

To: **HUA NAN COMMERCIAL BANK, LTD.**

COUNTER INDEMNITY for Letter of Guarantee / Indemnity / Bond / Standby Letter of Credit

1. IN CONSIDERATION OF your giving or continuing to give a Guarantee/Indemnity/Bond/Standby Letter of Credit to* _____ substantially in the form attached ('the Guarantee', which expression shall include any extension or modification thereto, whether or not any such extension or modification is made at the request or with the consent of the undersigned), I/we* _____ of _____
HEREBY UNCONDITIONALLY AND IRREVOCABLY AGREE TO INDEMNIFY you (which expression shall include your successors and assigns) against all actions, claims, demands, liabilities, losses, damages, costs, charges and expenses of whatever nature which may result or which may sustain, suffer or incur in connection with or arising in any whatsoever out of the Guarantee, and TO PAY to you forthwith all moneys and liabilities whatsoever which may from time to time be claimed or demanded from you, or which you shall pay or become liable to pay or sustain, suffer or incur under or by reason of or in connection with the Guarantee.
2. For so long as the Guarantee is in force, and until it is returned to you, I/we shall pay you a commission at the rate of _____ per cent per annum on your maximum contingent liability under the Guarantee, such commission to be payable _____ in advance on the date of issue of the Guarantee and intervals of _____ months following such date (it being understood that in computing the amount of any sum falling due and payable under this paragraph in respect of any period, it shall be assumed that the amount on which commission will accrue on any day in that period will throughout that period be what it was on the first day thereof but that, if such proves not to be the case, that will be taken into account in computing the amount of any sum subsequently falling due and payable under this paragraph).
3. YOU are hereby irrevocably authorised and empowered by the undersigned, without making prior demand, to debit the amounts of the undersigned with any moneys from time to time payable under this Counter-Indemnity and, in the event of a debit balance or a debit balance in excess of any agreed overdraft limit resulting therefrom, to charge interest on such moneys to the date of repayment (notwithstanding any demand or any judgment obtained by you or any other matter whatsoever) at a rate of _____ per centum per annum over your prime lending rate, or at such higher rates as may from time to time be payable on such account upon such days and upon such terms as you may from time to time determine, and such interest shall be compounded for such periods as you may require in the event of it not being punctually paid in accordance with your usual practice, but without prejudice to your right to required payment of such interest.
4. YOU are hereby further irrevocably authorised and empowered by the undersigned to pay immediately any amounts demanded from you or which you from time to time become liable to pay under or by reason of the Guarantee without any reference to or further authority from the undersigned and without being under any duty to enquire whether any claims or demands on you have been properly made, notwithstanding that the validity of any such claim or demand or the amount thereof shall be in dispute.
5. THE undersigned hereby agrees to accept any claim or demand on you as conclusive evidence that you were liable to pay and any payment made pursuant to such demand which purports to be in accordance with the Guarantee as binding upon the undersigned.
6. ANY steps taken by you in good faith under or in connection with the Guarantee shall be binding on the undersigned and shall not place you under any liability to the undersigned.
7. YOU may at any time without prior reference to the undersigned determine the Guarantee or reduce your liability thereunder.
8. (A) ALL sums payable under this Counter-Indemnity shall be paid to you in Hong Kong, or otherwise as you may from time to time direct, without any deduction or withholding for or on account of any present or future taxes, levies, imposts, duties or other charges, fees, withholdings, restrictions or conditions, and without set-off or counterclaim or any deduction whatsoever.
(B) IF the undersigned is compelled by law to make any such deduction or withholding, the undersigned will ensure that the amount deducted or withheld does not exceed the minimum legal liability therefor, and will promptly pay to you such additional amount as will in the net amount received by you being equal to the full amount which would have been receivable had there been no deduction or withholding.
(C) IF the effect of any, or a change in any, law of regulation is to increase the cost of to you of advancing, maintaining or funding this facility or to reduce the effective return to you, the undersigned hereby agrees to make payment on demand of such amounts as you consider necessary as compensation therefor.
9. ALL payments hereunder shall be made, at your option, either in the currency in which payments made or liabilities incurred by you under the Guarantee are denominated, or in the currency commonly in use in any of the principal places of business of the undersigned, or in Hong Kong Dollars.
10. YOU shall have a lien on and be entitled to return as security for the liabilities of the undersigned hereunder any cheques, drafts, bills, notes or negotiable or non-negotiable instruments and any stocks, shares or marketable or other securities and property of all kinds of the undersigned from time to time held by you, whether for safe custody or otherwise. In addition, the undersigned hereby agrees to provide cash cover and/or other form of acceptable security sufficient to fully secure your contingent liability under the Guarantee if at any time this is demanded by you.
11. THIS Counter-indemnity shall not be in any way discharged or diminished, nor shall the liability of the undersigned be affected by reason of you from time to time, without knowledge or consent of the undersigned, varying, realising or releasing any of the same, or granting any time, indulgence or concession or compounding with any person, or concurring in accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment or determining, varying, reducing or extending the terms of the Guarantee, or by anything done or omitted which, but for this provision, might operate to exonerate the undersigned.

