
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 6-K

**REPORT OF FOREIGN PRIVATE ISSUER
PURSUANT TO RULE 13a-16 OR 15d-16 UNDER
THE SECURITIES EXCHANGE ACT OF 1934**

For the month of August 2021

Commission File Number: 000-51469

BAIDU, INC.

**Baidu Campus
No. 10 Shangdi 10th Street
Haidian District, Beijing 100085
The People's Republic of China
(Address of principal executive offices)**

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.

Form 20-F Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7):

EXPLANATORY NOTE

Each of Exhibit 1.1 and Exhibit 4.106 to this current report on Form 6-K is incorporated by reference into the registration statement on Form F-3 of Baidu, Inc. (File No. 333-249314) and shall be a part thereof from the date on which this current report is furnished, to the extent not superseded by documents or reports subsequently filed or furnished.

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
1.1	Form of Underwriting Agreement
4.106	US\$3,000,000,000 Facilities Agreement between the Registrant and other parties thereto dated April 2, 2021

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

BAIDU, INC.

By: /s/ Herman Yu

Name: Herman Yu

Title: Chief Financial Officer

Date: August 18, 2021

\$[•]

BAIDU, INC.

\$[•] [•]% Notes due 20[•]

\$[•] [•]% Notes due 20[•]

Underwriting Agreement

[•], 2021

Goldman Sachs (Asia) L.L.C.
68/F, Cheung Kong Center
2 Queen's Road Central
Hong Kong

BofA Securities, Inc.
One Bryant Park
New York, New York 10036
United States

J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179
United States

China International Capital Corporation Hong Kong Securities Limited
29th Floor, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

As Representatives of the several Underwriters listed in Schedule 1 hereto

Ladies and Gentlemen:

Baidu, Inc., an exempted company limited by shares under the laws of the Cayman Islands (the “**Company**”), proposes, subject to the terms and conditions stated herein, to issue and sell to the Underwriters named in Schedule 1 hereto (the “**Underwriters**”), for whom you are acting as representatives (the “**Representatives**”), an aggregate of \$[•] principal amount of its [•]% Notes due 20[•] (the “**20[•] Notes**”) and an aggregate of \$[•] principal amount of its [•]% Notes due 20[•] (the “**20[•] Notes**”, and together with the 20[•] Notes, the “**Securities**”). The Securities will be issued pursuant to the Indenture dated as of November 28, 2012 (the “**Original Indenture**”), as amended by the Tenth Supplemental Indenture to be dated as of [•], 2021 (the “**Tenth Supplemental Indenture**”, together with the Original Indenture, as further amended or supplemented, the “**Indenture**”) between the Company and The Bank of New York Mellon, as trustee (the “**Trustee**”).

1. **Registration Statement.** The Company has prepared and filed with the Securities and Exchange Commission (the “**Commission**”) under the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder (collectively, the “**Securities Act**”), a registration statement on Form F-3, including a prospectus (the “**Basic Prospectus**”), relating to the debt securities to be issued from time to time by the Company. The Company has also filed with the Commission pursuant to Rule 424 under the Securities Act a prospectus supplement specifically relating to the Securities (the “**Prospectus Supplement**”). The registration statement, as amended at the time it becomes effective, including the information, if any, deemed pursuant to Rule 430A or 430B under the Securities Act to be part of the registration statement at the time of its effectiveness (“**Rule 430 Information**”), is referred to herein as the “**Registration Statement**”; and as used herein, the term “**Prospectus**” means the Basic Prospectus as supplemented by the prospectus supplement specifically relating to the Securities in the form first used (or made available upon request of purchasers pursuant to Rule 173 under the Securities Act) in connection with confirmation of sales of the Securities and the term “**Preliminary Prospectus**” means the preliminary prospectus supplement specifically relating to the Securities together with the Basic Prospectus. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Registration Statement and the Prospectus. References herein to the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, Time of Sale Information or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein, as of the effective date of the Registration Statement or the date of such Preliminary Prospectus or the Prospectus, as the case may be. The terms “**supplement**,” “**amendment**” and “**amend**” as used herein with respect to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed or furnished by the Company under the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder (the “**Exchange Act**”) which are deemed to be incorporated by reference therein. For purposes of this Agreement, the term “**Effective Time**” means the later of (i) the effective date of the Registration Statement with respect to the offering of Securities or (ii) if the Registration Statement has been amended, the effective date of such post-effective amendment, in each case as determined for the Company pursuant to Section 11 of the Securities Act and Item 512 of Regulation S-K, as applicable.

At or prior to the time on [•], 2021 when sales of the Securities were first made (the “**Time of Sale**”), the Company had prepared the following information (collectively, the “**Time of Sale Information**”): a Preliminary Prospectus dated August 16, 2021, and each “**free-writing prospectus**” (as defined pursuant to Rule 405 under the Securities Act) listed on Annex A hereto.

2. Representations and Warranties of the Company. The Company represents and warrants to each Underwriter as follows:

(a) *Registration Statement and Prospectus*. The Registration Statement is an “automatic shelf registration statement” as defined under Rule 405 of the Securities Act that has been filed with the Commission not earlier than three years prior to the date hereof; and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act has been received by the Company. No order suspending the effectiveness of the Registration Statement has been issued by the Commission and no proceeding for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering has been initiated or threatened by the Commission; as of the applicable effective date of the Registration Statement and any amendment thereto, the Registration Statement complied and will comply in all material respects with the Securities Act and the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder (collectively, the “**Trust Indenture Act**”), and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; and as of the date of the Prospectus and any amendment or supplement thereto and as of the Closing Date, the Prospectus will conform in all material respects with the Securities Act and the Trust Indenture Act, and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation or warranty with respect to (i) that part of the Registration Statement that constitutes the Statement of Eligibility and Qualification (Form T-1) of the Trustee under the Trust Indenture Act or (ii) any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement and the Prospectus and any amendment or supplement thereto, it being understood and agreed that the only such information furnished to the Company by or on behalf of any Underwriter consists of the information described as such in Section 7(b) hereof.

(b) *Preliminary Prospectus*. No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission, and each Preliminary Prospectus, at the time of filing thereof, complied in all material respects with the Securities Act and did not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in any Preliminary Prospectus, it being understood and agreed that the only such information furnished to the Company by or on behalf of any Underwriter consists of the information described as such in Section 7(b) hereof.

(c) *Time of Sale Information.* The Time of Sale Information, at the Time of Sale did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Preliminary Prospectus, the Time of Sale Information or the Prospectus, it being understood and agreed that the only such information furnished to the Company by or on behalf of any Underwriter consists of the information described as such in Section 7(b) hereof.

(d) *Issuer Free Writing Prospectus.* The Company (including its agents and representatives, other than the Underwriters in their capacity as such) has not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any “**written communication**” (as defined in Rule 405 under the Securities Act) that constitutes an offer to sell or solicitation of an offer to buy the Securities (each such communication by the Company or its agents and representatives (other than a communication referred to in clauses (i) (ii) and (iii) below) an “**Issuer Free Writing Prospectus**”) other than (i) any document not constituting a prospectus pursuant to Section 2(a)(10)(a) of the Securities Act or Rule 134 under the Securities Act, (ii) the Preliminary Prospectus, (iii) the Prospectus, (iv) the documents listed on Annex A hereto as constituting part of the Time of Sale Information and (v) any electronic road show or other written communications, in each case approved in writing in advance by the Representatives. Each such Issuer Free Writing Prospectus complies in all material respects with the Securities Act, has been or will be (within the time period specified in Rule 433) filed in accordance with the Securities Act (to the extent required thereby) and, when taken together with (i) the Preliminary Prospectus accompanying, or delivered prior to delivery of, such Issuer Free Writing Prospectus and (ii) any subsequent Issuer Free Writing Prospectus (dated on or before the Time of Sale or the Closing Date, as appropriate) amending, supplementing or updating such Issuer Free Writing Prospectus, did not at the Time of Sale, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation or warranty with respect to any statements or omissions made in each such Issuer Free Writing Prospectus in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in any Issuer Free Writing Prospectus, it being understood and agreed that the only such information furnished to the Company by or on behalf of any Underwriter consists of the information described as such in Section 7(b) hereof.

