

# **MODEL DEED OF GUARANTEE AND INDEMNITY (2003 Edition)**

The Steering Committee has updated and revised the Model Deed of Guarantee and Indemnity launched in 2001. The updated version is referred to as the Model Deed of Guarantee and Indemnity (2003 Edition).

It is recommended that mortgage lender and other person proposing to adopt the model mortgage origination documents developed by the Steering Committee should adopt the Model Deed of Guarantee and Indemnity (2003 Edition) for guarantee to be entered into by them.

**Prepared by  
The Steering Committee of the Project on  
Standardization of Mortgage Origination Documents in Hong Kong**

**Convened by  
The Hong Kong Mortgage Corporation Limited**



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**Project on Standardization of Mortgage Origination Documents in Hong Kong  
(the “Project”)**

**Guidance Notes to the Deed of Guarantee and Indemnity (the “Guarantee”)**

1. **The Steering Committee of the Project, and each member of the Steering Committee, expressly disclaims any liability to the fullest extent possible for the contents of the Guarantee, or for any loss, damage or claim suffered or incurred by any mortgage lender or any other person in connection with, or in reliance on, the whole or any part of the Guarantee. Any mortgage lender or any other person proposing to use the Guarantee must seek its own legal advice as to the suitability of the Guarantee for its intended purposes.**
2. The Guarantee is a standard form of guarantee and indemnity prepared by the Steering Committee of the Project.
3. The Guarantee is only a recommended form of guarantee and indemnity. In deciding whether to adopt the Guarantee, the mortgage lender should consider whether the Guarantee is compatible with its operational procedures and the complexity of the loan transaction. The use of the Guarantee for any mortgage transaction is entirely voluntary by the mortgage lender and the guarantor.
4. Where any mortgage lender intends to use the Guarantee, it should adopt the Guarantee in whole without modification. Any modification or amendment made to the Guarantee should be drawn to the attention of the guarantor, and it should be made clear to the guarantor that the modified or amended form used is not the standard form of the Guarantee as approved by the Steering Committee.
5. The Guarantee provides a guarantee and indemnity in respect of mortgage loan(s) granted by the mortgage lender by way of facility agreement(s) and secured by a charge over the mortgaged property (details of the facility agreement(s) and the mortgaged property are set out in the Schedule to the Guarantee). However, one distinctive feature of the Guarantee is that the guarantor’s liability is limited to the specified amount of the mortgage loan plus interest, costs and expenses. This feature is fully in compliance with paragraph 21.3(B) of the **Code of Banking Practice**. If the mortgage lender wishes to extend the guarantor’s liability to cover additional loans, any banking, credit, other facilities or accommodation which may be offered by the mortgage lender to the borrower from time to time, **it must seek the written consent of the guarantor in respect of any such additional loans, banking, credit or other facilities or accommodation.**
6. The Guarantee is a form which can be executed by either an individual or a corporate guarantor.
7. The name(s) and other details of the mortgage lender and the guarantor should be completed in the appropriate blanks on page 4 of the Guarantee.
8. The Schedule to the Guarantee contains a number of blank spaces for filling in the details of the mortgaged property, the borrower, brief terms of the facility agreement(s), the interest rate for unpaid costs and expenses incurred in connection

with the Guarantee and contact details of the parties. The parties should ensure that all details are correctly filled in as failure to provide any required information or to complete any section correctly may lead to additional costs for rectification or make the Guarantee unenforceable.

9. As default interest is already chargeable, pursuant to the relevant facility agreement(s) or mortgage deed, on the outstanding debt and liabilities guaranteed under the Guarantee, default interest is not charged under the Guarantee so as to avoid double charging.
10. Interest will be charged on any unpaid costs and expenses (i.e. Expenses) incurred in connection with the Guarantee, and the interest rate should be specified in the Schedule to the Guarantee.
11. In order to comply with the **Personal Data (Privacy) Ordinance** (Chapter 486 of the Laws of Hong Kong), the mortgage lender should (to the extent it has not already done so):
  - (a) supply the guarantor with a leaflet containing the latest data privacy statement adopted by the mortgage lender before the guarantor signs the Guarantee; and
  - (b) take the guarantor through the latest data privacy statement adopted by the mortgage lender before the guarantor signs the Guarantee.
12. Under the **Code of Banking Practice**, mortgage lenders should obtain the consent of the borrower to provide a surety with a copy or summary of the contract evidencing the obligations to be guaranteed or secured, and if the borrower refuses to permit the supply of such documents, the surety should be informed of such refusal prior to the mortgage lender accepting any guarantee or security from the surety.
13. **Before the guarantor signs the Guarantee**, the mortgage lender or its solicitors should advise the guarantor to read through the Guarantee and the **Important Notice** on the first page of the Guarantee. The mortgage lender should advise the guarantor that it is entitled to seek separate independent legal advice from solicitors of its choice if it wishes to understand the legal commitments it will assume by signing the Guarantee.

