

## CORPORATE GUARANTEE

### IMPORTANT NOTICE TO GUARANTOR

THIS IS AN IMPORTANT DOCUMENT. PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY AND MAKE SURE YOU UNDERSTAND THEM. THIS DEED WILL CREATE LEGAL OBLIGATIONS AND LIABILITIES ON THE GUARANTOR. THIS DOCUMENT IS LEGALLY BINDING ON THE GUARANTOR WHEN SIGNED. YOU ARE STRONGLY ADVISED TO SEEK INDEPENDENT LEGAL ADVICE IN CASE OF DOUBT.

To: **GUOTAI JUNAN SECURITIES (HONG KONG) LIMITED (“GTJAS”) (as trustee for itself and each other member of the GTJAS Group (as defined herein))**

In consideration of GTJAS (which expression shall include all its offices wherever situated, its successors and assigns) having agreed to open a securities trading account, and agreeing to grant or continuing to make available advances, credit facilities or other financial accommodation or granting time to such extent and for so long as GTJAS or any member of the GTJAS Group may think fit to the Debtor (as defined herein) under and in accordance with the terms and conditions of the Credit Agreements (as defined herein) and for other good and valuable consideration, receipt of which is hereby acknowledged:

### IT IS HEREBY AGREED AS FOLLOWS:

The definitions which shall apply to this Deed are set out in Clause 29.

#### 1. GUARANTEE & INDEMNITY

- 1.1 The Guarantor irrevocably and unconditionally guarantees the due and punctual payment to GTJAS of all the Guaranteed Indebtedness on the respective due dates or, as the case may be, on demand. For the avoidance of doubt, this guarantee shall exist for so long as the Guaranteed Indebtedness exists pursuant to the terms of this Guarantee.
- 1.2 The Guarantor shall, upon default by a Debtor in the payment or discharge of any of its Guaranteed Indebtedness (whether on the normal due date, on acceleration or otherwise), on demand, make immediate payment of that Guaranteed Indebtedness, at the place, in the funds and currency and in the manner required of that Debtor. The Guarantor agrees that no time for limitation of liability in respect of this Deed shall begin to run in favour of the Guarantor unless and until GTJAS has made demand on the Guarantor under this Deed, and if more than one demand is made, then only from the date and to the extent of each demand respectively.
- 1.3 As between the Guarantor and GTJAS but without affecting the Debtor's obligations, the Guarantor shall be liable under this Deed as if it were the sole principal debtor and not merely a surety. Accordingly, the Guarantor shall not be discharged, nor shall the Guarantor's liability be affected, by anything which would not discharge the Guarantor or affect the Guarantor's liability if it were the sole principal debtor.
- 1.4 As separate, independent and alternative stipulations, the Guarantor unconditionally and irrevocably agrees:
  - (a) that any Guaranteed Indebtedness which is for any reason (whether or not now existing and whether or not now known or becoming known to any party) not recoverable from the Guarantor on the basis of a guarantee including but not limited to any illegality or defect in or want of powers of a Debtor or irregular exercise thereof or lack of authority by any person

purporting to act on behalf of a Debtor or any legal or other limitation (whether under the Limitation Ordinance (Cap. 347) or otherwise), disability, incapacity or any change in the constitution of or any dissolution, amalgamation, reconstruction, bankruptcy or liquidation of a Debtor, any member of the GTJAS Group or the Guarantor shall nevertheless be recoverable from it as if the same were fully valid and enforceable and the Guarantor were the sole principal debtor in respect thereof; and shall be paid by it to GTJAS on demand; and

- (b) as a primary obligation, to indemnify GTJAS or any other member of the GTJAS Group against any damage, loss, costs and expenses suffered by it as a result of any Guaranteed Indebtedness not being paid by the time, on the date and otherwise in the manner as required of a Debtor or any Guaranteed Indebtedness received or recovered by GTJAS or any other member of the GTJAS Group being required for any reason (including any winding up, bankruptcy or insolvency or similar law of any jurisdiction) to be repaid or any Guaranteed Indebtedness being or becoming void, voidable or unenforceable for any reason (whether or not now existing and whether or not now known or becoming known to any party) the amount of that loss being the amount expressed to be payable by a Debtor in respect of the relevant sum.

## **2. REPRESENTATIONS AND WARRANTIES**

2.1 The Guarantor hereby represents and warrants to and for the benefit of GTJAS and each member of the GTJAS Group on the date of this Deed and at all times during the continuance of this Deed by reference to the facts and circumstances then existing that:-

- (a) the Guarantor is duly incorporated and validly existing under the laws of its jurisdiction of incorporation as a limited liability company and has power to carry on its respective business as it is now being conducted and to own its respective property and other assets;
- (b) the entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not (i) contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject, (ii) contravene or conflict with its constitutional documents, (iii) conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or instrument to which the Guarantor is a party or is subject or by which it or any of its property is bound, (iv) result in any indebtedness becoming due and payable prior to its stated maturity, or (v) result in the creation or imposition of or oblige the Guarantor or any of its subsidiaries to create any charge or other encumbrance on the undertaking, assets, rights or revenues of it or any of its subsidiaries;
- (c) the Guarantor has the legal capacity and power to execute, deliver and perform its obligations under this Deed; and has taken all necessary corporate, shareholder and other action to authorise the execution, delivery and performance of the same, and no limitation on the powers of the Guarantor will be exceeded as a result of this Deed;
- (d) every consent, authorisation, licence or approval of, or registration with or declaration to, governmental or public bodies or authorities or courts required by the Guarantor to authorise, or required by the Guarantor in connection with, the execution, delivery, validity, enforceability or admissibility in evidence of this Deed and the performance by the Guarantor of its obligations under this Deed has been obtained or made and is in full force and effect and there has been no default in the observance of the conditions or restrictions (if any) imposed in, or in connection with, any of the same;
- (e) the Guarantor has received independent professional advice in respect of, and fully understands, the nature of the obligations assumed by it under this Deed;

