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# MODEL DEED OF GUARANTEE AND INDEMNITY

**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**



## Project on Standardization of Mortgage Origination Documents in Hong Kong

### STEERING COMMITTEE MEMBERS

### REPRESENTED BY

#### Convenor

The Hong Kong Mortgage  
Corporation Limited

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(Chairman of the Steering Committee)*

Ms. Susie Cheung, *General Counsel and  
Company Secretary*

Ms. Grace Lee, *Counsel  
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Services*

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Mr. Ronny Tong, *Senior Counsel*

The Hongkong and Shanghai Banking  
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Ms. Suanne Hou, *Legal Adviser*

The Law Faculty of The University of  
Hong Kong

Ms. Judith Sihombing, *former Associate  
Professor of Law*

The Law Society of Hong Kong

Mr. Peter Aherne, *Partner, Deacons*

Moody's Asia Pacific Limited

Mr. Michael Ye, *Managing Director,  
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Standard Chartered Bank

Ms. Doris Ma, *Legal and Compliance  
Adviser*

United Guaranty Mortgage Indemnity  
Company

Ms. Sandie Kwan, *Associate Director of  
Insurance Operations*

**DRAFTING SUB-COMMITTEE MEMBERS**

The Hong Kong Mortgage Corporation Limited

First Pacific Bank Limited

Hong Kong Bar Association

The Hongkong and Shanghai Banking Corporation Limited

The Law Faculty of The University of Hong Kong

The Law Society of Hong Kong

Standard Chartered Bank

**REPRESENTED BY**

Ms. Susie Cheung, *General Counsel and Company Secretary (Chairman of the Drafting Sub-Committee)*

Ms. Grace Lee, *Counsel*

Mr. Peter Choy, *Senior Vice President*

Mr. Ronny Tong, *Senior Counsel*

Ms. Suanne Hou, *Legal Adviser*

Ms. Judith Sihombing, *former Associate Professor of Law*

Mr. Peter Aherne, *Partner, Deacons*

Ms. Doris Ma, *Legal and Compliance Adviser*

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Hong Kong Bar Association

Hong Kong Monetary Authority

The Land Registry

The Law Faculty of The University of Hong Kong

The Law Society of Hong Kong

Planning and Lands Bureau

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

**July 2001**

## 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 Guarantee is a standard form of guarantee and indemnity prepared by the Steering Committee of the Project.
2. **Each member of the Steering Committee of the Project expressly disclaims any liability to the fullest extent possible for the contents of the Guarantee, any loss, damage or claim suffered or incurred by any mortgage lender or any other person in connection with, arising from 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.**
3. The Guarantee is only a recommended form of guarantee and indemnity. It is voluntary and not mandatory for the mortgage lender and the guarantor to adopt the Guarantee. 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.
4. If any mortgage lender wishes to adopt the Guarantee, it should adopt the Guarantee in whole. 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 offer letter(s) and secured by a charge over the mortgaged property (details of the offer letter(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. 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, or 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 offer letter(s), the interest rate for unpaid costs and expenses incurred in connection with the Guarantee and contact details of the parties.
9. As default interest is already chargeable, pursuant to the relevant offer letter(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 of default interest.
10. Interest will be charged on any unpaid costs and 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, the mortgage lender should (to the extent 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; or
  - (b) take the guarantor through the latest data privacy statement adopted by the mortgage lender before the guarantor signs the Guarantee.
12. **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 front page of the Guarantee. The mortgage lender should advise the guarantor that he/she is entitled to seek independent legal advice from solicitors of his/her choice if he/she wishes to understand the legal commitments he/she will assume by signing the Guarantee.
13. 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 not a document for signing and is only intended to provide the guarantor with a translation of the terms and contents of the Guarantee.

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

**July 2001**

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## **DEED OF GUARANTEE AND INDEMNITY**

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**Important Notice:**

This Guarantee is an important legal document. Before signing this Guarantee, you should read this Guarantee carefully. You have the right to seek independent legal advice from solicitors of your own choice to make sure you understand your commitment and the full consequences of your signing this Guarantee.