The Steering Committee recommends that as a matter of best practice the guarantor should be represented by a separate firm of solicitors to advise it on the liabilities and obligations that it will undertake by signing the Guarantee, and that those solicitors should not also act for the mortgage lender in any capacity due to the inherent conflict of interest that would arise in such a situation. However, the Steering Committee accepts that considerations of time and cost may deter the guarantor from instructing a separate firm of solicitors in many cases, but ultimately the decision as to whether or not to accept the risks of the conflict of interest inherent in a joint representation situation is a matter for the mortgage lender concerned.

14. The guarantor should only sign on the execution page of the completed English version of the Guarantee, and not on the Chinese translation, which is only intended to provide the guarantor with a translation of the contents of the Guarantee.

**The Steering Committee of the Project on  
Standardization of Mortgage Origination Documents in Hong Kong**

**November 2003**

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## DEED OF GUARANTEE AND INDEMNITY

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### Important Notice

This Guarantee is an important legal document. It is legally binding on you when signed.

Before signing this Guarantee, you should obtain separate independent legal advice from your solicitors.

If you sign this Guarantee, you will become liable instead of, or as well as, the Borrower under the Mortgage for:

- (a) the amount of the Loan owing by the Borrower;
- (b) the amount of any Additional Loan we have lent the Borrower with your approval;
- (c) all costs and expenses payable by the Borrower under the Mortgage;
- (d) the Expenses payable by you under this Guarantee; and
- (e) all interest, default interest, late charges and other charges charged on any of the above sums.

You will be required to pay immediately under this Guarantee on written demand from us.

You may give us one (1) month's notice in writing to terminate this Guarantee. On the expiry of the notice, your liability will be limited to the amount that you are actually or contingently liable under this Guarantee as at the date of expiry together with any further costs, expenses, interest, default interest, late charges and other charges payable by the Borrower up to the date of actual payment and the Expenses payable by you. We need not make a demand for payment against you prior to such expiry. Your liability under this Guarantee will only extinguish when you have fully paid us all such amounts due under this Guarantee.

**The Hong Kong Mortgage Corporation Limited consents to the use, reproduction and distribution to the general public of this Guarantee in its entirety by any person on a not-for-profit basis. Sale or distribution otherwise than in accordance with the above conditions is strictly prohibited. The Hong Kong Mortgage Corporation Limited, and each member of the Steering Committee of the Project on Standardization of Mortgage Origination Documents in Hong Kong, expressly disclaims any liability to the fullest extent possible for the contents of this Guarantee, any loss, damage or claim suffered or incurred by any mortgage lender or any other person in connection with, or in reliance on, the whole or any part of this Guarantee. Any mortgage lender or any other person proposing to use this Guarantee must seek its own legal advice as to the suitability of this Guarantee for its intended purpose.**

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**THIS DEED OF GUARANTEE AND INDEMNITY** is made on [ ]

**Between**

**you:** [Name of the guarantor] of \*Hong Kong identity card number<sup>(1)</sup>/passport number<sup>(1)</sup>/company number<sup>(2)</sup>: [ ]

**we:** [Name of the bank].

**IT IS HEREBY AGREED as follows:**

**1. Interpretation**

1.1 In this Guarantee, the words listed below have the meanings shown beside them:

**Additional Loan** The principal amount of all money, obligations and liabilities due, owing or incurred by the Borrower to us in addition to the Loan.