(e) *Incorporated Documents.* The documents incorporated by reference in each of the Registration Statement, the Prospectus and the Time of Sale Information, when they were filed or furnished with the Commission conformed in all material respects to the requirements of the Exchange Act, and none of such documents contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and any further documents so filed and incorporated by reference in the Registration Statement, the Prospectus or the Time of Sale Information, when such documents become effective or are filed or furnished with the Commission, as the case may be, will conform in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) *No Material Adverse Change.* Since the date of the most recent financial statements of the Company included or incorporated by reference in each of the Registration Statement, the Time of Sale Information and the Prospectus, (i) there has not been any change in the capital stock or long-term debt of the Company or any of its subsidiaries or its consolidated affiliated entities (the “**Controlled Entities**”), or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company on any class of capital stock, or any material adverse change, or any development involving a prospective material adverse change, in or affecting the business, properties, rights, assets, management, financial position, results of operations or prospects of the Company and its Controlled Entities taken as a whole; (ii) neither the Company nor any of its Controlled Entities has entered into any transaction or agreement that is material to the Company and its Controlled Entities taken as a whole or incurred any liability or obligation, direct or contingent, that is material to the Company and its Controlled Entities taken as a whole; and (iii) neither the Company nor any of its Controlled Entities has sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree of any court or arbitrator or governmental or regulatory authority, except in each case as otherwise disclosed in each of the Registration Statement, the Time of Sale Information and the Prospectus.

(g) *Title to Property.* Each of the Company and its Subsidiaries has good and marketable title to all real property owned by it, in each case, which is material to the business of the Company and its Controlled Entities, taken as a whole, in each case free and clear of all liens, encumbrances and defects except such as are described in each of the Registration Statement, the Time of Sale Information and the Prospectus or such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its Subsidiaries; and any real property and buildings held under lease by each of the Company and its Subsidiaries are held by it under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by each of the Company and its Subsidiaries.

(h) *Organization and Good Standing.* The Company, each of its subsidiaries as listed in Exhibit 8.1 to the Company's Annual Report on Form 20-F for the financial year ended December 31, 2020 filed with the SEC on March 9, 2021 (File No. 000-51469) (the "**Annual Report**"), (each, a "**Covered Subsidiary**") and each of its consolidated affiliated entities as listed in Exhibit 8.1 to the Annual Report (each, a "**Covered Consolidated Affiliated Entity**") and all the Covered Subsidiaries and Covered Consolidated Affiliated Entities being referred to collectively as the "**Subsidiaries**") have been duly organized and are validly existing and in good standing under the laws of their respective jurisdictions of organization, are duly qualified to do business and are in good standing in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged. All of the "**significant subsidiaries**" (as defined in Rule 1-02 of Regulation S-X under the Exchange Act) of the Company are listed in Exhibit 8.1 to the Annual Report and no other subsidiary or affiliated entity of the Company, when considered individually or in the aggregate, would constitute a "significant subsidiary" of the Company.

(i) *Corporate Structure.* The ownership structure relating to the Covered Consolidated Affiliated Entities complies with current PRC laws and regulations. Each of the contractual arrangements between or among the Company, the Subsidiaries and/or shareholders of the Covered Consolidated Affiliated Entities, as the case may be (each a "**Structure Contract**" and collectively the "**Structure Contracts**") is in full force and effect, enforceable against such parties in accordance with its terms, and none of the parties thereto is in breach or default in the performance of any of the terms or provisions of such Structure Contract. Each of the Structure Contracts does not (A) conflict with or result in a breach or violation of any of the terms or provision of, or constitute a default under, any indenture, mortgage, deed of trust, lease, loan agreement or other agreement or instrument to which the Company and any Covered Consolidated Affiliated Entity or, to the best knowledge of the Company after due inquiry, any shareholder of such Covered Consolidated Affiliated Entity, as the case may be, is a party or by which the Company, any Covered Consolidated Affiliated Entity or, to the best knowledge of the Company after due inquiry, any shareholder of such Covered Consolidated Affiliated Entity is bound or to which any of its properties or assets are subject, (B) result in any violation of the provisions of the constitutive documents or business license of the Company or any Covered Consolidated Affiliated Entity or (C) result in any violation of PRC statute or any order, rule or regulation of any PRC governmental agency, except, in each of (A) and (C) above, to the extent such breach, violation or default would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the business, properties, rights, assets, management, financial position, results of operations or prospects of the Company and its Controlled Entities taken as a whole or on the performance by the Company of its obligations under the Transaction Documents (as defined below) (a "**Material Adverse Effect**"). None of the parties to any of the Structure Contracts has sent or received any communication regarding termination of, or intention not to renew, any of the Structure Contracts, and no such termination or non-renewal has been threatened or to the best of the Company's knowledge is being contemplated by any of the parties thereto. To the best of the Company's knowledge, there are no governmental or regulatory investigations ongoing or contemplated by any governmental or regulatory authority pertaining to the Structure Contracts.

(j) *Control.* The Company possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the Covered Consolidated Affiliated Entities, through, among other things, the rights assigned by their shareholders as to the exercise of their voting rights. The Company is not aware of any development (including, without limitation, developments with respect to the contractual arrangements involving the Covered Consolidated Affiliated Entities and accounting policies and operations of the Covered Consolidated Affiliated Entities) that could reasonably cause the Company to be unable to consolidate the operating and financial results of any of the Covered Consolidated Affiliated Entities.

(k) *Licenses.* Each of the Company and its Subsidiaries has all necessary licenses, franchises, concessions, consents, authorizations, approvals, orders, certificates and permits of and from all governmental or regulatory authorities to conduct their business in the manner described in each of the Registration Statement, the Time of Sale Information and the Prospectus, except that the failure to have any such license, franchise, concession, consent, authorization, approval, order, certificate and permit would not reasonably be expected to have a Material Adverse Effect; none of the Company or any of its Subsidiaries has received any notice of proceedings relating to the revocation or modification of any such licenses, consents, authorizations, approvals, orders, certificates or permits.