- (f) this Deed has been validly created and constitutes and will continue to constitute valid and legal, binding and enforceable obligations of the Guarantor;
- (g) the fair value of its assets is not less than its liabilities (taking into account contingent and prospective liabilities);
- (h) the Guarantor is able to pay its debt as and when they fall due;
- (i) the Guarantor has not taken or received the benefit of any security from the Debtor or any other person extending to liabilities under this Deed;
- (j) neither the Guarantor nor any of its subsidiaries is involved in any litigation, arbitration or other proceedings of a litigious nature, nor to its knowledge is any such litigation, arbitration or proceedings pending or threatened which has or could have a material adverse effect on the business, assets or financial condition of the Guarantor and its subsidiaries taken as a whole;
- (k) no distress, execution or other process has been levied on any of the assets or revenues of the Guarantor;
- (l) no steps have been taken or legal proceedings started nor has any order been made or petition presented or resolution passed for the winding-up or bankruptcy of the Guarantor and no distress, execution or other process has been levied on any of the assets of the Guarantor;
- (m) the Guarantor is not in default in respect of any material financial commitment or obligation including but not limited to any guarantee, indemnity, bond or similar obligation or in breach of any arrangement or statutory or other legal requirement to an extent or in a manner which might have a material adverse effect on the business, assets or financial condition of the Guarantor and its subsidiaries taken as a whole;
- (n) there has been no material adverse change in the financial condition of the Guarantor and its subsidiaries taken as a whole as shown in the latest audited consolidated accounts of the Guarantor produced to GTJAS pursuant to Clause 3(d) since the date of such accounts and in particular the net asset position of the Guarantor and its subsidiaries taken as a whole as shown in such accounts has not materially deteriorated nor has it or any of its subsidiaries entered into any material burdensome agreement and such accounts (and the notes thereto) give a true and fair view of the state of affairs of the Guarantor as at the date of such accounts;
- (o) no taxes, levies, imposts or duties of whatever nature are imposed by withholding or otherwise on any payment to be made by the Guarantor under this Deed or are imposed on or by virtue of the execution or delivery by it of this Deed;
- (p) the Guarantor will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in relation to this Deed;
- (q) the Guarantor is acting as principal for its own account and not as agent or trustee or in any other capacity on behalf of any third party; and
- (r) the choice of the laws of Hong Kong as the governing law of this Deed will be recognized and enforced in the jurisdiction in which the Guarantor was incorporated and any judgment obtained in Hong Kong in relation to this Deed will be recognized and enforced in such jurisdiction.

2.2 The Guarantor acknowledges that GTJAS has entered into this Deed in reliance on the above representations and warranties.

### 3. GENERAL UNDERTAKINGS

The Guarantor further undertakes and agrees that, during the continuance of this Deed:

- (a) the Guarantor shall not do any act or thing which may in any way (in GTJAS's opinion) delay or prejudice the rights of GTJAS or any other member of the GTJAS Group under this Deed;
- (b) the Guarantor shall obtain and maintain in full force, validity and effect all governmental and other approvals, authorities, licences and consents required in connection with this Deed, and do or cause to be done all other acts and things necessary or desirable for the performance of all the obligations of the Guarantor under or pursuant to this Deed;
- (c) the Guarantor shall comply in all respects with all laws and regulations to which it may be subject; and (where applicable) the Guarantor shall promptly deliver or procure to be delivered to GTJAS evidence of registration of this Deed with the relevant authorities in the People's Republic of China (including but not limited to State Administration of Foreign Exchange);
- (d) the Guarantor shall as soon as the same becomes available, supply GTJAS with its audited consolidated accounts for that financial year, and promptly deliver to GTJAS such further information regarding the financial condition, business and operation of the Guarantor as GTJAS may require;
- (e) the Guarantor shall not take or receive the benefit of any security from the Debtor or any other person extending to liabilities under this Deed;
- (f) so long as the Guaranteed Indebtedness remains outstanding, the Guarantor shall advise GTJAS forthwith of the details of any litigation, arbitration or administrative proceedings pending or (to the best of its knowledge and belief) threatened against the Guarantor or of the occurrence of any event which is likely to result in a breach of any of the representations and warranties in Clause 2 above; and
- (g) the obligations of the Guarantor under this Deed will rank at all times at least *pari passu* with all its other existing and future unsubordinated unsecured indebtedness, obligations and liabilities actual or contingent from time to time (save those as by law rank as preferential in a winding-up or bankruptcy).

#### **4. CONTINUING GUARANTEE**

- 4.1 The rights conferred on GTJAS by this Deed are and shall at all times remain in full force and effect by way of a continuing guarantee and shall cover and secure the ultimate balance of the Guaranteed Indebtedness.
- 4.2 This Deed is in addition to and shall not merge with or otherwise prejudice or affect any other right, remedy, guarantee, indemnity or security and may be enforced notwithstanding the same or any other bill, note, mortgage, charge, pledge or lien now or hereafter held by or available to GTJAS or any other member of the GTJAS Group.
- 4.3 Notwithstanding any notice of termination or that this Deed ceases to be continuing for any reason whatsoever, GTJAS may continue any account of the Debtor or open one or more new accounts and the liability of the Guarantor hereunder shall not in any manner be reduced or affected by any subsequent transactions or receipts or payments into or out of any such account. If GTJAS does not open a new account, it shall nevertheless be treated as if it had done so at the time when this Deed ceases to be a continuing guarantee.