**(Insert full name(s) and address(es). If a company, give the address of the registered office.)*

12. THIS undersigned hereby waives all rights of subrogation and agrees not to claim any set off or counterclaim against any other person liable, or to claim or prove in competition with you in the event of the bankruptcy, liquidation, winding up or insolvency of any such person, or to have the benefit of or share in any guarantee, indemnity, or security now or hereafter held by you, until you have been fully indemnified against all matters referred to in paragraphs 1 and 2 hereof.
13. THIS Counter-Indemnity is in addition to any other guarantee, indemnity, assurance, pledge, lien, bill, note, mortgage, charge, debenture, or other security, right, power or remedy now or hereafter held by or available to you.
14. A demand shall, without prejudice to any other effective mode of making the same, be deemed to have been sufficiently made hereunder on the undersigned if served on the undersigned or his personal representatives personally (or, in the case of a limited company, on any one of the Directors or on the Secretary thereof personally), or left or sent by post to the undersigned, or his personal representative at his or their usual or last known place of abode or business (or, in the case of a limited company, at its registered office), and shall be assumed to have reached the addressee within 24 hours of posting, and in proving such service it shall be sufficient to prove that the demand was properly addressed and posted. In the case of the death of the undersigned, and until receipt by you of notice in writing of the grant of Probate of the Will of Letters of Administration of the Estate of the deceased, any demand sent by post, as aforesaid, addressed to the deceased, or to his personal representatives, at the usual or last known place of abode or business of the deceased shall for all purposes be deemed a sufficient demand by you to the deceased, and his personal representatives, and shall be as effectual as if the deceased were still living.
15. THE undersigned agrees that no time for limitation of liability in respect of this Counter-Indemnity shall begin to run in favour of the undersigned unless and until you shall have made demand on the undersigned, and if more than one demand is made, then only from the date and to the extent of each demand respectively.
16. WHERE this Counter-Indemnity is signed by more than one person the expression 'the undersigned' shall be construed as referring to each such person individually and to any one or more of such persons collectively, and the agreements, undertakings, obligations and liabilities of the undersigned herein contained are joint and several and shall be construed accordingly, and none of the undersigned shall be entitled to any rights or remedies, legal or equitable, of a surety as regards the indebtedness, obligations or liabilities of any others of the undersigned.
17. EACH of the undersigned agrees and consents to be bound by this Counter-Indemnity, notwithstanding that any others who were intended to sign or to be bound by these presents may not do so or be effectually bound hereby, and notwithstanding that this Counter-Indemnity may be invalid or unenforceable against any one or more of the undersigned, whether or not the deficiency is known to you.
18. YOU shall be at liberty to release any one or more of the undersigned from this Counter-Indemnity, 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 undersigned, without prejudice or affecting your rights, powers and remedies against any others of the undersigned.
19. THE undersigned agrees that his liability to you shall remain outstanding until the expiry of one calendar month after the return to you for cancellation by the beneficiary of the Guarantee, or in the event that the Guarantee has been destroyed or lost or if otherwise not available for return to you, until the expiry of one calendar month after the receipt of written notice from the beneficiary of the Guarantee that you are released from all liability thereunder. This Clause shall not prejudice any liability of the undersigned arising hereunder prior to the date of cancellation of the Guarantee or the date of receipt of the said written notice as the case may be.
20. WHERE this Counter-Indemnity is signed on behalf of a firm, all agreements, undertakings, obligations and liabilities shall be binding both on the present partners and on the persons from time to time carrying on business in the name of such firm or under the name in which the business of such firm may from time to time be continued.
21. THIS Counter-Indemnity shall be governed by and construed in all respects in accordance with the laws of Hong Kong.
22. THE undersigned hereby irrevocably submits to the non-exclusive jurisdiction of the Hong Kong Courts. Nothing herein shall limit your right to commence any legal action against the undersigned and or the undersigned's property in any other jurisdiction, and the taking of proceedings in any jurisdiction shall not preclude the taking of proceedings in any other jurisdiction(s) whether concurrently or not.
23. IF any one or more provisions of this Counter-Indemnity, or any part thereof, shall be declared or adjudged to be illegal, invalid or unenforceable under any applicable law, such illegality, invalidity or unenforceability shall not vitiate any other provisions of this Counter-Indemnity, which shall remain in full force, validity and effect.

This agreement has been entered into on _____, 20_____.

 Authorised signature(s) and Chop

 Witness Signature

Name (*in full*) _____

Name (*in full*) _____

Address _____

Address _____

FOR BANK USE ONLY

Prepared By	Department Head	A.D.Mgr. / D.G. Mgr. /G. Mgr.