**Borrower** The person named as “Borrower” in the Schedule.

**Borrower Liability** All monies and liabilities due, owing or incurred by the Borrower to us.

**Debt** All amounts outstanding at any time of:

- (a) the Loan;
- (b) all costs and expenses payable by the Borrower under the Mortgage;
- (c) any Additional Loan that has been approved by you in writing; and
- (d) all interest, default interest, late charges and other charges charged on any of (a), (b) and (c),

and includes any part of the Debt.

**Expenses** Any reasonable costs and expenses (including legal costs) which we reasonably incur in connection with this Guarantee, including interest charged on the Expenses.

**Guarantee** This Deed of Guarantee and Indemnity.

**Guarantor Liability** All of your liabilities under this Guarantee in connection with the Debt and the Expenses due, owing or incurred to us at any time.

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\* Delete as appropriate.

<sup>(1)</sup> Only applicable where the guarantor is an individual person.

<sup>(2)</sup> Only applicable where the guarantor is a corporation or firm.



<b>Hong Kong</b>	The Hong Kong Special Administrative Region of the People's Republic of China.
<b>Loan</b>	The facilities which we have advanced or will advance to the Borrower under the terms of the facility agreement briefly summarized in the Schedule and which are secured by the Mortgage.
<b>Mortgage</b>	The mortgage or charge over the Property made by the Borrower in our favour.
<b>Mortgage Conditions</b>	The Mortgage Conditions (Two-party Version) (2003 Edition) or the Mortgage Conditions (Three-party Version) (2003 Edition).
<b>Other Security Provider</b>	Any co-guarantor or any other security provider for the Borrower Liability.
<b>person</b>	Any individual, personal representative, company, incorporated or unincorporated body, juridical person, trust, partnership or firm and includes any successors and assigns.
<b>Property</b>	The property charged under the Mortgage described in the Schedule.
<b>security</b>	Any instrument or collateral given to secure payment or repayment of any debts, liabilities or obligations and includes, but is not limited to, any charge, mortgage, guarantee, pledge or lien.
<b>we</b>	The party named as "we" above and <b>us, our, ourselves</b> and <b>ours</b> are construed accordingly.
<b>you</b>	The party named as "you" above and <b>your, yours</b> and <b>yourself(ves)</b> are construed accordingly.

1.2 In this Guarantee:

- (a) words in the singular include the plural and words in the plural include the singular;
- (b) headings are for ease of reference only and do not alter the meaning of this Guarantee;
- (c) references to any clause or schedule are references to clauses of or schedules to this Guarantee and include any changes to those clauses or schedules;
- (d) times and dates are Hong Kong times and dates;
- (e) references to a document include any changes made to that document or any documents which replace it; and

- (f) references to any statutory provision include any changes to those statutory provisions or to any statutory instrument, order or regulation made under any of them.

## **2. Consideration**

- 2.1 You request us to grant or to continue to grant the Loan to the Borrower.
- 2.2 In consideration of our agreeing to grant or continuing to grant the Loan to the Borrower, you agree to provide us with a guarantee and an indemnity under this Guarantee.

## **3. Guarantee**

- 3.1 You guarantee that the Debt will be paid when it becomes due and payable by the Borrower.
- 3.2 You agree to pay the Debt immediately on written demand from us when it has become due and payable by the Borrower. Once a demand is made, you are liable to pay the amount of the Debt at any time outstanding.
- 3.3 You agree to pay the Expenses immediately when we demand payment of them.
- 3.4 You agree that before we demand payment of the Debt or the Expenses from you, we do not need to demand payment from the Borrower first or to take any other action to obtain payment (such as selling the Property or any other security we hold).

## **4. Indemnity**

- 4.1 You are liable to us as if you were the principal debtor for the whole amount of the Debt. This means that you have a primary and direct obligation to pay the Debt even if you will not be liable to do so as a guarantor. It is irrelevant whether we know, before or after your giving this Guarantee, of any reason why the Debt cannot be recovered from you under the guarantee given in clause 3.
- 4.2 Your obligation under clause 4.1 is separate from and independent of, and in addition to, the guarantee given in clause 3, and you agree to pay the whole amount of the Debt immediately when we demand payment of it.