#### **5. IMMEDIATE RECOURSE**

The Guarantor waives any right it may have of first requiring GTJAS, any other member of the GTJAS Group, or any person on their behalf to proceed against or enforce any other guarantee, indemnity, assurance, pledge, lien, bill, note, mortgage, charge, debenture, security, or other right, power or remedy from any person (including, without limitation, pursuant to the Credit Documentation) before claiming from the Guarantor under this Deed. This waiver applies irrespective of any law or any other prior agreement.

## **6. WAIVER OF DEFENCES**

The Guarantor shall not be discharged, nor shall the rights conferred on GTJAS or any other member of the GTJAS Group by this Deed be in any way discharged or diminished or in any way affected by the existence of any defence, set-off or counter-claim, matter or thing (without limitation and whether or not known to the Guarantor, GTJAS, or any other member of the GTJAS Group) including:

- (a) granting to any Obligor or to any other person, any time, waiver, indulgence, concession or consent;
- (b) renewing any bills, promissory notes or other negotiable or non-negotiable instruments or securities;
- (c) any intermediate payment, settlement of account or discharge in whole or in part of the Guaranteed Indebtedness;
- (d) varying, realising, releasing, abstaining from perfecting or enforcing or otherwise dealing with any guarantees, indemnities, assurances, pledges, liens, bills, notes, mortgages, charges, debentures, security, or any other rights, powers or remedies;
- (e) renewing, waiving, varying, terminating, increasing or decreasing any credit or facilities to, or the terms or conditions in respect of any transaction with, any Obligor or any other person in any manner whatsoever including any increase in margin or any change for the purpose of any existing or increased credit or facilities;
- (f) agreeing with any Obligor or any other person as to the application of any loans or advances made or to be made to or for the account of any Obligor or any other person;
- (g) making any other agreement with any Obligor or compounding with, discharging, releasing or varying the liability of any Obligor, or any other person;
- (h) concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment;
- (i) making or absence of any demand on any Obligor or any other person for payment;
- (j) the enforcement or absence of enforcement of any rights of GTJAS or any other member of the GTJAS Group;
- (k) any change in constitution of any Obligor or any other person;
- (l) the taking, existence or release of any security or other guarantee;
- (m) the winding up or bankruptcy of any Obligor or any other person, or any step being taken for any such winding up or bankruptcy;
- (n) the death, disability, mental or other incapacity of any Obligor or any other person;

- (o) the illegality, invalidity or unenforceability of, or any defect in, any provision of this Deed or any security or other guarantee or any of the obligations or liability of any Obligor or any other person; or
- (p) anything done or omitted to be done or any other circumstances which, but for this provision, might operate to exonerate the Guarantor.

## **7. DEFAULT INTEREST**

- 7.1 The Guarantor shall pay interest to GTJAS after as well as before judgment at the annual rate which is 8 percent above the base rate (or whatever called) of GTJAS on all sums demanded under this Deed from the date of demand by GTJAS or, if earlier, the date on which the relevant damages, losses, costs or expenses arose in respect of which the demand has been made, until but excluding, the date of actual payment.
- 7.2 Interest under this Clause 7 shall accrue on a day-to-day basis calculated by GTJAS and shall be compounded monthly or at such other intervals as GTJAS determines.

## **8. NON EXERCISE OF GUARANTOR'S RIGHTS**

- 8.1 Until all the Guaranteed Indebtedness has been irrevocably paid, discharged, and satisfied in full (which expression shall not include payment of a dividend in bankruptcy, liquidation or winding-up of less than 100 per cent.) and no sum remains to be lent or made available to the Debtor or at its request, the Guarantor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or otherwise:
  - (a) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of GTJAS under this Deed;
  - (b) to be indemnified by any person or to claim any contribution from, or right against, any Obligor which has provided guarantee or security in respect of the Guaranteed Indebtedness;
  - (c) to demand or accept payment or repayment in whole or in part of any dividend or any moneys, obligations or liabilities then or after then due to the Guarantor from any Obligor or to demand or accept any security for such moneys, obligations or liabilities;
  - (d) to take any step to enforce any right against any Obligor, or to claim any set-off or counterclaim against any Obligor or any other person; and
  - (e) (unless with the prior written consent and in accordance with any condition imposed by GTJAS) to claim, vote or prove in competition with GTJAS or any other member of the GTJAS Group in the bankruptcy, liquidation or winding-up of, or have the benefit of any share in any payment or composition from, any Obligor or any other person or in any other security or guarantee now or hereafter held by GTJAS or any other member of the GTJAS Group for the Guaranteed Indebtedness.
- 8.2 Any amount received or recovered by the Guarantor as a result of any exercise of any of the above rights or in the winding up of any Obligor shall be immediately paid to GTJAS and pending such payment be held in trust for GTJAS.

## **9. SUSPENSE ACCOUNT**

- 9.1 Notwithstanding any provision in this Deed, any amount received or recovered by GTJAS or any other member of the GTJAS Group in respect of any sum payable by the Debtor, the Guarantor or



any other Obligor under or in connection with any Credit Documentation may be placed by GTJAS or any other member of the GTJAS Group (as applicable) to the credit of a suspense account in order to preserve the rights of GTJAS or any other member of the GTJAS Group (as applicable) to prove for the full amount of its claims against the Debtor, the Guarantor, any other Obligor or any third party in the event of any proceedings in or analogous to bankruptcy, insolvency, winding-up, liquidation or composition in respect of the Guaranteed Indebtedness.