(l) *No Violations.* Except as disclosed in the Time of Sale Information, none of the Company or any of its Subsidiaries is (A) in breach of or in default under any laws, regulations, rules, orders, decrees, guidelines or notices in the PRC, the Cayman Islands, the British Virgin Islands, Hong Kong, Japan or the United States, (B) in breach of or in default under any approval, consent, waiver, authorization, exemption, permission, endorsement or license granted by any court or governmental or regulatory agency or body or any stock exchange authorities in the PRC, the Cayman Islands, the British Virgin Islands, Hong Kong, Japan or the United States, (C) in violation of its constituent documents or (D) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it is bound or by which any property, right or asset of it may be bound, except that, with respect to (A) and (D), the existence of such breach or default would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(m) *Capitalization.* The Company has the authorized, issued and outstanding capitalization as set forth in the Time of Sale Information. All the outstanding shares of capital stock or other equity interests of each Covered Subsidiary (i) have been duly and validly authorized and issued, (ii) are fully paid and non-assessable, (iii) are owned directly or indirectly by the Company, except as set forth in the Time of Sale Information, and (iv) are free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party. All of the issued and outstanding share capital or equity interest of each of the Covered Consolidated Affiliated Entities (i) have been duly authorized and validly issued, (ii) are fully paid and non-assessable, (iii) are owned directly by directors, senior officers or family members of directors or senior officers of the Company or by consolidated affiliated entities of the Company, as the case may be, and (iv) are free and clear of any security interest, mortgage, pledge, lien encumbrance, claim and equity other than as set forth in the Time of Sale Information. Each shareholder of the Covered Consolidated Affiliated Entities is a citizen of the People's Republic of China (which for the purpose of this Agreement excludes Taiwan, Hong Kong SAR and Macau SAR) and no application is pending in any other jurisdiction by him or her or on his or her behalf for naturalization or citizenship thereof.

(n) *No Registration Rights.* Except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to require the Company to include such securities in the securities registered pursuant to the Registration Statement.

(o) *Due Authorization.* The Company has full right, power and authority to execute and deliver this Agreement, the Securities and the Indenture (collectively, the "**Transaction Documents**") and to perform its obligations hereunder and thereunder; and all action required to be taken for the due and proper authorization, execution and delivery of each of the Transaction Documents and the consummation of the transactions contemplated thereby has been duly and validly taken.

(p) *Transaction Documents.* This Agreement has been duly authorized, executed and delivered by the Company. The Indenture has been duly authorized and, when executed and delivered by the Company on the Closing Date, will be a valid and binding agreement of the Company, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability (collectively, the "**Enforceability Exceptions**"). The Indenture has been duly qualified under the Trust Indenture Act and on the Closing Date will conform in all material respects to the requirements of the Trust Indenture Act. The Securities have been duly authorized and, on the Closing Date, the Securities will have been duly executed by the Company and, when authenticated in accordance with the Indenture and delivered and paid for as provided in this Agreement, will be the valid and binding obligations of the Company, entitled to the benefits of the Indenture and enforceable in accordance with their terms, subject to the Enforceability Exceptions.

(q) *Description of Indenture and Securities.* The Indenture conforms, and the Securities will conform, in all material respects to the descriptions thereof contained in the Registration Statement, the Time of Sale Information and the Prospectus.

(r) *No Conflicts.* The execution, delivery and performance by the Company of each of the Transaction Documents, the issuance and sale of the Securities and compliance by the Company with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, result in the termination, modification or acceleration of, or result in the creation or imposition of any lien, charge or encumbrance upon any property, right or asset of the Company or any of its Subsidiaries pursuant to, any agreement or other instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound or to which any property, right or asset of the Company or any of its Subsidiaries is subject, (ii) result in any violation of the memorandum and articles of association of the Company or (iii) result in the violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except, in the case of clauses (i) and (iii) above, for any such conflict, breach, violation, default, lien, charge or encumbrance that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(s) *No Consents Required.* No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or governmental or regulatory authority or any stock exchange authority is required for the execution, delivery and performance by the Company of each of the Transaction Documents, the issuance and sale of the Securities and compliance by the Company with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents, except for (i) the registration of the Securities under the Securities Act, the qualification of the Indenture under the Trust Indenture Act and such consents, approvals, authorizations, orders and registrations or qualifications as may be required under applicable state securities laws in connection with the purchase and distribution of the Securities by the Underwriters and (ii) the filing for registration of foreign debt in advance of the offering with the National Development and Reform Commission of the PRC or its local branches (the "**NDRC**") and the filing with the NDRC of the information required under Section 1(3) of the Notice on the Administrative Reform of the Registration of Offshore Debt Issuances (国家发展改革委关于推进企业发行外债备案登记制管理改革的通知(发改外资[2015]2044号)) issued by the NDRC with effect from September 14, 2015 (the "**NDRC Notice**") within 10 PRC Business Days (as defined in the Prospectus Supplement) after the Closing Date.

(t) *Absence of Proceedings.* Other than as set forth in the Registration Statement, the Time of Sale Information and the Prospectus, there are no legal, arbitration or governmental proceedings pending to which the Company or any of its Subsidiaries is a party or of which any property of the Company or any of its Subsidiaries is the subject which, if determined adversely to the Company or any of its Subsidiaries, would individually or in the aggregate have a Material Adverse Effect; and, to the best knowledge of the Company, no such proceedings have been threatened.

(u) *Investment Company Act.* The Company is not, and after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Registration Statement, the Time of Sale Information and the Prospectus will not be, required to register as an "investment company," as such term is defined in the Investment Company Act of 1940, as amended.

(v) *Status under the Securities Act.* The Company is not an ineligible issuer and is a well-known seasoned issuer, in each case as defined under the Securities Act, in each case at the times specified in the Securities Act in connection with the offering of the Securities.

(w) *Intellectual Property*. Except as disclosed in the Registration Statement, the Time of Sale Information and the Prospectus, the Company or its Subsidiaries own, possess or license the patents and patent applications, copyrights, trademarks, service marks, trade names, Internet domain names, technology, know-how (including trade secrets and other unpatented and/or unpatentable proprietary rights) and other intellectual property (collectively, the “**Intellectual Property**”) used by the Company or its Subsidiaries in, and material to, the conduct of the Company’s or its Subsidiaries’ business as now conducted or as proposed in the Registration Statement, the Time of Sale Information and the Prospectus to be conducted, except where such failure to own or possess the valid right to use such Intellectual Property would not, individually or in the aggregate, result in a Material Adverse Effect. To the Company’s knowledge, there is no infringement by third parties of any of the Company’s or its Subsidiaries’ Intellectual Property, except for such infringement as would not, individually or in the aggregate, result in a Material Adverse Effect, and there are no legal or governmental actions, suits, proceedings or claims pending or, to the Company’s knowledge, threatened, against the Company or its Subsidiaries (i) challenging the Company’s or any Subsidiary’s rights in or to any Intellectual Property, (ii) challenging the validity or scope of any Intellectual Property owned by the Company or the Subsidiaries, or (iii) alleging that the operation of the business of the Company or any of its Subsidiaries as now conducted infringes or otherwise violates any patent, trademark, copyright, trade secret or other proprietary rights of a third party and, in the case of (i), (ii) and (iii), which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, and the Company is unaware of any facts which would reasonably be expected to result in any such claim.