## **5. Limit of your liability**

- 5.1 This Guarantee is a guarantee and an indemnity of the full amount of the Debt and the Expenses. However, you will not be liable to us under this Guarantee for any Additional Loan unless you have given your written approval to the Additional Loan being made, or unless you later agree in writing to be liable for it.
- 5.2 We may still make the Additional Loan to the Borrower even if you have not given your written approval to the Additional Loan being made. If we do so, this will not affect your liability to repay the Debt (not including that Additional Loan) to us.

## **6. Guarantee and indemnity independent of any other guarantee or security**

- 6.1 This Guarantee is independent of, and in addition to, any other security (including the Mortgage) which we now hold or may in the future hold in connection with the Debt.

6.2 If we hold any other security in connection with the Debt, we will be entitled to choose which security we wish to enforce and the order of enforcement.

6.3 We are not obliged to enforce any other security or to take any other steps or proceedings before we enforce this Guarantee.

## **7. Postponement of your rights**

7.1 Until the Guarantor Liability has been paid in full, you may not without our written consent:

- (a) exercise or enforce any rights (including any right of set-off) against the Borrower or any Other Security Provider;
- (b) pursue any claim against the Borrower or any Other Security Provider;
- (c) make a claim in competition with us in the bankruptcy or insolvency of the Borrower or any Other Security Provider; or
- (d) receive the benefit of any payment or distribution or security from the Borrower or any Other Security Provider.

7.2 You must give us the benefit of each claim and pay us any money you receive in breach of clause 7.1 and in the meantime hold them on trust for us.

7.3 If you take any security referred to in clause 7.1(d), whether with or without our consent, you hold that security on trust for us and must pay us all money you receive in respect of that security.

## **8. Deductions from other credit balances and lien**

You agree that if you fail to pay any part of the Guarantor Liability, we may without giving prior notice to you or any other person:

- (a) use any credit balance in any of your accounts (whether in your own name or in joint names) with us to pay that unpaid sum to us;
- (b) off set that unpaid sum by any debt or liability we owe you now or in the future;
- (c) exercise a lien on all of your assets or property we hold; and
- (d) sell any of your assets or property we hold at a price and in a manner we decide, and use the proceeds to pay the unpaid sum.

## **9. Our claim against the Borrower**

If the Borrower becomes bankrupt or enters into an arrangement with his creditors or is wound up or has a receiver appointed over his business or assets, we will be entitled to make a claim against the Borrower's assets for the full amount of the Borrower Liability even if you have already made a part payment of the Debt to us under this Guarantee. Any dividends or payments which we may receive from the Borrower or

his estate or any other person will not affect our right to recover the remaining balance of the Guarantor Liability from you under this Guarantee.

#### **10. Continuing guarantee and indemnity**

This Guarantee continues until full payment of the Guarantor Liability. This means that your obligations under this Guarantee are not affected by any of the following events:

- (a) any part payment of the Guarantor Liability outstanding at any time;
- (b) if the Borrower is a partnership or any other organization, any change in the Borrower's name or membership or constitution of the partnership or organization (in that case, this Guarantee continues to apply to the Debt owed to us by those persons who make up the partnership or the organization as so constituted for the time being);
- (c) the Borrower's death, mental incapacity, bankruptcy, insolvency, liquidation (in which case, you will be liable for the Debt as if none of these events had happened);
- (d) the Borrower being taken over, absorbed by, or merging with any other person or having a receiver appointed over his business or assets (in which case, you will be liable for the Debt outstanding when we come to know of any of these events);
- (e) your death, mental incapacity, bankruptcy, insolvency or liquidation (where applicable) or change of name;
- (f) your being taken over, absorbed by, or merging with any other person or having a receiver appointed over your business or assets;
- (g) the sale of the Property or any other security we hold;
- (h) the Borrower Liability becoming for any reason not recoverable from the Borrower; or
- (i) any other act, omission, event or circumstance which will or may operate to prejudice, affect or discharge this Guarantee or the Guarantor Liability had this clause 10 not existed.

#### **11. Suspense account**

11.1 When the Debt has become due and payable by the Borrower under the Mortgage and until the Guarantor Liability has been paid in full, we may hold any money we receive under this Guarantee (unless the amount wholly satisfies the Guarantor Liability) in a suspense account in order to preserve the full amount of our claims against you, the Borrower or any Other Security Provider.