- 9.2 GTJAS or any other member of the GTJAS Group may at any time and from time to time apply all or any monies held in any suspense account in or towards satisfaction of such obligation or liability of the Debtor, the Guarantor or any other Obligor as GTJAS or any other member of the GTJAS Group (as applicable) may, in its absolute discretion, from time to time, conclusively determine.

## 10. ORDER OF DISTRIBUTION

All amounts received or recovered by GTJAS or any other member of the GTJAS Group in the exercise of its rights under this Deed shall be applied towards the satisfaction of the Guaranteed Indebtedness and/or the amounts due and payable under or in connection with this Deed in the order as GTJAS or any other member of the GTJAS Group (as applicable) determines.

## 11. INDEMNITIES

- 11.1 If any sum due from the Guarantor under or in connection with this Deed is made or recovered in a currency (the "**Other Currency**") other than that in which it is expressed to be paid under this Deed (the "**Original Currency**"), GTJAS may at its own absolute discretion convert the payment into the Original Currency at a market rate of change in the usual course of its business and then, the Guarantor shall fully indemnify GTJAS as a separate and independent obligation against (1) any sum short of the amount in the Original Currency payable under this Deed and (2) any exchange costs and taxes payable in connection with any such conversion.
- 11.2 The Guarantor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency other than that in which it is expressed to be payable.
- 11.3 The Guarantor shall, immediately on demand, indemnify GTJAS against any cost, loss or liability incurred by GTJAS or any other member of the GTJAS Group as a result of:
- (a) any information produced, provided or approved by or on behalf of the Guarantor being or being alleged to be misleading or deceptive in any respect;
  - (b) any enquiry, investigation, subpoena (or similar order) or litigation with respect to the Guarantor or the transactions contemplated or secured under this Deed;
  - (c) a failure by the Guarantor to pay any amount due under this Deed on its due date or in the relevant currency;
  - (d) any payment under this Deed being impeached or declared void for any reason whatsoever;
  - (e) a breach by the Guarantor of any of its undertakings or obligations under this Deed;
  - (f) interpreting or invoking any provision of this Deed;
  - (g) acting or relying on any notice, request or instruction given by the Guarantor which it reasonably believes to be genuine, correct and appropriately authorised; or
  - (h) preserving, enforcing or exercising any rights under this Deed.

## **12. SET OFF AND LIEN**

12.1 Without limiting or reducing the effect of Clause 13.10 of the client agreement for securities trading between GTJAS and the Guarantor, GTJAS is entitled to do the following without prior notice to the Guarantor:

- (a) exercise a lien over all of the Guarantor's property in the possession or control of GTJAS or any other member of the GTJAS Group from time to time for any purpose. GTJAS has the power to apply such property or sell such property and apply the proceeds to satisfy any of the Guaranteed Indebtedness;
- (b) debit any amount payable by the Guarantor to GTJAS or any other member of the GTJAS Group (including any fees, expenses, or interest) from any accounts of the Guarantor with GTJAS or any other member of the GTJAS Group irrespective of whether there are sufficient available funds, overdraft or other facilities in the relevant accounts and even if the Guarantor has given instruction for applying the funds in any account. If any debit causes any of the relevant accounts to be overdrawn, the Guarantor is liable to repay the outstanding amount to GTJAS or any other member of the GTJAS Group on demand together with fees, expenses, and interest accruing on the outstanding amount at such rate as set by GTJAS;
- (c) withhold, combine, or consolidate the balance on any account of the Guarantor with GTJAS or any other member of GTJAS Group, and set off or transfer any monies standing to the credit of any account in or towards settlement of any amounts owing by the Guarantor to GTJAS or any other member of the GTJAS Group. The amounts owing by the Guarantor (1) may be actual or contingent, present, future, or deferred, primary or collateral, (2) may be owing by the Guarantor solely or jointly with any other person, (3) may include any amount payable by the Guarantor in satisfaction of a margin call, and (4) may include fees, expenses, or interest;
- (d) refuse to repay the Guarantor any monies in any currency standing to the credit of any account of the Guarantor with GTJAS or any other member of the GTJAS Group when due or on demand by the Guarantor to the extent that such monies are equal to or less than the amount owing by the Guarantor to GTJAS or any other member of the GTJAS Group. If GTJAS exercises this right with respect to any monies, such monies will remain outstanding from GTJAS or any other member of the GTJAS Group concerned on substantially the terms and conditions in force immediately before this right is exercised or on such other terms as considered appropriate by GTJAS; and
- (e) where any such debit, withholding, combination, or consolidation requires the conversion of one currency into another currency, such conversion will be calculated at the rate to be prevailing in the relevant foreign exchange market at the relevant time as determined by GTJAS, and the rate determined by GTJAS will be conclusive and binding on the Guarantor.

## **13. WAIVERS, REMEDIES CUMULATIVE**

- 13.1 Time shall be of the essence of this Deed, but no failure or delay on the part of GTJAS or any other member of the GTJAS Group in exercising any right or remedy under this Deed will operate as a waiver thereof, nor will any single or partial exercise or waiver of any right or remedy preclude any other or further exercise of that or any other right or remedy.
- 13.2 The rights and remedies provided in this Deed are cumulative and not exclusive of each other or any other rights and remedies (whether provided by law or otherwise).
- 13.3 The rights and remedies of GTJAS or any other member of the GTJAS Group under this Deed may be waived only in writing and specifically.



