place as the Lender specifies.

### **21.2 No set-off by Transaction Obligors**

All payments to be made by a Transaction Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

### **21.3 Business Days**

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not or if the payment due date would otherwise extend beyond the Final Repayment Date).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under clause 21.3(a), interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

#### **21.4 Currency of account**

- (a) Subject to clauses 21.4(b) and 21.4(c), Hong Kong dollar is the currency of account and payment for any sum due from a Transaction Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than Hong Kong dollars shall be paid in that other currency.

#### **21.5 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Lender (after consultation with the Borrower); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Lender (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Lender (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

#### **22 Set-off**

- (a) The Lender may set off any matured obligation due from the Borrower under the Finance Documents against any matured obligation owed by the Lender to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (b) If so far as any of the liabilities of the Borrower are contingent or future, the Lender's liability to make payment of any sum standing to the credit of any account of the Borrower shall to the extent necessary to cover any such liabilities be suspended until the happening of the contingency or future event.

#### **23 Notices**

##### **23.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by letter.

## 23.2 Addresses

- (a) The contact details of the Borrower for this purpose are:

Address: 15/F, Chinachem Century Tower, 178 Gloucester Road, Wan Chai, Hong Kong

Attention: Mr. Wong Man Fai Mansfield

Email: mansfieldwong@synergy-group.com

- (b) The contact details of the Lender for this purpose are:

Address: 21B and E, Fortis Tower, 77 Gloucester Road, Wanchai, Hong Kong

Attention: Mason Wu

Email: masonwu@wings.com

- (c) Any Party may change its contact details by giving five Business Days' notice to the other Party.

## 23.3 Delivery

- (a) Any communication or document made or delivered by one Party to another under or in connection with the Finance Documents will be effective, if by way of letter, only when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address and, if a particular department or officer is specified as part of its address details provided under clause 23.2 (Addresses), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender.
- (c) Any communication or document made or delivered to the Borrower in accordance with this clause 23.3 (Delivery) will be deemed to have been made or delivered to the Transaction Obligors.
- (d) Any communication or document which becomes effective, in accordance with clauses 23.3(a) to 23.3(c), after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following working day.

## 23.4 Electronic communication

- (a) Any communication to be made between any of the Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the relevant Parties:
- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (ii) notify each other of any change to their electronic mail address or any other such information supplied by them by not less than five Business Days' notice.

- (b) Any electronic communication as specified in clause 23.4(a) to be made between the Borrower and the Lender may only be made in that way to the extent that the Borrower and the Lender agree that, unless and until notified to the contrary, this is an accepted form of communication.
- (c) For the purposes of the Finance Documents, an electronic communication shall be treated as being in writing.
- (d) Any electronic communication as specified in clause 23.4(a) made between the Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Borrower to the Lender only if it is addressed in such a manner as the Lender may specify for this purpose.
- (e) Any electronic communication which becomes effective in accordance with clause 23.4(d), after 5 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purposes of this Agreement shall be deemed only to become effective on the following working day.
- (f) Any reference in a Finance Document to a communication being sent or received will be construed to include that communication being made available in accordance with this clause 23.4 (Electronic communication).

#### **23.5 English language**

- (a) Any notice given under or in connection with any Finance Document shall be in English.
- (b) All other documents provided under or in connection with any Finance Document shall be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Lender, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

### **24 Calculations and certificates**

#### **24.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by the Lender are prima facie evidence of the matters to which they relate.

#### **24.2 Certificates and determinations**

Any certification or determination by the Lender of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

#### **24.3 Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in any case, where the practice in the London interbank market differs, in accordance with that market practice.

**25 Partial invalidity**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**26 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under the Finance Documents shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

**27 Amendments and waivers**

Any term of or any right or remedy under a Finance Document may be amended or waived only with the consent of the Transaction Obligor(s) party thereto and the Lender and any such amendment or waiver will be binding on all the Parties and other Transaction Obligor(s).

**28 Confidential Information**

**28.1 Confidentiality**

- (a) The Lender must keep all Confidential Information confidential and not disclose it to any person, save to the extent permitted by clause 28.2 (Disclosure of Confidential Information).
- (b) The Lender must ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

**28.2 Disclosure of Confidential Information**

The Lender may disclose:

- (a) to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as the Lender considers appropriate if any person to whom the Confidential Information is to be given pursuant to this clause 28.2(a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there is no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
  - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents to any of that person's Affiliates, Representatives and professional advisers;