(x) *Anti-Corruption*. Neither the Company nor any of its Controlled Entities, any officer or director, nor, to the best knowledge of the Company, any agent, employee or affiliate of the Company or any of its Controlled Entities, is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “**FCPA**”) and any other applicable anti-bribery or anti-corruption rules or regulations (together with the FCPA, the “**Anti-Corruption Rules**”), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the Anti-Corruption Rules or using any funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; and the Company, its Controlled Entities and their affiliates have conducted their businesses in compliance with the Anti-Corruption Rules and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(y) *Compliance with Money Laundering Laws*. The operations of the Company and its Controlled Entities are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the anti-money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Controlled Entities with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(z) *No Conflicts with Sanctions*. Neither the Company, nor any of its Controlled Entities, any officer or director, nor, to the best knowledge of the Company, any agent, employee, affiliate or person acting on behalf of the Company or any of its Controlled Entities, is currently the subject of (i) any U.S. sanctions administered by the United States Government (including, without limitation, by the Office of Foreign Assets Control of the U.S. Treasury Department) and including, without limitation, the designation as a “specially designated national” or “blocked person” or (ii) any sanctions or measures imposed by the United Nations Security Council or European Union or any other applicable jurisdictions (laws and regulations referred to in (i) and (ii) collectively, the “**Sanction Laws and Regulations**”). The Company and/or its Controlled Entities (i) are not located, organized or resident in a country, region or territory that is the subject or the target of Sanctions, including, without limitation, Crimea, Cuba, Iran, North Korea, Sudan and Syria (each, a “**Sanctioned Country**”) and (ii) will not fund or facilitate any activities of or business in any Sanctioned Country or in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions Laws and Regulations. For the past 5 years, the Company and its Controlled Entities have not knowingly engaged in and are not now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country. The Company and/or its Controlled Entities will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person that, at the time of such financing, is the subject of any sanctions administered by any of the Sanction Laws and Regulations.

(aa) *SAFE*. Each of the Company and the Subsidiaries has taken all necessary steps to comply with, and to ensure compliance by all of the Company's direct or indirect shareholders who are PRC residents or PRC citizens with any applicable rules and regulations of the State Administration of Foreign Exchange of the PRC (the "**SAFE Rules and Regulations**"), including, without limitation, requesting each shareholder that is, or is directly or indirectly owned or controlled by, a PRC resident or PRC citizen to complete any registration and other procedures required under applicable SAFE Rules and Regulations.

(bb) *NDRC Registration*. The Company has completed the filing of foreign debt with respect to the offering described in the Preliminary Prospectus, the Time of Sale Information and the Prospectus and obtained a certificate on August 11, 2021 from the NDRC evidencing such registration in accordance with the NDRC Notice.

(cc) *PRC Mergers and Acquisition Rules*. No approvals, consents or authorization are necessary from the China Securities Regulatory Commission, the Ministry of Commerce or other competent authorities in connection with the issuance and sale of the Securities according to the Provisions on the Mergers with and Acquisitions of Domestic Enterprises by Foreign Investors (2006 Revision) jointly promulgated by six ministries on August 8, 2006 and the Implementing Rules Concerning Security Review on the Mergers and Acquisitions by Foreign Investors of Domestic Enterprises promulgated by the MOC on August 25, 2011.

(dd) *Financial Controls*. The Company and its Controlled Entities maintain systems of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that comply with the requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States ("**US GAAP**"). The Company and its Controlled Entities maintain internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as disclosed in each of the Registration Statement, the Time of Sale Information and the Prospectus, there are no material weaknesses or significant deficiencies in the Company's internal controls.

(ee) *eXtensible Business Reporting Language*. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in each of the Registration Statement, the Time of Sale Information and the Prospectus is prepared in accordance with the Commission's rules and guidelines applicable thereto.

(ff) *Labor*. No material labor dispute with the employees of the Company or any of its Subsidiaries exists or, to the knowledge of the Company, is threatened.

(gg) *Cyber Security and Data Protection.* The Company and its Controlled Entities' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "**IT Systems**") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its Controlled Entities, taken as a whole, as currently conducted, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and its Controlled Entities have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data in all material respects (including all personal, personally identifiable, sensitive, confidential or regulated data ("**Personal Data**")) used in connection with their businesses, and there have been no breaches, violations, outages or unauthorized uses of or accesses to same, nor any incidents under internal review or investigations relating to the same, except for those that would not reasonably be expected to have a Material Adverse Effect or that have been remedied without material cost or liability or the duty to notify any other person. As of the date hereof, (i) neither the Company nor any of its Controlled Entities is currently subject to a cybersecurity review by the Cyberspace Administration of the PRC (the "**CAC**"); (ii) neither the Company nor any of its Controlled Entities has received any communication, enquiry, notice, warning or sanctions with respect to the Cybersecurity Law of the PRC or from the CAC, except for those in the ordinary course of business that would not reasonably be expected to have a Material Adverse Effect; and (iii) the Company is not aware of any pending or threatened cybersecurity review by the CAC on the Company or any of its Controlled Entities. The Company and its Controlled Entities are presently in compliance in material respects with all applicable laws or statutes, judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data (including cyber security) and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

(hh) *Sarbanes-Oxley Act.* There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002, as amended, and the rules and regulations promulgated in connection therewith, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(ii) *Financial Statements.* The financial statements and the notes thereto included or incorporated by reference in the Registration Statement, the Time of Sale Information and the Prospectus comply in all material respects with the applicable requirements of the Securities Act and the Exchange Act, and present fairly and accurately in all material respects the financial position of the Company and its Controlled Entities as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with US GAAP applied on a consistent basis throughout the periods covered thereby; and the other financial information included or incorporated by reference in each of the Registration Statement, the Time of Sale Information and the Prospectus has been derived from the accounting records of the Company and its Controlled Entities and presents fairly the information shown thereby.

(jj) *Tax Filings.* All returns, reports or filings which ought to have been made by or in respect of the Company and its Subsidiaries for taxation purposes as required by the law of the jurisdictions where the Company and its Subsidiaries are incorporated or engage in business have been made and all such returns are correct in all material respects, and are not the subject of any dispute with the relevant revenue or other appropriate authorities except as may be being contested in good faith and by appropriate proceedings; and none of the Company or any of its Subsidiaries has received notice of any tax deficiency with respect to the Company or any of its Subsidiaries, other than any tax deficiency that would not reasonably be expected to have a Material Adverse Effect.

(kk) *No Restrictions on Subsidiaries.* No Subsidiary of the Company is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such Subsidiary's capital stock or similar ownership interest, from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of such Subsidiary's properties or assets to the Company or any other Subsidiary of the Company.

(ll) *Proprietary Trading.* The Company acknowledges and agrees that the Underwriters or certain of their respective affiliates may subscribe the Securities and be allocated the Securities for asset management and/or proprietary purposes and not with a view to distribution.

Any certificate signed by any officer of the Company and delivered to the Representatives or counsel for the Underwriters in connection with an offering of Securities shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby on the date of such certificate.

3. Purchase and Sale.

(a) The Company agrees to issue and sell the Securities to the several Underwriters as provided in this Agreement, and each Underwriter, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase from the Company (x) at a purchase price of [•]% (being the issue price to investors of [•]% less a combined underwriting, management and selling commission of [•]%) of the principal amount thereof plus accrued interest, if any, from [•], 2021 to the Closing Date (as defined below), the principal amount of the 20[•] Notes set forth opposite such Underwriter's name in Schedule 1 hereto and (y) at a purchase price of [•]% (being the issue price to investors of [•]% less a combined underwriting, management and selling commission of [•]%) of the principal amount thereof plus accrued interest, if any, from [•], 2021 to the Closing Date, the principal amount of the 20[•] Notes set forth opposite such Underwriter's name in Schedule 1 hereto. The Company will not be obligated to deliver any of the Securities except upon payment for all the Securities to be purchased as provided herein.

(b) The Company understands that the Underwriters intend to make a public offering of the Securities as soon after the effectiveness of this Agreement as in the judgment of the Representatives is advisable, and initially to offer the Securities on the terms set forth in the Time of Sale Information. The Company acknowledges and agrees that the Underwriters may offer and sell Securities to or through any affiliate of an Underwriter and that any such affiliate may offer and sell Securities purchased by it to or through any Underwriter.