11.2 If we have not already done so under clause 11.1 at the time when we receive notice or become aware that this Guarantee has been terminated or ceased to be binding as a continuing guarantee, as from that time, we may treat all money we receive under this Guarantee as having been credited to a suspense account in order to preserve the full

amount of our claims against you, the Borrower or any Other Security Provider, and not in reduction of the amount of the Borrower Liability.

- 11.3 Amounts standing to the credit of a suspense account under clause 11.1 or a deemed suspense account under clause 11.2 will bear interest at our prevailing rate(s) for deposit accounts with a similar credit balance.

**12. Our actions or omissions not to affect your liability**

Without affecting our rights under this Guarantee, we may, at any time:

- (a) give the Borrower or any Other Security Provider more time to pay money due and payable;
- (b) vary, extend, release, reduce, exchange, increase, accelerate, renew or discharge any obligations or liabilities of the Borrower or any Other Security Provider;
- (c) make any other arrangement, compromise or settlement with the Borrower or any Other Security Provider;
- (d) take or deal with any security or legal commitment for the Borrower Liability;
- (e) fail to take any security or legal commitment for the Borrower Liability; or
- (f) neglect, release, enforce or choose not to enforce any of our rights under the Mortgage, this Guarantee or any other security or legal commitment for the Borrower Liability.

**13. Effects of bankruptcy or insolvency laws**

- 13.1 If we receive any payment or security for the Borrower Liability or the Guarantor Liability from you or the Borrower or any other person, and are later obliged under any bankruptcy or insolvency laws to restore our position to what it would have been if that payment or security had not been received, then you shall be liable under this Guarantee as if we had never received that payment or security.
- 13.2 We will be entitled, before any order under those bankruptcy or insolvency laws is made against us, to agree or settle any claim arising under those laws on any terms as we consider appropriate and without your prior consent.
- 13.3 If we agree or settle a claim under clause 13.2, you will be liable under this Guarantee as if a court order had been made containing the terms we have agreed in connection with that claim.
- 13.4 If we have given a release, discharge or re-assignment of any security (including this Guarantee) given by you in our favour in return for any payment or security from you or any other person, then that release or discharge will be conditional on no claims being made against us under the bankruptcy or insolvency laws in connection with that payment or security.

**14. Payments without deduction**

- 14.1 Each payment under this Guarantee must be made by you without any deduction of any tax or similar charge unless you are obliged by law to make that deduction. If you need to make that deduction, you must pay us such extra sum as is necessary to ensure that we receive the full amount due from you under this Guarantee.
- 14.2 Each payment under this Guarantee must be made by you without any deduction of any sum we owe you, and you must pay us the amount as demanded by us at any time.

**15. Application of payments**

Subject to clause 11, we will apply any payment we receive under this Guarantee in the following order:

- (a) payment of the Expenses;
- (b) payment of any outstanding accrued interest on the Loan and any applicable Additional Loan;
- (c) payment of any default interest on the Loan and any applicable Additional Loan;
- (d) payment of any late charges and other charges on the Loan and any applicable Additional Loan; and
- (e) payment of any principal amounts of the Loan and any applicable Additional Loan.

**16. Binding effect of signing this Guarantee**

You are bound by this Guarantee even if:

- (a) someone else was supposed to, but did not, sign or execute this Guarantee or become effectively bound by the terms of this Guarantee; or
- (b) any security or other legal commitment given by any person in connection with the Borrower Liability is invalid, illegal or unenforceable.

**17. Change of our organization structure**

Your obligations under this Guarantee will not be affected by:

- (a) any change in the name or constitution of ourselves or our successors and assigns;
- (b) the takeover of ourselves by, our absorption of, or our merger with, any other bank or institution; or
- (c) any assignment of the Borrower Liability, any transfer of the Mortgage or this Guarantee, or any declaration of trust or other acts affecting our rights in respect of the Borrower Liability, the Mortgage or this Guarantee.

**18. Joint and several liability**

- 18.1 If there is more than one of you, this Guarantee will apply to all of you together and to each of you on your own. This means that each of you can be held fully responsible for complying with this Guarantee even if this Guarantee cannot be enforced against the other of you.
- 18.2 We may discharge or reach an agreement with any of you without affecting our rights and remedies against the other of you.