This Guarantee is a legally binding document. You should sign this Guarantee only if you agree to be legally bound by its terms.

If you sign this Guarantee, you will become liable instead of, or as well as, the Borrower under the Mortgage. Your liability under this Guarantee will be limited to:

- (a) the amount of the Loan owing by the Borrower;
- (b) the amount of any Additional Loan we have lent the Borrower with your written consent;
- (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 acknowledge that before signing this Guarantee you have been advised to seek independent legal advice on the terms of this Guarantee. You also acknowledge that you have been provided with a copy of the Mortgage, the Mortgage Conditions and any agreement in relation to the Loan.

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 such 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, regardless whether we have made 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 disclaim 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, arising from 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>/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 [ ].

**we:** [Name of the bank] with \*registered office in Hong Kong/principal place of business in Hong Kong at [ ].

**IT IS HEREBY AGREED as follows:**

**1. Definitions**

1.1 In this Guarantee, the following words or expressions shall have the following meanings:

**Additional Loan** means the principal amount of any money subsequently advanced to or any liabilities subsequently incurred by and owing by the Borrower in addition to the Loan;

**Borrower** means the party denoted as “Borrower” in the Schedule and includes the Borrower’s successors and assigns;

**Borrower Liability** means all the money and liabilities due, owing or incurred by the Borrower to us;

**Debt** means the aggregate of the outstanding amounts from time to time of the following:

- (a) the Loan;
- (b) all costs and expenses payable by the Borrower under the Mortgage;
- (c) any Additional Loan which we have granted to the Borrower with your written consent; 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** means any reasonable costs and expenses (including legal costs) which we incur under or in connection with this Guarantee and includes interest charged on the Expenses;

**Guarantee** means this Guarantee and Indemnity entered into between yourself(ves) and ourselves;

\* 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>Guarantor Liability</b>	means all of the liabilities under this Guarantee (i.e., your liability in respect of the Debt and the Expenses under this Guarantee) due, owing or incurred by you to us from time to time;
<b>Hong Kong</b>	means the Hong Kong Special Administrative Region of the People's Republic of China;
<b>Loan</b>	means the banking, credit, or other facilities or accommodation which we have advanced or will advance to the Borrower pursuant to the terms of the offer letter(s) briefly summarized in the Schedule and which are secured by the Mortgage;
<b>Mortgage</b>	means a mortgage or charge over the Property executed in our favour and securing repayment of the Debt and other money and liabilities due, owing or incurred by the Borrower to us;
<b>Mortgage Conditions</b>	means the Mortgage Conditions (2001 Edition) incorporated into the Mortgage;
<b>person</b>	means any individual, company, corporation, trust, partnership, or firm and includes successors and assigns;
<b>Property</b>	means the property charged under the Mortgage as more particularly described in the Schedule;
<b>security</b>	means any instrument or collateral given to secure payment/repayment of any debt, liability or obligation and includes, but is not limited to, any charge, mortgage, guarantee, pledge and lien;
<b>we</b>	means the party denoted as "we" to this Guarantee and includes successors and assigns; and <b>us, our, ourselves</b> and <b>ours</b> shall be construed accordingly;
<b>you</b>	means the party denoted as "you" to this Guarantee and includes successors and assigns; and <b>your, yours</b> and <b>yourself(ves)</b> shall be construed accordingly.