## 14. DELEGATION

GTJAS may delegate in any manner to any person any rights exercisable by GTJAS under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as GTJAS thinks fit.

## 15. JOINT GUARANTORS

- 15.1 If there are two or more parties acting as Guarantor under this Deed (the "**Parties**" and each a "**Party**"), the expression "**Guarantor**" shall include all and each of them and their obligations and liabilities under this Deed shall be joint and several. Any communication under this Deed served on any one Party shall be deemed to have been served on all of them.
- 15.2 Each Party agrees to be bound by this Deed notwithstanding that any others of the Parties which were intended to sign or be bound may not do so or be effectually bound and notwithstanding that this Deed may be determined or become invalid or unenforceable against any one or more of such Parties whether or not the deficiency is known to GTJAS.
- 15.3 GTJAS shall be entitled to release any one or more of the Parties from this Deed, to compound with or otherwise vary or agree to vary the liability of, or to grant time or other indulgence to, or make other arrangements with, any one or more of the Parties, without prejudicing or affecting GTJAS's rights, powers and remedies by GTJAS against any other Party.

## 16. EVIDENCE

- 16.1 Any admission or acknowledgment in writing by the Debtor or by any other person authorised by the Debtor of the amount of indebtedness of the Debtor in respect of Guaranteed Indebtedness to GTJAS or any other member of the GTJAS Group and any judgment obtained by GTJAS or any other member of the GTJAS Group against the Debtor in respect of such indebtedness shall be binding and conclusive against the Guarantor in all courts of law and elsewhere.
- 16.2 For all purposes, a certificate by GTJAS or any other member of the GTJAS Group as to any sum payable by the Guarantor under this Deed, and any other certificate, determination, notification or the like of GTJAS or any other member of the GTJAS Group provided for in this Deed shall be conclusive save for manifest error.

## 17. EXPENSES

The Guarantor shall reimburse GTJAS on demand for:

- (a) all expenses (including taxes thereon and legal fees on a full indemnity basis) incurred by GTJAS in connection with the preparation, negotiation, entry into, registration or administration of this Deed and/or any amendment, supplement, waiver or consent to or in respect of this Deed (whether or not entered into or given) or in protecting or enforcing (or attempting to protect or enforce) any rights of GTJAS or any other member of the GTJAS Group under this Deed and/or any such amendment, supplement, waiver or consent; and
- (b) any stamp, documentary, registration or similar taxes payable in connection with this Deed and any penalty for late payment or non-payment of the foregoing.

For the avoidance of doubt, this Clause shall survive the termination or expiry of this Deed.

## 18. ASSIGNMENT AND TRANSFERS

- 18.1 This Deed shall enure to the benefit of GTJAS and shall be binding on the Guarantor and their respective successors and assigns.
- 18.2 The Guarantor may not assign or transfer all or any part of its rights or obligations under this Deed.
- 18.3 GTJAS may at its sole discretion assign and/or transfer any of its rights, benefits or obligations under this Deed to any person at any time.
- 18.4 If GTJAS assigns or transfers any or all of its rights, benefits or obligations, the Guarantor's own rights, benefits and obligations under this Deed will stay exactly the same but the Guarantor will be bound to any person to whom GTJAS assigns or transfers its rights, benefits or obligations. That person will have GTJAS's powers and rights, benefits and obligations so far as these are assigned or transferred to it. GTJAS will be released automatically from its obligations to the Guarantor so far as GTJAS's obligations are assumed by that person. The Guarantor irrevocably authorises GTJAS to execute on its behalf any assignment or other document reflecting the arrangements agreed to in this Clause.
- 18.5 The Guarantor's obligations under this Deed will not be affected by any takeover, absorption or merger by or of GTJAS by, of or with any other bank or financial institution.
- 18.6 The Guarantor's obligations under this Deed will not be affected by any change in the name or constitution of GTJAS or any successor, assignee or transferee.

## 19. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

- 19.1 Each Party agrees to keep all such information as GTJAS shall consider appropriate in connection with any Obligor and this Deed ("**Confidential Information**") confidential and not to disclose it to anyone, save to the extent permitted by Clause 19.2.
- 19.2 Without prejudice to Clause 19.3, GTJAS is authorised to disclose and transfer from time to time any such Confidential Information to:
- (a) the Debtor;
  - (b) its holding company or any of its offices, branches, related companies, affiliates, associates or any subsidiary or associated company of that holding company;
  - (c) any person with whom GTJAS proposes to enter, or has entered, into any arrangements in respect of, or any transaction under which payments are to be made or may be made by reference to, this Deed or any Guaranteed Indebtedness;
  - (d) any agent, contractor or third party service provider which provides services of any kind to GTJAS in connection with the operation of its business (including any of its professional advisers, debt collecting agencies, credit reference agencies and any other business which GTJAS engages to process its data);
  - (e) any financial institution with which GTJAS has or proposes to have dealings;
  - (f) any actual or proposed participant or sub-participant in, or assignee or transferee of GTJAS's rights or obligations in relation to, this Deed;
  - (g) any person to the extent required for the purpose of any litigation, arbitration or regulatory proceedings or procedure;
  - (h) any Obligor; and

- (i) any other person, with the consent of the Guarantor, or if required or permitted to do so by any law, regulation, judgment, decree, court order or any regulatory authority in any jurisdiction.