- (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any participation or sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or one or more Transaction Obligors and to any of that person's Affiliates, Representatives and professional advisers;
- (iii) appointed by the Lender or by a person to whom clause 28.2(b)(i) or clause 28.2(b)(ii) applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in clause 28.2(b)(i) or clause 28.2(b)(ii);
- (v) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange, listing authority or similar body, or pursuant to any applicable law or regulation;
- (vi) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (vii) to whom or for whose benefit the Lender charges, assigns or otherwise creates Security (or may do so) pursuant to clause 18.6 (Security over Lender's rights) above;
- (viii) who is a Party, a Transaction Obligor; or
- (ix) with the consent of the Borrower,

in each case, such Confidential Information as the Lender considers appropriate if:

- (A) in relation to clauses 28.2(b)(i), 28.2(b)(ii) and 28.2(b)(iii), the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there is no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to clause 28.2(b)(iv), the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information; or
- (C) in relation to clauses 28.2(b)(v), 28.2(b)(vi) and 28.2(b)(vii), the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there is no requirement to inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances;



- (c) to any person appointed by the Lender or by a person to whom clause 28.2(b)(i) or 28.2(b)(ii) applies to provide administration or settlement services in respect of one or more of the Finance Documents if such service provider has entered into such form of confidentiality undertaking agreed between the Borrower and the Lender; and
- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Transaction Obligors if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information.

### **28.3 Entire agreement**

This clause 28 (Confidential Information):

- (a) constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential Information; and
- (b) supersedes any previous agreement, whether express or implied, regarding Confidential Information.

### **28.4 Continuing obligations**

The obligations in this clause 28 (Confidential Information) are continuing and, in particular, will survive and remain binding on the Lender for a period of 12 months from the earlier of:

- (a) the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and the Commitment has been cancelled or otherwise cease to be available; and
- (b) the date on which the Lender otherwise ceases to be the Lender.

## **29 Counterparts**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

## **30 Governing law**

This Agreement is governed by the laws of Hong Kong.

## **31 Enforcement**

### **31.1 Jurisdiction of Hong Kong courts**

- (a) The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including dispute relating to any non-contractual obligation arising from or in connection with this Agreement and any dispute regarding the existence, validity or termination of this Agreement) (**Dispute**).
- (b) The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

- (c) This clause 31.1 (Jurisdiction of Hong Kong courts) is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

### **31.2 Service of process**

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints IBC Corporate Services Limited (Hong Kong Company Number: 928902) (for the attention of the board of directors), now of Suites 01-08, 27/F., Shui On Centre, 6-8 Harbour Road, Wanchai, Hong Kong, as its agent for service of process in relation to any proceedings before the Hong Kong courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of the process will not invalidate the proceedings concerned.

### **31.3 Waiver of immunities**

The Borrower irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by the Lender against it in relation to a Finance Document and to ensure that no such claim is made on its behalf;
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
- (c) waives all rights of immunity in respect of it or its assets.

**This Agreement** has been entered into on the date stated at the beginning of this Agreement.

## **Schedule 1**

### **Conditions Precedent**

#### **1 Transaction Obligors**

- (a) A copy of the following constitutional documents of the Borrower:
  - (i) certificate of incorporation and, if applicable, its certificate of incorporation on change of name, certificate of registration of overseas company, or other equivalent certificate of establishment/approval;
  - (ii) memorandum and articles of association, or other equivalent constitutional documents;
  - (iii) if applicable, current business registration certificate or business license;
  - (iv) register of members;
  - (v) register of directors; and
  - (vi) register of charges.
- (b) A copy of the resolutions of the board of directors of the Borrower:
  - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
  - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf together with the corresponding specimen signatures; and
  - (iii) authorising a specified person or persons, on its behalf, together with the corresponding specimen signatures, to sign and/or despatch all documents and notices (including, if relevant, the Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.
- (c) A certificate from a director of the Borrower substantially in the form as set out in Schedule 3 (Form of Director's Certificate).
- (d) A copy of an incumbency certificate in respect of the Borrower issued by its registered agent and dated no earlier than one Month before the date of this Agreement.
- (e) A certified copy of the Guarantor's identification document.

#### **2 Finance documents**

- (a) This Agreement.
- (b) The Debenture.
- (c) The Share Charge.

- (d) The Personal Guarantee.
- (e) The Securities Account Control Agreement.

**3 Other documents and evidence**

- (a) All deliverables under the Share Charge and the Debenture.
- (b) A warning notice from the Lender regarding the Personal Guarantee, duly acknowledged and accepted by the Guarantor.
- (c) Evidence that any process agent referred to in any Finance Documents has accepted its appointment.
- (d) A copy of the proposed Scheme of Arrangement.
- (e) A copy of the proposed Subscription Agreement.
- (f) Evidence that at least one nominee of the Lender is appointed as an authorised signatory to the Joint Account.