1.2 In this Guarantee:

- (a) "he" shall include "she" and "it", and "his" shall include "her" and "its";
- (b) the singular shall include the plural, and the plural shall include the singular;
- (c) headings shall be for ease of reference only and shall not form part of this Guarantee;
- (d) unless otherwise expressly stated, any reference to a numbered clause or schedule shall be a reference to the clause or the schedule with that number in this Guarantee;
- (e) all references to time and date shall be the time and date in Hong Kong;
- (f) any reference to a document shall include that document as amended, supplemented or replaced from time to time; and

- (g) references to any statutory provision shall be deemed also to refer to any statutory modification, supplement or re-enactment of such statutory provision 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 shall be paid when it becomes due and payable by the Borrower under the Mortgage.
- 3.2 You undertake 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 shall be liable to pay the amount of the Debt from time to time outstanding.
- 3.3 You undertake to pay the Expenses immediately on written demand from us.
- 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 agree to be liable to us as if you were the principal debtor for the whole amount of the Debt. This means that you shall 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 undertake to pay the whole amount of the Debt immediately on written demand from us.

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

- 5.1 This Guarantee shall be 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 in relation to any Additional Loan unless you have given your prior written consent to the Additional Loan being made, or unless you later agree in writing to be liable for it.
- 5.2 If you do not however consent in writing to the Additional Loan being made, you shall not be entitled to prevent us from making the Additional Loan to the Borrower.
- 5.3 If we make the Additional Loan without your written consent, this shall not affect your liability to repay the Debt (less that Additional Loan) to us.

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

- 6.1 This Guarantee shall be independent of, and in addition to, any other security (including the Mortgage) which we presently hold or may in the future hold in relation to the Debt.

- 6.2 If we have any other security in relation to the Debt, we shall be entitled to choose which security we wish to enforce and the order of enforcement.
- 6.3 We shall not be 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 shall not, without our prior written consent, be entitled to:
- (a) exercise or enforce any rights (including any right of set-off) against the Borrower, any co-guarantor or any other security provider for the Borrower Liability;
  - (b) pursue any claim against the Borrower, any co-guarantor or any other security provider for the Borrower Liability;
  - (c) make a claim in competition with us in the bankruptcy or insolvency of the Borrower, any co-guarantor or any other security provider for the Borrower Liability; or
  - (d) have the benefit of any payment, distribution or security from the Borrower, any co-guarantor or any other security provider for the Borrower Liability, and you must pay us any money you receive in breach of the above and in the meantime shall hold it on trust for us.
- 7.2 Unless we give our prior written consent, you shall not hold any security for the Guarantor Liability from the Borrower, any co-guarantor or any other security provider for the Borrower Liability. You shall give us the benefit of any security held by you in breach of this clause 7.2, and pay us all money you receive in respect of such breach and in the meantime shall hold it on trust for us.

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

You agree that if you fail to pay any part of the Guarantor Liability, we shall be entitled to do the following things 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 such unpaid sum to us;
- (b) off set such unpaid sum against any debt or liability we owe you now or in the future;
- (c) have a lien on all of your property held by us; and
- (d) sell any of your assets held by us at such price and in such manner at our sole discretion, and use the proceeds to pay such 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 shall 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 shall 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 shall continue until the full payment of the Guarantor Liability. This means that your obligations under this Guarantee shall not be discharged or affected by the occurrence of any of the following events:

- (a) you have paid part of the Guarantor Liability outstanding from time to time;
- (b) if the Borrower is a partnership or any other organization, there is any change in the name or membership or constitution of the partnership or organization (in such case, this Guarantee shall continue 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 or liquidation (where applicable) (in such case, you shall be liable for the Debt as if none of such events had ever happened);
- (d) the Borrower being taken over by or merged with any other organization or having a receiver appointed over his business or assets (in such case, you shall be liable for all of the Debt outstanding when we come to know of any such events);
- (e) your death, mental incapacity, bankruptcy, insolvency or liquidation (where applicable) or change of name;
- (f) your being taken over by or merged 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 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 shall be entitled to hold any money we receive under this Guarantee (other than such amount as shall wholly satisfy the Guarantor Liability) in a suspense account in order to preserve the full amount of our claims against you, the Borrower, any co-guarantor or any other security provider for the Borrower Liability.
- 11.2 If we have not already done so pursuant to 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, all money we receive under this Guarantee shall be treated as having been credited to a suspense account in order to preserve the full amount of our claims against you, the Borrower, any co-guarantor or any other security provider for the Borrower Liability, and shall not operate to reduce the amount of the Borrower Liability.
- 11.3 Amounts standing to the credit of a suspense account pursuant to clause 11.1 or a deemed suspense account pursuant to clause 11.2 shall bear interest at our prevailing rate for deposit accounts with a similar credit balance from time to time.