- 19.3 Upon and after default by any Obligor under any Credit Agreement, GTJAS may, to the extent permitted by law and in its absolute discretion, disclose any Confidential Information to any party.
- 19.4 The Guarantor hereby waives, as far as permitted by law, any provision of any data protection, privacy, banking secrecy or other law or regulation of any jurisdiction and/or the terms of any confidentiality agreement, arrangement or undertaking that would otherwise prevent disclosure by GTJAS.

## **20. CUSTOMER INFORMATION**

The Guarantor acknowledges that GTJAS may not provide the following to the Guarantor without the Debtor's consent:

- (a) a copy or summary of the agreement or document evidencing any Guaranteed Indebtedness;
- (b) a copy of any formal demand or the like for overdue payment sent to the Debtor; and
- (c) a copy of any statement of account of the Debtor.

## **21. TAXES**

- 21.1 All sums payable by the Guarantor under this Deed shall be paid free of any restriction or condition and free and clear of and (except to any extent required by law) without any deduction or withholding, whether on account of tax, by way of set-off or otherwise.
- 21.2 If the Guarantor is obliged by law to make any deduction or withholding from any such sum, the sum payable by the Guarantor in respect of which the relevant deduction or withholding is required shall be increased to the extent necessary to ensure that, after making that deduction or withholding, GTJAS receives and retains a net sum equal to the full amount which GTJAS would have received and so retained as if no such deduction or withholding had been required or made. Any additional amount paid under this Clause shall not be treated as interest but as agreed compensation.
- 21.3 Within 30 days after making any deduction or withholding, the Guarantor shall provide GTJAS with evidence satisfactory to GTJAS of that deduction or withholding and the remittance of that deduction or withholding to the relevant authority.

## **22. RELEASE CONDITIONAL**

Any release, discharge or settlement between GTJAS or any other member of the GTJAS Group and the Guarantor shall be conditional upon no security, disposition or payment to GTJAS or any other member of the GTJAS Group (as applicable) by the Guarantor or any other person being avoided, set aside, reduced or required to be repaid pursuant to any provisions or enactments relating to bankruptcy, liquidation, winding-up, insolvency or circumstance analogous to the foregoing events (whether or not having the force of law) and, in any such event, GTJAS or any other member of the GTJAS Group (as applicable) shall be entitled to recover the value or amount of any such security or payment from the Guarantor by enforcing this Deed as if such release, discharge of settlement had not occurred and any such payment had not been made.

## **23. NOTICES**

- 23.1 Unless otherwise provided in this Deed or agreed in writing between the parties hereto, the Guarantor will be considered as having received any communication given under this Deed by GTJAS:
- (a) at the time of personal delivery or leaving it at the address last notified in writing by the Guarantor (if delivered personally);
  - (b) forty-eight (48) hours after posting it to the above address if that address is in Hong Kong or seven (7) days after posting if that address is outside Hong Kong (if sent by post);
  - (c) immediately after faxing it to the fax number last notified in writing by the Guarantor (if sent by fax);
  - (d) immediately after emailing it to the email address last notified in writing by the Guarantor (if sent by email);
  - (e) immediately after sending it to the mobile phone number last notified in writing by the Guarantor (if sent through SMS messaging); or
  - (f) immediately after displaying it at GTJAS's premises (if communicated by display).
- 23.2 The address, facsimile number, email address, and telephone number of the Guarantor for all notices under or in connection with this Deed are:
- (a) those set out in Part B of the Schedule;
  - (b) otherwise notified by the Guarantor for this purpose to GTJAS by not less than five (5) Business Days' notice; or
  - (c) last known to GTJAS.
- 23.3 Any communication from the Guarantor shall be irrevocable and given in writing and addressed to the manager of the branch of GTJAS through which the relevant services or facilities are provided to the Debtor and shall not be effective until received by GTJAS.

## **24. FIRM, CORPORATION, ASSOCIATION AND UNINCORPORATED BODY**

If the Debtor is either a firm or a limited company or other corporation or a committee or association or other unincorporated body (such as sole proprietorship or partnership), the provisions contained in this Deed which shall be primarily and literally applicable to a single and individual Debtor only shall be construed and take effect so as to give GTJAS a guarantee and indemnity for the moneys owing and/or payable from such firm and every member or partner thereof or from such limited company or corporation or committee or association or other unincorporated body as identical or analogous as may be with or to that which would have been given for the moneys owing and/or payable from a single individual if the Debtor were a single individual and any money, debts or liabilities shall be deemed to be owing, remaining due and unpaid by the Debtor. In the case where the Debtor is a firm, sole proprietorship or partnership, this Deed shall be deemed to be a continuing guarantee of all moneys owing and/or payable, from the person or persons now or at any time hereafter from time to time and for the time being carrying on business in the name of or in succession to the firm or from any one or more of such persons and any change in the constitution of the firm whether by death, retirement or admission of partners or otherwise howsoever shall not affect, invalidate or discharge the Guarantor's liability under this Deed. If the Debtor is a limited company or other corporation, any reference to bankruptcy shall be deemed to be a reference to liquidation, winding up or other analogous proceedings and the moneys owing and/or payable as aforesaid and hereby guaranteed and indemnified shall be deemed to include any moneys, owing and/or payable in respect of debentures or debenture stock of such limited company or other corporation held by GTJAS or on GTJAS's behalf.

## 25. PARTIAL ILLEGALITY

If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any applicable law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed under the law of that or of any other jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby. Where however the provisions of any such applicable law may be waived, they are hereby waived by the parties hereto to the full extent permitted by such law so that this Deed shall be a valid and binding agreement enforceable in accordance with its terms.