(c) Payment for and delivery of the Securities will be made at [10:00 A.M.], New York City time, on [•], 2021, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representatives and the Company may agree upon in writing. The time and date of such payment and delivery is referred to herein as the "**Closing Date.**"

(d) Payment for the Securities shall be made by wire transfer in immediately available funds to the account(s) specified by the Company to the Representatives against delivery to the nominee of The Depository Trust Company ("**DTC**"), for the account of the Underwriters, of one or more global notes representing the Securities (collectively, the "**Global Note**"), with any transfer taxes payable in connection with the sale of the Securities duly paid by the Company. The Global Note will be made available for inspection by the Representatives not later than 1:00 P.M., New York City time, on the business day prior to the Closing Date.

(e) The Company acknowledges and agrees that each Underwriter is acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the offering of Securities contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other person. Additionally, neither the Representatives nor any other Underwriter is advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and neither the Representatives nor any other Underwriter shall have any responsibility or liability to the Company with respect thereto. Any review by the Representatives or any Underwriter of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Representatives or such Underwriter and shall not be on behalf of the Company or any other person.

4. Covenants of the Company. The Company covenants with the several Underwriters as follows:

(a) *Filings with the Commission.* The Company will (i) pay the registration fees for this offering within the time period required by Rule 456(b)(1)(i) under the Securities Act (without giving effect to the proviso therein) and in any event prior to the Closing Date, (ii) file the Prospectus in a form approved by the Underwriters with the Commission pursuant to Rule 424 under the Securities Act not later than the close of business on the second business day following the date of determination of the public offering price of the Securities or, if applicable, such earlier time as may be required by Rule 424(b) and Rule 430A or 430B under the Securities Act, and (iii) file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14, or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is required in connection with the offering or sale of the Securities. The Company will file any Issuer Free Writing Prospectus to the extent required by Rule 433 under the Securities Act.

(b) *Delivery of Copies.* The Company will deliver, without charge, (i) to the Representatives, two signed copies of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith and documents incorporated by reference therein; and (ii) to each Underwriter (A) a conformed copy of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith and (B) during the Prospectus Delivery Period (as defined below) at its own expense on or prior to the date that is nine months after the first public offering of the Securities and at the expense of the Underwriters thereafter, as many copies of the Prospectus (including all amendments and supplements thereto and documents incorporated by reference therein) and each Issuer Free Writing Prospectus as the Representatives may reasonably request. As used herein, the term “**Prospectus Delivery Period**” means such period of time after the first date of the public offering of the Securities as in the opinion of counsel for the Underwriters a prospectus relating to the Securities is required by law to be delivered (or required to be delivered but for Rule 172 under the Securities Act) in connection with sales of the Securities by any Underwriter or dealer.

(c) *Amendments or Supplements; Issuer Free Writing Prospectuses.* During the Prospectus Delivery Period, the Company will, reasonably in advance of making, preparing, using, authorizing, approving, referring to or filing any Issuer Free Writing Prospectus or any amendment or supplement to the Registration Statement or the Prospectus, furnish to the Representatives a copy of each such proposed Issuer Free Writing Prospectus, amendment or supplement for review and will not make, prepare, use, authorize, approve, refer to or file any such Issuer Free Writing Prospectus or file any such proposed amendment or supplement to which the Representatives disapprove.

(d) *Notice to the Representatives.* During the Prospectus Delivery Period, the Company will advise the Representatives promptly, and confirm such advice in writing, (i) when any amendment to the Registration Statement has been filed or becomes effective; (ii) when any supplement to the Prospectus or any amendment to the Prospectus or any Issuer Free Writing Prospectus has been filed; (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or the receipt of any comments from the Commission relating to the Registration Statement or any other request by the Commission for any additional information; (iv) of the issuance by the Commission of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus or the Prospectus or the initiation or threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; (v) of the occurrence of any event within the Prospectus Delivery Period as a result of which the Prospectus, the Time of Sale Information or any Issuer Free Writing Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus, the Time of Sale Information or any such Issuer Free Writing Prospectus is delivered to a purchaser, not misleading; (vi) of the receipt by the Company of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act and (vii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Securities for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and the Company will use its commercially reasonable efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus or the Prospectus or suspending any such qualification of the Securities and, if any such order is issued, will use its commercially reasonable efforts to obtain as soon as possible the withdrawal thereof.

(e) *Ongoing Compliance.* (1) If during the Prospectus Delivery Period (i) any event shall occur or condition shall exist as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Prospectus to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission and, at its own expense on or prior to the date that is nine months after the first public offering of the Securities and at the expense of the Underwriters thereafter, furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Prospectus (or any document to be filed with the Commission and incorporated by reference therein) as may be necessary so that the statements in the Prospectus as so amended or supplemented (or any document to be filed with the Commission and incorporated by reference therein) will not, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, be misleading or so that the Prospectus will comply with law.

(2) if at any time prior to the Closing Date (i) any event shall occur or condition shall exist as a result of which the Time of Sale Information as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading or (ii) it is necessary to amend or supplement the Time of Sale Information to comply with law, the Company will notify the Underwriters thereof as promptly as practicable and forthwith prepare and, subject to paragraph (c) above, file with the Commission (to the extent required) and furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Time of Sale Information as may be necessary so that the statements in the Time of Sale Information as so amended or supplemented will not, in the light of the circumstances under which they were made, be misleading or so that the Time of Sale Information will comply with law.

(f) *Earnings Statements.* To make generally available to the holders of Securities as soon as practicable an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158).

(g) The Company agrees that, other than the Issuer Free Writing Prospectus identified on Annex A as forming part of the Time of Sale Information or prepared pursuant to Section 2(d) or Section 4(c) above, without the prior consent of the Representatives, it has not made and will not make any offer relating to the Securities that would constitute a “free writing prospectus” as defined in Rule 405 under the Securities Act.

(h) *Clear Market.* During the period from the date hereof through and including the date that is 10 days after the Closing Date, the Company will not, without the prior written consent of the Representatives, offer, sell, contract to sell or otherwise dispose of any debt securities issued or guaranteed by the Company.

(i) *DTC.* The Company will assist the Representatives in arranging for the Securities to be eligible for clearance and settlement through DTC, Euroclear Bank SA/NV and Clearstream Banking S.A.

(j) *Use of Proceeds.* The Company will apply the net proceeds from the sale of the Securities as described in the Registration Statement, the Time of Sale Information and the Prospectus under the heading “Use of Proceeds.”

(k) *No Stabilization.* Neither the Company nor any of its Controlled Entities, has taken or will take, directly or indirectly, any action designed to or that constituted or which could reasonably be expected to cause or result in any stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(l) *NDRC Filing.* The Company shall file with the NDRC within the applicable time period any requisite information and documents required under Section 1(3) of the NDRC Notice after the issuance of the Securities (“**Post-Issuance Filing**”) and shall notify the Representatives via email within a reasonable time once such Post-Issuance Filing is completed.