## **12. Our actions or omissions not affecting your liability**

From time to time, we may:

- (a) give the Borrower, any co-guarantor 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, any co-guarantor or any other security provider;
- (c) make any other arrangement, compromise or settlement with the Borrower, any co-guarantor or any other security provider;
- (d) take or deal with any security or legal commitment for the Borrower Liability; or
- (e) fail to take any security or legal commitment for the Borrower Liability, neglect, release, enforce or choose not to enforce our rights under the Mortgage, this Guarantee or any other security or legal commitment for the Borrower Liability.

If we do carry out any of the above acts in this clause 12 or do or fail to do anything else, this shall not affect our rights or your liability under this Guarantee, even if it would have done so had this clause 12 not existed.

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

- 13.1 If we receive any payment or security in respect of 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 no such payment or security had been received, then you shall be liable under this Guarantee as if we had never received such payment or security.
- 13.2 We shall be entitled, before any order under those bankruptcy or insolvency laws is made against us in respect of the Borrower Liability, to agree or settle any claim arising under those laws on any terms as we think fit and without your prior consent.
- 13.3 If we do agree or settle a claim pursuant to clause 13.2, you shall be liable under this Guarantee as if a court order had been made containing the terms we have agreed in relation to that claim.

## **14. Payments without deduction**

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

## **15. Application of payments**

Any payment received by us under this Guarantee shall, subject to clause 11, be applied in the following order towards payment of:

- (a) first, the Expenses;

- (b) secondly, outstanding accrued interest on the Loan and any applicable Additional Loan;
- (c) thirdly, default interest on the Loan and any applicable Additional Loan;
- (d) fourthly, late charges and other charges on the Loan and any applicable Additional Loan; and
- (e) fifthly, principal amounts of the Loan and any applicable Additional Loan.

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

You shall be 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 respect of the Borrower Liability is invalid, illegal or unenforceable.

**17. Change of our organization structure**

Your obligations under this Guarantee shall not be affected by:

- (a) any change in the name or constitution of ourselves or our successors or 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 shall bind all of you jointly and each of you. We shall be entitled to discharge or come to an arrangement with any of you on any terms as we may agree without affecting our rights and remedies against the others.
- 18.2 If there is more than one of you, each of you shall be bound by this Guarantee separately even if it is unenforceable against all or any of you.

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

A certificate duly signed by our officer as to the amount of the Borrower Liability or the Guarantor Liability or any interest rate is conclusive evidence against you for all purposes in the absence of obvious error or fraud.

**20. Interest on Expenses**

If you fail to pay any Expenses on our written demand, you shall pay us interest at such 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 shall 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 to be given under this Guarantee shall be in writing and shall be given to the relevant party in any one or more of the following ways:
- (a) by serving the notice or demand in a way which is prescribed by law;
  - (b) by sending the notice or demand by post to the address of the relevant party set out in the Schedule (or the last address provided to the sender). In this case, the notice or demand shall be treated as given on the second business day after the posting date;
  - (c) by delivering the notice or demand by hand to the address of the relevant party set out in the Schedule (or the last address provided to the sender). In this case, the notice or demand shall be treated as given at the time of delivery; or
  - (d) by sending the notice or demand by fax to the fax number of the relevant party set out in the Schedule (or the last fax number provided to the sender). In this case, the notice or demand shall be treated as given at the time of dispatch.
- 22.2 If there is more than one of you, a notice or demand served by us on any one of you shall be a sufficient notice or demand on all of you.
- 22.3 Any notice or demand served after your death in accordance with this clause 22 shall be deemed to be a sufficient notice or demand to your personal representative(s).