## 26. COUNTERPARTS

This Deed may be executed in any number of counterparts, all of which when taken together shall constitute a single instrument.

## 27. LAW AND JURISDICTION

- 27.1 This Deed is governed by and shall be governed by and construed in all respects in accordance with the laws of Hong Kong.
- 27.2 The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a "**Dispute**").
- 27.3 The parties hereto agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no party hereto will argue to the contrary.
- 27.4 To the extent that the Guarantor may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed) the Guarantor hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the fullest extent permitted by the laws of such jurisdiction.

## 28. DEBT COLLECTION

GTJAS shall be entitled to employ debt collecting agents to collect any sum due but unpaid by the Guarantor. The Guarantor hereby agrees, and acknowledges that it has been warned, that it shall be obliged to indemnify and keep GTJAS indemnified on a full indemnity basis against all costs and expenses, which GTJAS may reasonably incur in employing debt-collecting agents.

## 29. INTERPRETATION AND DEFINITIONS

- 29.1 In this Deed, unless the context otherwise requires:
- (a) "**Business Day**" means a day (other than Saturday, Sunday or public holiday) on which banks are open for general business in Hong Kong;
  - (b) "**Client Agreement for Securities Trading**" means the client agreement for securities trading agreement entered into by the Debtor and GTJAS;
  - (c) "**Credit Agreements**" means the Client Agreement for Securities Trading, the securities margin trading agreement, the client agreement for derivatives trading, the client agreement for stock options trading, any ISDA Master Agreement, repurchase agreement, securities

borrowing and lending agreement entered into by the Debtor and any member of the GTJAS Group, and any agreement (including any oral agreement and agreement by conduct) between any member of the GTJAS Group and any Obligor or any other document executed by any Obligor in favour of any member of the GTJAS Group representing or evidencing any of the Guaranteed Indebtedness or under which any of the Guaranteed Indebtedness is incurred, as amended and supplemented from time to time, and a "**Credit Agreement**" means any of them;

- (d) "**Credit Documentation**" means the Credit Agreements, any amendments, supplements, accessions, waivers or variations to any Credit Agreement and all guarantee (including this Deed), security documents, intercreditor and restructuring documentation relating to any Credit Agreement and any other documents as designated as such by GTJAS from time to time;
- (e) "**this Deed**" means this deed of guarantee and indemnity as the same may be amended or supplemented from time to time;
- (f) "**Debtor**" means the person(s) identified as such in Part C of the Schedule;
- (g) "**GTJAS Group**" means GTJAS, GTJAS's holding company (as defined in the Companies Ordinance of Hong Kong), all GTJAS's subsidiaries (as defined in the Companies Ordinance of Hong Kong), and subsidiaries of GTJAS's holding company, and a "**member of the GTJAS Group**" means any of them;
- (h) "**Guarantor**" the person(s) specified as such in the execution section of this Deed, short details of whom are set out in Part B of the Schedule;
- (i) "**Guaranteed Indebtedness**" means all or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred and/or payable in whatsoever manner to GTJAS or any other member of the GTJAS Group by any Obligor whether actually or contingently, solely or jointly and whether as principal or surety, including:
  - 1) any money owing, due or payable to GTJAS or any other member of the GTJAS Group in respect of any facility or financial accommodation (including margin financing, derivatives, hire purchase, leasing and other credit arrangement) granted to the Debtor or at its request;
  - 2) any money and liabilities of any Obligor to a third party which have been assigned or novated or otherwise vested in GTJAS or any other member of the GTJAS Group;
  - 3) any money and liabilities of any firm in which any Obligor may be partner or sole proprietor; and
  - 4) interest, discount, commission and (on a full indemnity basis) other lawful charges or expenses including all legal and other costs and expenses which GTJAS or any other member of the GTJAS Group may charge or incur in respect of any of these matters or for keeping any account of any Obligor;together with all monies, obligations and liabilities which shall from time to time be due, owing or incurred by the Guarantor to GTJAS or any other member of the GTJAS Group under this Deed;
- (j) "**Hong Kong**" means the Hong Kong Special Administrative Region of the People's Republic of China;
- (k) "**ISDA Master Agreement**" means any master agreement substantially in the form published by the International Swaps and Derivatives Association, Inc., or equivalent; and



- (l) **"Obligors"** means the Debtor or any guarantor, security provider or other obligor under the Credit Documentation, including the Guarantor.

29.2 Any reference in this Deed to:

- (a) **"GTJAS"**, **"any member of the GTJAS Group"**, the **"Guarantor"** or any other person or party shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (b) **"this Deed"**, **"the Credit Agreements"** or any other agreement or instrument is a reference to this Deed, the Credit Agreements or other agreement or instrument as amended, supplemented, novated and/or replaced from time to time;
- (c) **"agreement"** also includes a concession, contract, deed, franchise, licence, treaty or undertaking and any waiver or release (in each case, whether oral, written, implied or by operation of law);
- (d) **"assets"** includes present and future properties, revenues and rights of every description;
- (e) the **"dissolution"** of a person includes the winding-up, liquidation, bankruptcy or reorganization of that person and any equivalent or analogous procedure under the law of any jurisdiction in which that person is incorporated, domiciled, or resident or carries on business or has assets;
- (f) a **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (g) **"including"** and **"include"** shall be deemed to mean, respectively, **"including without limitation"** and **"includes without limitation"** (except when used in the computation of time periods);
- (h) **"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;
- (i) a **"law"** includes common or customary law and any constitution, decree, rule, act, directive, legislation, order, ordinance, regulation, statute, treaty or other legislative measure, in each case of any jurisdiction whatever, and includes such law as amended, consolidated, extended or re-enacted and subsidiary legislation made thereunder (and "lawful" and "unlawful" shall be construed accordingly);
- (j) a **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (k) 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;
- (l) a provision of law is a reference to that provision as amended or re-enacted;
- (m) the neuter, male or female gender includes reference to any other such gender where the context so requires;
- (n) words importing the singular shall include the plural and vice versa;