(m) *Exchange Listing.* The Company has obtained an eligibility letter for the Securities to be listed on The Stock Exchange of Hong Kong Limited (the “**Hong Kong Stock Exchange**”), subject to the conditions set forth in the eligibility letter received from the Hong Kong Stock Exchange. The Company will use its reasonable best efforts to have the Securities admitted for trading, and maintain the listing of the Securities, on the Hong Kong Stock Exchange. If the Company is unable to maintain such listing having used its reasonable best efforts, it being understood that reasonable best efforts does not include the public disclosure of sensitive information that the Company otherwise does not and is not required to publicly disclose, the Company agrees to use its reasonable best efforts to obtain and maintain a listing of the Securities on a comparable stock exchange to be selected after consultation with the Representatives.

(n) *Taxes.* The Company agrees to hold the Underwriters harmless against any documentary, stamp or similar transfer or issue tax, including any interest and penalties, on the issue, sale and delivery to the Underwriters, and the resale by the Underwriters of the Securities in accordance with the terms of this Agreement and on the execution and delivery of this Agreement and the Indenture which are or may be required to be paid under the laws of the Cayman Islands, the British Virgin Islands, Hong Kong, Singapore, the PRC or any political subdivision or taxing authority thereof or therein. Moreover, all payments to be made by the Company hereunder will be made without withholding or deduction for or on account of any present or future taxes, duties or governmental charges whatsoever unless the Company is compelled by law to deduct or withhold such taxes, duties or chargers. In that event, the Company will pay such additional amounts as may be necessary in order that the net amounts received after such withholding or deduction will equal the amounts that would have been received if no withholding or deduction had been made.

5. Certain Agreements of the Underwriters. Each Underwriter hereby represents and agrees that:

(a) It has not and will not use, authorize use of, refer to, or participate in the planning for use of, any “free writing prospectus” as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the Commission by the Company and not incorporated by reference into the Registration Statement and any press release issued by the Company) other than (i) any Issuer Free Writing Prospectus identified on Annex A as forming part of the Time of Sale Information or prepared pursuant to Section 2(d) or Section 4(c) above, (ii) any free writing prospectus prepared by such underwriter and approved by the Company in advance in writing or (iii) any free writing prospectus that, solely as a result of use by such Underwriter, would not trigger an obligation to file such free writing prospectus with the Commission pursuant to Rule 433.

(b) It is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the Prospectus Delivery Period).

6. Conditions of Underwriters’ Obligations. The obligation of each Underwriter to purchase Securities on the Closing Date as provided herein is subject to the performance by the Company of its covenants and other obligations hereunder and to the following additional conditions:

(a) *Registration Compliance; No Stop Order.* If a post-effective amendment to the Registration Statement is required to be filed under the Securities Act, such post-effective amendment shall have become effective; no order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose, pursuant to Rule 401(g)(2) or pursuant to Section 8A under the Securities Act shall be pending before or threatened by the Commission; the Prospectus and each Issuer Free Writing Prospectus shall have been timely filed with the Commission under the Securities Act (in the case of an Issuer Free Writing Prospectus, to the extent required by Rule 433 under the Securities Act) and in accordance with Section 4(a) hereof; and all requests by the Commission for additional information shall have been complied with to the reasonable satisfaction of the Representatives.

(b) *Representations and Warranties.* The representations and warranties of the Company contained herein shall be true and correct on the date hereof and on and as of the Closing Date; and the statements of the Company and its officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date.

(c) *No Material Adverse Change.* No event or condition of a type described in Section 2(f) hereof shall have occurred or shall exist, which event or condition is not described in the Time of Sale Information (excluding any amendment or supplement thereto) and the Prospectus (excluding any amendment or supplement thereto) and the effect of which in the judgment of the Representatives makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated by this Agreement, the Time of Sale Information and the Prospectus.

(d) *Officer's Certificate.* The Representatives shall have received on and as of the Closing Date a certificate of the Chief Executive Officer, Chief Financial Officer, Treasurer or any executive officer of the Company who has specific knowledge of the Company's financial matters and is satisfactory to the Representatives to the effect set forth in Annex D hereto.

(e) *Comfort Letters.* On the date of this Agreement and on the Closing Date, Ernst & Young Hua Ming LLP shall have furnished to the Representatives, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information in the Registration Statement, the Time of Sale Information and the Prospectus; *provided* that the letter delivered on the Closing Date shall use a "cut-off" date no more than three business days prior to the Closing Date.

(f) *Opinion, Tax Opinion and 10b-5 Statement of Counsel for the Company.* Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion, tax opinion and 10b-5 statement, dated the Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex C-1 hereto.

(g) *Opinion of Cayman Islands Counsel for the Company.* Maples and Calder (Hong Kong) LLP, Cayman Islands counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion, dated the Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex C-2 hereto.

(h) *Opinion of PRC Counsel for the Company.* Han Kun Law Offices, PRC counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion, dated the Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex C-3 hereto.

(i) *Opinion of British Virgin Islands Counsel for the Company.* Maples and Calder (Hong Kong) LLP, British Virgin Islands counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion, dated the Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex C-4 hereto.

(j) *Opinion of Hong Kong Counsel for the Company.* Miao & Co. in association with Han Kun Law Offices (PRC Law Firm), Hong Kong counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion, dated the Closing Date and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex C-5 hereto.

(k) *Opinion and 10b-5 Statement of Counsel for the Underwriters.* The Representatives shall have received on and as of the Closing Date an opinion and 10b-5 statement, addressed to the Underwriters, of Davis Polk & Wardwell LLP, counsel for the Underwriters, with respect to such matters as the Representatives may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(l) *Opinion of PRC Counsel for the Underwriters.* The Representatives shall have received on and as of the Closing Date an opinion, addressed to the Underwriters, of Jingtian & Gongcheng Attorneys at Law, PRC counsel for the Underwriters, with respect to such matters as the Representatives may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(m) *No Legal Impediment to Issuance.* No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Closing Date, prevent the issuance or sale of the Securities; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Closing Date, prevent the issuance or sale of the Securities.

(n) *DTC.* The Securities shall be eligible for clearance and settlement through DTC.

(o) *Indenture and Securities.* The Indenture shall have been duly executed and delivered by a duly authorized officer of the Company and the Trustee, and the Securities shall have been duly executed and delivered by a duly authorized officer of the Company and duly authenticated by the Trustee.

(p) *Hong Kong Stock Exchange.* As of the Closing Date, the Company shall have received the listing approval for the listing of the Securities on the Hong Kong Stock Exchange, subject only to compliance with the conditions specified in the listing approval granted by the Hong Kong Stock Exchange.

(q) *Ratings.* The Representatives shall have received on the Closing Date a rating letter dated the Closing Date signed by an authorized representative of each of preliminary rating of “[A3]” by [Moody’s Investors Service, Inc. (“**Moody’s**”)] and “[A]” by [Fitch Inc., a subsidiary of Fimalac, S.A. (“**Fitch**”)], or other evidence satisfactory to the Representatives, to the effect that, on the Closing Date, (i) the Securities are rated at least [“A3” by Moody’s and “A” by Fitch] and (ii) no notice shall have been given by Moody’s or Fitch of any intended or potential downgrading of any rating of the Securities or of any review for a possible downgrade change in any rating of the Securities below [“A3” for Moody’s and “A” for Fitch].

(r) *Additional Documents.* On or prior to the Closing Date, the Company shall have furnished to the Representatives such further certificates and documents as the Representatives may reasonably request.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.