**19. Evidence of the Borrower Liability and the Guarantor Liability**

Unless there is an obvious mistake or fraud, a certificate signed by our officer as to the amount of the Borrower Liability, the Guarantor Liability, the Expenses, interest, default interest, late charge, handling fee or any interest rate is conclusive evidence against you for all purposes.

**20. Interest on Expenses**

If you fail to pay any Expenses when we demand payment of them, you must pay us interest at the rate as specified in the Schedule on the unpaid amount from the date(s) on which the Expenses were incurred until the date of actual repayment.

**21. Your provision of correct information**

- 21.1 You confirm that to the best of your knowledge all the information (including your personal data and financial information) you have given us in connection with this Guarantee is true, accurate and complete.
- 21.2 You will inform us as soon as possible in writing of any changes to any information you have given us in connection with this Guarantee.

**22. Notices and demands**

- 22.1 Any notice or demand given under this Guarantee must be in writing and may be given in any of the following ways:
- (a) by serving the notice or demand in a way which is required by law;
  - (b) by post to the address of the relevant party set out in the Schedule (or the last address known to the sender). In this case, the notice or demand is treated as given on the second business day after the posting date;
  - (c) by hand to the address of the relevant party set out in the Schedule (or the last address known to the sender). In this case, the notice or demand is treated as given at the time of delivery; or
  - (d) by fax to the fax number of the relevant party set out in the Schedule (or the last fax number known to the sender). In this case, the notice or demand is treated as given at the time of dispatch.

- 22.2 If there is more than one of you, service on any one of you is sufficient service on all of you.
- 22.3 Service after your death in accordance with this clause 22 is sufficient service on your personal representative(s).
- 22.4 You must notify us in writing of your new contact information within 7 days from the change.

**23. Other general matters**

- 23.1 Our rights under this Guarantee are not lost or limited:
- (a) by any earlier exercise of them;
  - (b) by any failure to exercise them;
  - (c) by any delay in exercising them; and/or
  - (d) by exercising them in part only.
- 23.2 Our rights under this Guarantee are in addition to any other rights which we may have under the law.
- 23.3 We are entitled to employ debt collecting agent(s) to collect any sum due under this Guarantee.
- 23.4 This Guarantee belongs to us and we may keep this Guarantee even if you no longer have any liability under it.
- 23.5 Any changes to any provision of this Guarantee must be in writing and signed by you and us.
- 23.6 To be binding on us, any consents given by us must be given in writing and signed by our duly authorised officer.

**24. Disclosure of information**

You confirm that you have received, read, understood and agree to the contents of the data privacy statement which we issue to customers or prospective customers. You agree to allow us to disclose your personal and credit information (including credit reports) subject to the provisions of Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong), to the persons and for the purposes stated in our data privacy statement.

**25. Our power to assign or transfer our rights and obligations**

- 25.1 You agree that we may assign or transfer, or agree to assign or transfer, all or any of our rights or obligations under this Guarantee to any person at any time.
- 25.2 You may not assign or transfer any of your rights or obligations under this Guarantee without our prior written consent.



25.3 For the purpose of any assignment or transfer under clause 25.1, you agree to sign any document and do any thing as we reasonably require.

25.4 On any assignment or transfer under clause 25.1, the assignee or transferee, or its successors and assigns, will be able to enforce this Guarantee in the same way and to the same extent that we could enforce them before the assignment or transfer.

**26. Unenforceability of certain terms of this Guarantee**

If any term of this Guarantee is or becomes unenforceable under the laws of any place, this will not affect its enforceability under the laws of any other place nor the enforceability of the remaining terms of this Guarantee.

**27. Termination**

You may give us one (1) month's notice in writing to terminate this Guarantee. On the expiry of such notice, your liability will be limited to the amount for which you are actually or contingently liable under this Guarantee as at the date of expiry together with any further costs, expenses, interest, default interest, late charges and other charges payable by the Borrower up to the date of actual payment and the Expenses payable by you. We need not make a demand for payment against you prior to such expiry. Your liability under this Guarantee will only extinguish when you have fully paid us all such amounts due under this Guarantee.

**28. Payment in other currencies**

28.1 Unless we otherwise agree in writing, the Guarantor Liability must be paid in the currency in which it was incurred (“**Original Currency**”).