## Schedule 2

### Form of Utilisation Request

From: Abundance Development Limited (as Borrower)

To: Ancient Wisdom Limited (as Lender)

Dated:

Dear Sirs

**Abundance Development Limited – HK\$110,000,000 Facility Agreement dated ♦ (Facility Agreement)**

- 1 We refer to the Facility Agreement. This is the Utilisation Request. Unless stated otherwise, terms defined in the Facility Agreement shall have the same meaning in this Utilisation Request.
- 2 We wish to borrow the Loan on the following terms:  
  
Proposed Utilisation Date: ♦ (or, if that is not a Business Day, the next Business Day)  
  
Amount: HK\$ ♦ (or, if less, the Commitment available)  
  
Interest Period: Six Months
- 3 We confirm that each condition specified in clause 4.2 (Further conditions precedent) is satisfied on the date of this Utilisation Request.
- 4 The proceeds of the Loan should be credited to the Joint Account in accordance with clause 5.2(a) (Completion of the Utilisation Request).:  
  
♦
- 5 This Utilisation Request is irrevocable.

Yours faithfully,

For and on behalf of  
**Abundance Development Limited**

.....  
Name:  
Authorised Signatory

### Schedule 3

#### Form of Director's Certificate

To: Ancient Wisdom Limited (as Lender)

**Abundance Development Limited – HK\$110,000,000 Facility Agreement dated ♦ (Facility Agreement)**

I refer to the Facility Agreement. Unless stated otherwise, terms defined in the Facility Agreement shall have the same meaning in this Certificate.

I am a director of Abundance Development Limited (Company). I am authorised to give this Certificate and certify as follows:

- 1 Each copy document relating to the Company delivered to the Lender under clause 4.1 of the Facility Agreement (including the documents listed below and attached to this certificate) is true, complete and in full force and effect on the date of this certificate:  
  
♦
- 2 Neither the entry into of the Finance Documents by the Company, nor the exercise by it of its rights or performance of its obligations under the Finance Documents will breach any borrowing, guaranteeing or other power or restriction binding on the Company under its constitutional documents.
- 3 Each resolution set out in the documents referred to in paragraph 1 above was duly passed and is in full force and effect without modification.
- 4 The Board of Directors of the Company is duly constituted in accordance with the constitutional documents of the Company and is empowered to approve the matters set out in the resolutions of the Board of Directors of the Company referred to in paragraph 1 above.
- 5 The resolutions referred to in paragraph 1 above constitute all corporate action necessary on the part of the Company to:
  - (a) approve the terms of and transactions contemplated by the Finance Documents; and
  - (b) authorise the signing of, any communications and/or other action under or in connection with, the Finance Documents.
- 6 The following is a complete list of all persons who are directors of the Company as at the date of this Certificate and who were Directors on the date of the resolutions referred to above.  
  
♦
- 7 Save for the Finance Documents and matters disclosed therein or otherwise disclosed to the Lender in this Certificate, the Company has not created any Security over any of its assets which are subject to Transaction Security at the date of this Certificate.
- 8 Unless we notify you to the contrary in writing, you may assume that this Certificate remains true and correct.

9 At the date of this certificate, the Company is solvent.

.....

Name:  
Director

#### **Schedule 4**

##### **Timetables**

<b>Function</b>	<b>Day/Time</b>
Delivery of the duly completed Utilisation Request (clause 5.1 (Delivery of the Utilisation Request))	two Business Days prior to (and not including) the Utilisation Date on or before 12:00 noon



## Schedule 5

### Guarantor's Concerted Party

Name	Address	Hong Kong Identity Card/ Company Registration No.
Mr LAM Arthur	4/F, Blue Pool Court, 6 Holly Road, Happy Valley, Hong Kong	Z010334(A)
Ms. YEUNG Betty	4/F, Blue Pool Court, 6 Holly Road, Happy Valley, Hong Kong	D410138(4)
Mpplication Group Limited	Room 3208, 32/F, Central Plaza, 18 Harbour Road, Wanchai, Hong Kong.	1306741

**Borrower**

Signed by Mr. WONG Man Fai Mansfield )

, Director )

for and on behalf of )

**ABUNDANCE DEVELOPMENT LIMITED** )

in the presence of )

For and on behalf of  
Abundance Development Limited  
富豐發展有限公司

Director

Authorized Signature

Signature of witness

Name

Address

Tower

Lender

ANCIENT WISDOM LIMITED

By:

*For and on behalf of*  
ANCIENT WISDOM LIMITED

A handwritten signature in dark ink, appearing to be a stylized 'M' or 'W' followed by a flourish.

.....  
*Authorized Signature(s)*