

## Terms & Conditions for Performance Guarantee Application

In consideration of United Overseas Bank Limited ("The Bank") agreeing at the Customer's request to issue the Letter of Guarantee, the Customer hereby agrees with the Bank as follows:

- A) The Customer shall pay to the Bank a stated commission or such other commission as the Bank may determine from time to time, to be debited from any accounts which the Customer may have with the Bank from time to time.
- B) The Customer shall indemnify the Bank and at all times keep the Bank fully and completely indemnified from and against all claims and demands, actions and proceedings, losses and expenses (including legal costs on an indemnity basis) and all other liabilities of whatsoever nature of description which may be made or taken or incurred or suffered by you in connection with or in any manner arising out of the said Letter of Guarantee and any extension or renewal thereof and the Customer further agrees that its liability aforesaid shall be a continuing liability and shall remain in full force and effect until the said Letter of Guarantee and any extension or renewal thereof is released and returned to the Bank and the Bank's liability thereunder is fully discharged to the Bank's satisfaction.
- C) Without prejudice to the generality of the Customer's aforesaid indemnity, the Customer hereby authorises the Bank at its discretion to determine or recall the said Letter of Guarantee and any extension or renewal thereof by paying the Beneficiary the amount guaranteed and the Customer further authorises the Bank to set off any money in its hands belonging to the Customer or to debit against the Customer in any account which the Customer now or may hereafter have with the Bank any sum or sums of money which the Bank may pay for or in respect of the Bank's determination or recall of the said Letter of Guarantee and any extension or renewal thereof and the Customer agrees to pay interest on any money so paid by the Bank which remains owing by the Customer at the Bank's usual overdraft rate from the date of payment until repayment thereof is received by the Bank from the Customer.**
- D) It is hereby agreed and declared that in the event of the application being signed by two or more of the Customer's authorised signatories each and all such persons signing the same shall be deemed to be jointly and severally liable to the Bank.
- E) The following terms and conditions shall apply to the application:
  - 1. The said Letter of Guarantee shall be issued only on completion of legal documentation and fulfilment of such conditions precedent as the Bank may require.
  - 2. All claims drawn under the said Letter of Guarantee shall be for the Customer's account and the Customer undertakes to pay on demand or on presentation of a claim any amount so paid by the Bank in accordance with the said Letter of Guarantee.
  - 3. Unless expressly agreed or otherwise, the Bank's liability under the said Letter of Guarantee shall not be reduced by reason of any partial performance of the contract between the Customer and the Beneficiary.
  - 4. Where the form of claim by the Beneficiary is not specified in sufficient detail by the Customer, the Bank shall nevertheless make such payment to the Beneficiary as may be required under the said Letter of Guarantee upon the written request of the Beneficiary forwarded directly through the Customer or the Customer's named correspondent and the Bank is further authorised to debit the Customer's account in accordance with any such payment made in pursuant to Condition 11 below.

5. Where this Agreement and the terms of the said Letter of Guarantee in the specimen text are insufficient, incomplete or otherwise unacceptable to the Bank for any reason whatsoever, the Bank may with the Customer's consent (such consent may be either oral or written) modify, alter or otherwise amend the terms of the said Letter of Guarantee and any guarantee resulting from such modification, alteration or amendment shall bind the Customer upon the Terms and Conditions herein as if the modified, altered or amended guarantee was issued upon the Customer's express written application.
6. Unless otherwise agreed to in writing, the Customer undertakes to deposit with the Bank on demand either before or after the issue of the said Letter of Guarantee such sum(s) of money as the Bank may from time to time at the Bank's sole discretion require for the purpose of security, additional security (where security has already been given) or for any other reason which the Bank may think fit.
7. The Customer undertakes that upon the expiry and/or cancellation of the said Letter of Guarantee the Customer will obtain the original thereof from the Beneficiary and return the same to the Bank for renewal or cancellation as may be necessary.
8. The Customer agrees that the Bank's rights under this Agreement shall be addition to and shall not affect or lessen the Bank's rights created by any circumstances of any transactions under any other agreement and the Customer agrees that the rights and powers conferred by this Agreement are in addition to and without prejudice to any other securities which the Bank may now or hereafter hold for the Customer's account.
9. Interest of 2% per annum in addition to the prescribed rate will be charged on all fees, commissions and all other charges not paid when due. All interest charged (including additional interest) will be calculated based on a 365 day year with monthly rests or with such other periodic rests as the Bank may specify and is payable both before and after judgement. The Bank may vary the interest rate(s) (including additional interest) from time to time at the Bank's absolute discretion.
10. The Customer shall pay to the Bank on demand on a full indemnity basis all costs and expenses, legal or otherwise connected with the provision, protection and realisation of securities and the processing, implementation and recovery of moneys owing under this Agreement, together with interest from the date the costs and expenses are incurred to the date of full payment at such rate as the Bank may prescribe.
11. Without prejudice to any other rights that the Bank may have, the Bank shall have the right (without being obliged to) at any time without prior notice to debit the Customer's current account and/or to debit the balance of the Customer's overdraft facility with all outstandings in respect of the said Letter of Guarantee, fees, commissions, charges, the costs and expenses stated in Condition 10 above and all other moneys due from the Customer in connection with this Agreement provided no such debiting shall be deemed to be a payment of the amount due (except to the extent of any amount in credit in the Customer's current account) or a waiver of any event of default under this Agreement or any other agreement relating to the said Letter of Guarantee. If such debiting causes the Customer's account to be overdrawn, interest shall be payable accordingly.
12. The Customer shall supply to the Bank on request all statements, information, materials and explanations relating to the Customer's business and financial position including, where appropriate, Annual Audited Financial Statements and Directors'/Auditors' Reports which shall be provided not later than 6 months after the close of each financial year.
13. The Customer shall not, without the Bank's prior written consent (which will not be unreasonably withheld), undertake or permit any re-organisation, amalgamation, reconstruction, take-over, substantial change of shareholders or any other schemes of compromise or arrangement affecting the Customer's present constitution or amend or alter any of the provisions in the Customer's Memorandum & Articles of Association relating to the Customer's borrowing powers and principal business activities.