- (o) Clauses, Paragraphs, Schedules and Recitals, are references to clauses, paragraphs, schedules and recitals in this Deed and references to Paragraphs or Sub-Paragraphs are to paragraphs and sub-paragraphs of the Clause in which the reference appears; and
  - (p) any thing (including any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them.
- 29.3 Clause and Schedule headings are for ease of reference only.
- 29.4 Further, in this Deed:
- (a) expressions defined in the main body of this Deed shall bear the defined meaning in the whole of this Deed; and
  - (b) any obligation to be observed or performed by any party not to do any act or thing shall be construed as including an obligation not to do or omit, suffer, permit, allow, cause or procure such act or thing and any such obligation shall be observed and performed from time to time.
- 29.5 Where the Guarantor is a sole proprietorship or a partnership, the expression "**the Guarantor**" shall include the sole proprietor or all and each of the partners who constitute the Guarantor for the time being. The liabilities and obligations of each partner (who constitutes the Guarantor) under this Deed shall be joint and several. If any person is admitted to become a partner in the Guarantor, the Guarantor shall procure that such new partner shall undertake to adopt and be bound by the terms of this Deed as if it had originally been a party hereto and sign any documents or agreements as GTJAS may require for this purpose.
- 29.6 It is intended that this Deed shall take effect as a deed notwithstanding that a party hereto may only execute this Deed under hand.
- 29.7 This Deed is and will remain the property of GTJAS. It will not be returned to the Guarantor at any time.
- 29.8 All communications and documents sent hereunder shall either be in English or Chinese language. If not, it shall be accompanied by a certified English translation of the same. In case of inconsistencies, the English version shall prevail.
- 29.9 Unless expressly provided to the contrary in this Deed, a person who is not a party hereto has no rights under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of Laws of Hong Kong) ("**Third Parties Ordinance**") to enforce or to enjoy the benefit of any term of this Deed. Notwithstanding any provision of this Deed to the contrary or otherwise, the consent of any third person who is not a party hereto is not required to rescind or vary any provision of this Deed at any time. Any other member of the GTJAS Group may, subject to this Clause and the Third Parties Ordinance, rely on any Clause of this Deed which expressly confers rights on it.

## SCHEDULE

### Part A

Date of this Deed: \_\_\_\_\_

### Part B

#### Details of the Guarantor:

(1) Name: \_\_\_\_\_  
Type: \_\_\_\_\_  
Address: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Document of Identification (Type and Number): \_\_\_\_\_

(2) Name: \_\_\_\_\_  
Type: \_\_\_\_\_  
Address: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Document of Identification (Type and Number): \_\_\_\_\_

(3) Name: \_\_\_\_\_  
Type: \_\_\_\_\_  
Address: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Document of Identification (Type and Number): \_\_\_\_\_

(4) Name: \_\_\_\_\_  
Type: \_\_\_\_\_  
Address: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Document of Identification (Type and Number): \_\_\_\_\_

## Part C

### Particulars of Debtors

Name(s) of Debtor:

- (1) Name: \_\_\_\_\_  
Address: \_\_\_\_\_
- (2) Name: \_\_\_\_\_  
Address: \_\_\_\_\_
- (3) Name: \_\_\_\_\_  
Address: \_\_\_\_\_
- (4) Name: \_\_\_\_\_  
Address: \_\_\_\_\_

**IN WITNESS** whereof this Deed has been duly executed on the date above mentioned in Part A of the Schedule.

**EXECUTED** and **DELIVERED** as )  
a **DEED** and **SIGNED** by )  
\_\_\_\_\_, the sole director )  
on behalf of ) \_\_\_\_\_  
Name of Guarantor ) Name:  
 ) Title: Director  
in the presence of: )

\_\_\_\_\_  
Witness signature  
Name and ID No. of witness(es):

OR

**EXECUTED** and **DELIVERED** as ) \_\_\_\_\_  
a **DEED** and **SIGNED** by ) Name:  
\_\_\_\_\_, the director ) Title: Director  
\_\_\_\_\_, the director/company secretary )  
on behalf of ) \_\_\_\_\_  
Name of Guarantor ) Name:  
 ) Title: Director / Company Secretary  
in the presence of: )

\_\_\_\_\_  
Witness signature  
Name and ID No. of witness(es):

OR

**SEALED** with the **COMMON SEAL** of )  
Name of Guarantor )  
and **SIGNED** by \_\_\_\_\_ )  
the authorised signatory ) Name:  
in the presence of: ) Title: Authorised Signatory

\_\_\_\_\_  
Witness signature  
Name and ID No. of witness(es):

**(IN CASE OF EXECUTION BY A FOREIGN GUARANTOR)**

EXECUTED as a DEED on behalf of )  
)  
*Name of the Guarantor* )  
)  
incorporated in (territory) )  
)  
by )  
)  
*Full name(s) of person(s) signing* )  
)  
being (a) person(s) who, in accordance with )  
)  
the laws of that territory, is/are acting under )  
)  
the authority of that company )

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Witness signature

Name and ID No. of witness(es):-