## **23. Other general matters**

- 23.1 Our rights under this Guarantee may be exercised as often as we think fit.
- 23.2 Exercising or failing to exercise a right under this Guarantee shall not prevent us from exercising any other right under this Guarantee.
- 23.3 Exercising part of a right under this Guarantee shall not prevent us from subsequently exercising that right to its fullest extent.
- 23.4 A delay in exercising a right or the non-exercise of a right under this Guarantee shall not prevent us from exercising that right subsequently.
- 23.5 Our rights under this Guarantee shall be in addition to any other rights which we may have under the law.
- 23.6 This Guarantee shall belong to us and we shall be entitled to keep this Guarantee even if you no longer have any liability under it.
- 23.7 We shall be entitled to employ debt collecting agent(s) to collect any sum due but unpaid by you under this Guarantee.
- 23.8 Any amendment of any provision of this Guarantee shall be in writing and signed by you and us.



## **24. Disclosure of your information**

You agree to allow us to disclose your information subject, in the case of personal information, to the provisions of Personal Data (Privacy) Ordinance Cap.486, to those persons or for those purposes as expressly stated in our data privacy statement published from time to time relating to the above ordinance, a copy of which has been made available to you.

## **25. Assignment or transfer of rights and obligations**

- 25.1 We shall be entitled to assign or transfer at any time all or any of our rights or obligations under this Guarantee to any person without your consent.
- 25.2 You shall not assign or transfer any of your rights or obligations under this Guarantee without our prior written consent.
- 25.3 You shall sign any document and do any thing as we require for effecting any assignment or transfer of our rights or obligations under this Guarantee.
- 25.4 Once the assignment or transfer of our rights or obligations under this Guarantee has become effective, any person who takes over our rights or (as the case may be) obligations under this Guarantee shall have exactly the same rights or (as the case may be) obligations as we had under this Guarantee before that assignment or transfer and we shall be released from those rights or (as the case may be) obligations.

## **26. Severability**

If at any time, any provision of this Guarantee is or becomes invalid, illegal or unenforceable under the law of any jurisdiction, this shall not affect its validity, legality or enforceability under the law of any other jurisdiction nor the validity, legality or enforceability of any other provision 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 such 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, regardless whether we have made 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 The Guarantor Liability shall not be treated as fully paid unless it is fully paid in the currency in which it was incurred.
- 28.2 If the Guarantor Liability is not paid in a currency in which it was incurred (the "**Original Currency**"), we shall be entitled to convert such currency into the Original Currency within a reasonable period at such exchange rate as we reasonably determine. If there is any shortfall between the Original Currency and the currency in which the Guarantor Liability is actually paid (whether the currency conversion takes place or not), you shall remain liable under this Guarantee for the amount of the shortfall calculated as at the date of currency conversion, or if there is no such currency conversion, as at the date of actual payment.

**29. Governing law and jurisdiction**

- 29.1 This Guarantee shall be governed by, and construed in accordance with, Hong Kong law.
- 29.2 You agree that any proceedings relating to this Guarantee shall only be brought by you in a court of competent jurisdiction in Hong Kong. However, we shall be entitled to take legal proceedings under this Guarantee in any country where you or your assets may be located.

**30. Language**

This Guarantee is written in English and accompanied by its Chinese translation. The Chinese translation is for reference purposes and only the English version is intended to have legal effect.

## 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 offer letter(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: | [ | ] |

You may change your contact details at any time by giving us a notice in writing.

#### **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 acknowledge that before signing this Guarantee, your attention has been drawn to the “Important Notice” on the front page and, in particular, to the statement that you should seek independent legal advice on the terms of this Guarantee before signing this Guarantee.**

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

Your signature:

L.S.

Your name:

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

\*Witness's/Witnessing solicitor's name:

\*Witness's/Witnessing solicitor's address:

\* Delete as appropriate.

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