28.2 If the Guarantor Liability is not paid in the Original Currency, we will be entitled to convert the amount paid into the Original Currency within a reasonable period at such exchange rate as we reasonably determine. If there is any shortfall between converted amount and the Guarantor Liability, you remain liable for the shortfall.

**29. Governing law and jurisdiction**

29.1 Hong Kong law governs this Guarantee.

29.2 You agree to take any legal action in connection with this Guarantee only in Hong Kong. However, we may take legal action under this Guarantee in any place where you or your assets may be located.

**30. Language**

This Guarantee is written in English with a Chinese translation. The Chinese translation is for reference purposes only. The English version alone is intended to have legal effect.

**31. Rights of third parties**

31.1 For the purpose of the Contracts (Rights of Third Parties) Ordinance (Cap. 623) (“**CRTPO**”), the parties to this Guarantee agree:

- (a) that a person who is not a party to this Guarantee (“**third party**”) has no right under the CRTPO to enforce or to enjoy the benefit of any term of this Guarantee but this does not affect any right or remedy of a third party, which exists or is available apart from the CRTPO;
- (b) that no right under any term of this Guarantee enforceable by a third party under the CRTPO shall be assigned by the third party to another person unless this Guarantee expressly provides otherwise; and
- (c) that the parties to this Guarantee shall be entitled to rescind or vary any term of this Guarantee at any time as provided by this Guarantee without the consent of a third party.

## The Schedule

### Clause 1

**The Borrower:** [Name of the Borrower] of \*Hong Kong identity card number<sup>(1)</sup>/passport number<sup>(1)</sup>/business registration number<sup>(2)</sup>/company number<sup>(2)</sup>: [ ], with \*home address<sup>(1)</sup>/registered office in Hong Kong<sup>(2)</sup>/principal place of business in Hong Kong<sup>(2)</sup> at [ ].

### **Brief terms of facility agreement(s):**

- (a) Date: [ ]
- (b) Loan amount: [ ]
- (c) Interest rate: [ ]
- (d) Repayment period: [ ]
- (e) Default interest rate: [ ]
- (f) Late charges and other charges: [ ]

**Details of the Property:** [ ]

### Clause 20

Interest rate for unpaid Expenses: [ ]

### Clause 22

#### **Your contact details:**

- (a) Address: [ ]
- (b) Fax number: [ ]

#### **Our contact details:**

- (a) Address: [ ]
- (b) Fax number: [ ]

We may change our contact details at any time by giving you a notice in writing.

\* Delete as appropriate.

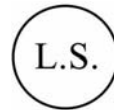
<sup>(1)</sup> Only applicable where the Borrower is an individual person.

<sup>(2)</sup> Only applicable where the Borrower is a corporation or a firm.

**Your Declaration**

**You confirm that before signing this Guarantee, your attention has been drawn to the “Important Notice” on the front page and, in particular, to the warning that separate independent legal advice should be obtained before signing this Guarantee.**

**<sup>(3)</sup>SIGNED SEALED and DELIVERED by you in the presence of a \*witness/solicitor:**



\_\_\_\_\_  
Your signature

\_\_\_\_\_  
\*Witness's/Witnessing solicitor's name and address

\*I, the above-named solicitor, declare that I have provided you with legal advice regarding the nature and effect of this Guarantee and have done so in the absence of the Borrower.

\*I confirm that I act for you alone.

\*I confirm that I act for you and the Borrower.

\*I confirm that I act for you and the mortgage lender.

\_\_\_\_\_  
\*Witness's/Witnessing solicitor's signature

\* Delete as appropriate.

<sup>(3)</sup> Only applicable where the guarantor is an individual person.

**<sup>(4)</sup>SEALED with your COMMON SEAL AND SIGNED by your authorized signatory(ies)  
for and on your behalf in the presence of a \*witness/solicitor:**

\_\_\_\_\_  
Name and title of the authorized signatory(ies)



\_\_\_\_\_  
Signature of the authorized signatory(ies)

\_\_\_\_\_  
\*Witness's/Witnessing solicitor's name and address

\_\_\_\_\_  
\*Witness's/Witnessing solicitor's signature

\* Delete as appropriate.

<sup>(4)</sup> Only applicable where the guarantor is a corporation.