14. The Bank may neglect or forbear to enforce any of the terms in this Agreement or waive on such conditions as the Bank deems fit any breach by the Customer of the same without prejudice to the Bank's right at any time afterwards to act strictly in accordance with the originally agreed terms in respect of the existing or subsequent breach.
15. The Bank shall be entitled (but shall not be obliged) at any time and without notice to the Customer to combine, consolidate or merge all or any of the Customer's accounts and liabilities with and to the Bank whether singly or jointly or jointly with any other person and may transfer or set off any sums in credit in such accounts in or towards satisfaction of any of the Customer's liabilities whether actual or contingent, primary or collateral. If any of the accounts in credit is expressed in quantities of gold, silver or other precious metals or is in a currency other than the currency of the liabilities the Bank may convert them to cash in the currency of the liabilities at the Bank's own rate for their purchase or exchange then prevailing.
16. On the occurrence of any of the following events of default the Bank shall cease to be under any further commitment to the Customer and all outstandings hereunder shall become due and payable immediately and the Customer shall provide cash cover for all contingent liabilities and for all bonds, guarantees, indemnities, documentary or other credits or any instruments whatsoever from time to time entered into by the Bank for the Customer's account or at the Customer's request:
  - a) If the Customer breaches any term of this Agreement including failure to pay any amount due under this Agreement on the due date or on demand, if so payable;
  - b) If the Customer is unable to pay the Bank's debts when they become due or commit an act of bankruptcy or insolvency;
  - c) If the Customer ceases or threatens to cease carrying on the Customer's business or transfer or dispose or intend to so transfer or dispose of a substantial part of the Customer's assets or change or intend to change the nature or scope of the Customer's business as now conducted;
  - d) If any resolution is passed, or a petition is presented against the Customer for bankruptcy, liquidation, winding up or dissolution or for the appointment of a judicial manager, or a liquidator, receiver, trustee or similar official is appointed of all or a substantial part of the Customer's assets or if execution or any form of action is levied or taken against any of the Customer's assets;
  - e) If the Customer defaults under any other agreement involving the borrowing of money or the granting of advances or credit which gives the holder of the obligation concerned the right to accelerate repayment or withdraw the advance or credit;
  - f) If, in the Bank's opinion, there is any change or threatened change in circumstances which would materially and adversely affect the Customer's business or financial condition or the Customer's ability to perform its obligations under this Agreement or any other agreement with the Bank, including any change or threatened change in the Customer's shareholders or directors, if a corporation.
  - g) If a notice for compulsory acquisition of the mortgaged property (if any) or any part thereof is issued or made under or by virtue of an Ordinance or other statutory provision.
  - h) If any of the foregoing events or analogous events or proceedings occurs in relation to any third party who now or hereafter has guaranteed or provided security or given an indemnity for the facilities.
17. This Agreement shall continue to be valid and binding notwithstanding any change in the Customer's constitution, if a corporation, by amalgamation, consolidation, reconstruction or otherwise, and if a firm, by retirement, expulsion, death, admission, accession or change of any partners or otherwise.
18. If any sum paid or recovered in respect of the Customer's liabilities under this Agreement is less than the amount then owing the Bank may apply that sum to interest, fees, principal or any amount due in such proportions and order and generally in such manner the Bank thinks fit or may credit the same or part thereof to a suspense account if the Bank thinks fit.

19. The Customer consents to the Bank disclosing relevant particulars of any of the Customer's accounts to any guarantor, mortgagor, chargor, pledgor or any other person who has undertaken liability or provided security for the Customer's accounts with the Bank or for the Customer's liabilities under this Agreement, as well as to the Hong Kong Monetary Authority and any official of the Stamp Duty Office for purposes of assessing the amount of stamp duty to be paid on any security documents set out in this Agreement or any Letter of Offer accepted by the Customer.
20. This Agreement shall be governed by and construed in accordance with the law of the Hong Kong Special Administrative Region. The Customer hereby irrevocably submits to the non-exclusive jurisdiction of the Hong Kong courts.