7. Indemnification and Contribution.

(a) *Indemnification of the Underwriters.* The Company agrees to indemnify and hold harmless each Underwriter, its affiliates, directors, officers and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, reasonable legal fees and other expenses incurred in connection with any suit, action or proceeding or any claim asserted as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, not misleading, or (ii) any untrue statement or alleged untrue statement of a material fact contained in the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information or any “issuer information” filed or required to be filed pursuant to Rule 433(d) under the Securities Act, or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information, it being understood and agreed that the only such information consists of the information described as such in Section 7(b).

(b) *Indemnification of the Company.* Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus or any Time of Sale Information, it being understood and agreed that the only such information consists of (i) the names of the Underwriters on the front and back cover pages of the Prospectus and in the table under the first paragraph of text under the caption "Underwriting" on page S-[74] of the Prospectus; (ii) the [eleventh] paragraph of text under the caption "Underwriting" on page S-[75] of the Prospectus concerning the addresses of the Representatives; (iii) the [fourth] sentence in the [eighth] paragraph of text under the caption "Underwriting" on page S-[75] of the Prospectus concerning the Underwriters' market-making activities; and (iv) the [ninth] paragraph of text under the caption "Underwriting" on page S-[75] of the Prospectus concerning over-allotment transactions, stabilizing transactions, syndicate covering transactions and penalty bids.

(c) *Notice and Procedures.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to either paragraph (a) or (b) above, such person (the "**Indemnified Person**") shall promptly notify the person against whom such indemnification may be sought (the "**Indemnifying Person**") in writing; *provided* that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 7 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and *provided, further*, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under this Section 7. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person (who shall not, without the consent of the Indemnified Person, be counsel to the Indemnifying Person) to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section 7 that the Indemnifying Person may designate in such proceeding and shall pay the fees and expenses of such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary, (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person, (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person, or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be reimbursed as they are incurred. Any such separate firm for any Underwriter, its affiliates, directors and officers and any control persons of such Underwriter shall be designated in writing by the Representatives and any such separate firm for the Company, its directors, its officers who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the Indemnifying Person of such request and (ii) the Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) *Contribution*. If the indemnification provided for in paragraphs a and b above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (ii) but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Securities and the total underwriting discounts and commissions received by the Underwriters in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Securities. The relative fault of the Company on the one hand and the Underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability*. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 7, in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Securities exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 7 are several in proportion to their respective purchase obligations hereunder and not joint.

(f) *Non-Exclusive Remedies*. The remedies provided for in this Section 7 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity.

8. Termination. This Agreement may be terminated in the absolute discretion of the Representatives, by notice to the Company, given prior to the Closing Date in the event that the Company shall have failed, refused or been unable to perform all obligations and satisfy all conditions on its part to be performed or satisfied hereunder at or prior thereto or, if after the execution and delivery of this Agreement and prior to the Closing Date (i) any of the Company or its Controlled Entities shall have sustained any loss or interference with respect to its businesses or properties from fire, flood, hurricane, accident, or other calamity, whether or not covered by insurance, or from any strike, labor dispute, slow down or work stoppage or any legal or governmental proceeding, which loss or interference, in the sole judgment of the Representatives, has had or has a Material Adverse Effect, or there shall have been, in the sole judgment of the Representatives, any event or development that, has or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect (including without limitation a change in control of the Company); (ii) trading in securities of the Company or in securities generally shall have been suspended or materially limited or minimum or maximum prices shall have been established on the New York Stock Exchange, the Nasdaq National Market, the Hong Kong Stock Exchange, the Singapore Exchange Security Trading Limited or the London Stock Exchange or the over the counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities or the relevant authorities in the Cayman Islands, the British Virgin Islands, Hong Kong, Singapore or the PRC or a material disruption in commercial banking or securities settlement, payment or clearance services in the United States, Cayman Islands, the British Virgin Islands, Hong Kong, Singapore or the PRC shall have occurred; or (iv) there shall have occurred (A) an outbreak or escalation of hostilities involving the United States, the PRC or any foreign power, (B) an outbreak or escalation of any other insurrection or armed conflict involving the United States, the PRC or any other national or international calamity or emergency, (C) any material change in the financial markets of the United States, Europe, the PRC or Hong Kong or (D) any material change in the currency exchange rates or the imposition of any material currency exchange controls which, in the case of (A), (B), (C) or (D) above and in the sole judgment of the Representatives, makes it impracticable or inadvisable to proceed with the offering, sale or the delivery of the Securities on the terms and in the manner contemplated by this Agreement, the Time of Sale Information and the Prospectus.

9. Defaulting Underwriter.

(a) If, on the Closing Date, any Underwriter defaults on its obligation to purchase the Securities that it has agreed to purchase hereunder, the non-defaulting Underwriters may in their discretion arrange for the purchase of such Securities by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Underwriter, the non-defaulting Underwriters do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Underwriters to purchase such Securities on such terms. If other persons become obligated or agree to purchase the Securities of a defaulting Underwriter, either the non-defaulting Underwriters or the Company may postpone the Closing Date for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement, the Prospectus, the Time of Sale Information or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Registration Statement, the Prospectus and the Time of Sale Information that effects any such changes. As used in this Agreement, the term "Underwriter" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule 1 to the Underwriting Agreement that, pursuant to this Section 9, purchases Securities that a defaulting Underwriter agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remains unpurchased does not exceed one-eleventh of the aggregate principal amount of all the Securities, then the Company shall have the right to require each non-defaulting Underwriter to purchase the principal amount of Securities that such Underwriter agreed to purchase hereunder plus such Underwriter's *pro rata* share (based on the principal amount of Securities that such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remains unpurchased exceeds one-eleventh of the aggregate principal amount of all the Securities, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement shall terminate without liability on the part of the non-defaulting Underwriters. Any termination of this Agreement pursuant to this Section 9 shall be without liability on the part of the Company.

(d) Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company or any non-defaulting Underwriter for damages caused by its default.

10. Payment of Expenses. (a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company agrees to pay or cause to be paid all costs and expenses incident to the performance of its obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation and delivery of the Securities and any taxes payable in that connection; (ii) the costs incident to the preparation, printing and filing under the Securities Act of the Registration Statement, the Preliminary Prospectus, any Issuer Free Writing Prospectus, any Time of Sale Information and the Prospectus (including all exhibits, amendments and supplements thereto) and the distribution thereof; (iii) the costs of reproducing and distributing each of the Transaction Documents; (iv) the fees and expenses of the Company's counsel and independent accountants; (v) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Securities under the laws of such jurisdictions as the Representatives may designate and the preparation, printing and distribution of a Blue Sky Memorandum; (vi) any fees charged by rating agencies for rating the Securities; (vii) the fees and expenses of the Trustee and any paying agent (including related fees and expenses of any counsel to such parties); (viii) all expenses and application fees incurred in connection with the approval of the Securities for book-entry transfer by DTC; (ix) all expenses incurred in connection with any marketing activities for the Securities, including but not limited to "net road show" and investor calls and (x) all expenses and application fees related to the listing of the Securities on the Hong Kong Stock Exchange.

(b) If (i) this Agreement is terminated pursuant to Section 8, (ii) the Company for any reason fails to tender the Securities for delivery to the Underwriters or (iii) the Underwriters decline to purchase the Securities for any reason permitted under this Agreement, the Company agrees to reimburse the Underwriters for all out-of-pocket costs and expenses (including the fees and expenses of their counsel) reasonably incurred by the Underwriters in connection with this Agreement and the offering contemplated hereby and the Underwriters will not pay any expenses incurred by the Company in connection with any "road show" presentation to potential investors.

11. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and any controlling persons referred to herein, and the affiliates of each Underwriter referred to in Section 7 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Securities from any Underwriter shall be deemed to be a successor merely by reason of such purchase.

12. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company and the Underwriters contained in this Agreement or made by or on behalf of the Company or the Underwriters pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Securities and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company or the Underwriters.

13. Certain Defined Terms. For purposes of this Agreement, (i) except where otherwise expressly provided, the term "**affiliate**" has the meaning set forth in Rule 405 under the Securities Act; (ii) the term "**business day**" means any day other than a day on which banks are permitted or required to be closed in New York City; and (iii) the term "**subsidiary**" has the meaning set forth in Rule 405 under the Securities Act.

14. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(c) For the purposes of this provision:

(i) “**BHC Act Affiliate**” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

(ii) “**Covered Entity**” means any of the following:

(A) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(B) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(C) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

(iii) “**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

(iv) “**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.]

15. Miscellaneous.

(a) *Authority of the Representatives.* Any action by the Underwriters hereunder may be taken by the Representatives on behalf of the Underwriters, and any such action taken by the Representatives shall be binding upon the Underwriters.

(b) *Notices.* Except for any communication under Section 4(l), all notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Underwriters shall be given to the Representatives at:

Goldman Sachs (Asia) L.L.C.
68/F, Cheung Kong Center
2 Queen’s Road Central
Hong Kong
Facsimile: +852 2978 0440
Attention: Debt Capital Markets

BofA Securities, Inc.
One Bryant Park,
New York, New York, 10036
United States
Facsimile: +1-212-901-7881
Attention: BofA Securities, High Grade Transaction Management/Legal, NY1-050-12-02, 50
Rockefeller Plaza, New York, New York 10020

c/o Merrill Lynch (Asia Pacific) Limited
55/F Cheung Kong Center
2 Queen’s Road Central
Central, Hong Kong

J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179
United States
Facsimile: +1 212 834 6081
Attention: Investment Grade Finance Syndicate Desk – 3rd floor

and

China International Capital Corporation Hong Kong Securities Limited
29th Floor, One International Finance Centre
1 Harbour View Street
Central
Hong Kong
Facsimile: +852 2872 2100
Attention: IBD Fixed-Income Team HK

Notices to the Company shall be given to it at:

Legal Department
Baidu Campus
No. 10 Shangdi 10th Street
Haidian District, Beijing 100085
The People's Republic of China
Facsimile: +86 10 5992 0000

(c) *Governing Law.* This Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(d) *Submission to Jurisdiction.* The Company hereby submits to the non-exclusive jurisdiction of the U.S. federal and New York state courts in the Borough of Manhattan in The City of New York in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The Company waives any objection which it may now or hereafter have to the laying of venue of any such suit or proceeding in such courts. The Company agrees that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Company and may be enforced in any court to the jurisdiction of which Company is subject by a suit upon such judgment. The Company irrevocably appoints C T Corporation System (the “**Authorized Agent**”), which currently has its address at 28 Liberty Street, 42nd Floor, New York, NY 10005, as its agent to receive service of process or other legal summons for purposes of any such action or proceeding that may be instituted in any state or federal court in the City and State of New York. The Company represents and warrants that the Authorized Agent has agreed to act as such agent for service of process and agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect as aforesaid until one year after the first date on which none of the Securities remain outstanding. Service of process upon the Authorized Agent and written notice of such service to the Company shall be deemed, in every respect, effective service of process upon the Company.

(e) *Waiver of Jury Trial.* Each of the parties hereto hereby waives any right to trial by jury in any suit or proceeding arising out of or relating to this Agreement.

(f) *Judgment Currency.* In respect of any judgment or order given or made for any amount due hereunder that is expressed and paid in a currency (the “**judgment currency**”) other than United States dollars, the Company will indemnify each Underwriter against any loss incurred by such Underwriter as a result of any variation as between (i) the rate of exchange at which the United States dollar amount is converted into the judgment currency for the purpose of such judgment or order and (ii) the rate of exchange at which such Underwriter is able to purchase United States dollars with the amount of the judgment currency actually received by such Underwriter. The foregoing indemnity shall constitute a separate and independent obligation of the Company and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term “rate of exchange” shall include any premiums and costs of exchange payable in connection with the purchase of or conversion into United States dollars.

(g) *Counterparts.* This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument.

(h) *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(i) *Headings*. The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

BAIDU, INC.

By _____
Title:

[Signature Page to Underwriting Agreement]

Very Truly Yours,

GOLDMAN SACHS (ASIA) L.L.C.
(Incorporated in Delaware, U.S.A. with limited liability)

For itself and on behalf of the
several Underwriters listed
in Schedule 1 hereto.

By _____
Authorized Signatory

[Signature Page to Underwriting Agreement]

Very Truly Yours,

BOFA SECURITIES, INC.

For itself and on behalf of the
several Underwriters listed
in Schedule 1 hereto.

By _____
Authorized Signatory

[Signature Page to Underwriting Agreement]

Very Truly Yours,

J.P. MORGAN SECURITIES LLC

For itself and on behalf of the
several Underwriters listed
in Schedule 1 hereto.

By _____
Authorized Signatory

[Signature Page to Underwriting Agreement]

Very Truly Yours,

CHINA INTERNATIONAL CAPITAL CORPORATION HONG KONG SECURITIES LIMITED

For itself and on behalf of the
several Underwriters listed
in Schedule 1 hereto.

By

Authorized Signatory

Underwriter(s)	Principal Amount of 20[•] Notes	[•]	Principal Amount of 20[•] Notes	[•]
[•]	\$	[•]	\$	[•]
[•]	\$	[•]	\$	[•]
[•]	\$	[•]	\$	[•]
[•]	\$	[•]	\$	[•]
[•]	\$	[•]	\$	[•]
Total	\$	[•]	\$	[•]

Time of Sale Information

- Pricing Term Sheet, dated [•], 2021, substantially in the form of Annex B.

A-A-1

Pricing Term Sheet

Filed Pursuant to Rule 433
 Registration Statement No. 333-254035
 Issuer Free Writing Prospectus dated [•], 2021
 Relating to Preliminary Prospectus Supplement dated [•], 2021

BAIDU, INC.**Pricing Term Sheets**

[•]% Notes due 20[•]. (the “20[•] Notes”).

Issuer:	Baidu, Inc.
Principal Amount:	US\$[•]
Maturity Date:	[•], 20[•]
Coupon (Interest Rate):	[•]%
Public Offering Price:	[•]% of face amount
Ranking:	Senior unsecured
Format:	SEC registered
Listing:	Eligibility letter has been received for the listing and quotation of the 20[•] Notes on the Hong Kong Stock Exchange.
Minimum Denomination:	US\$200,000 and integral multiples of US\$1,000 in excess thereof
Yield to Maturity:	[•]%
Spread to Benchmark Treasury:	[•]%
Benchmark Treasury:	[•]% due [•]/[•]/20[•]
Benchmark Treasury Price and Yield:	[•] and [•]%
Interest Payment Dates:	[•] and [•], commencing [•], 2022
Interest Payment Record Dates:	[•] and [•]
Optional Redemption:	Make Whole Call at any time prior to [•], 20[•] at a redemption price equal to the greater of 100% and a discount rate of the Treasury Yield plus [•] basis points. Par Call at any time from or after [•], 20[•] at a redemption price equal to 100%.
Trade Date:	[•], 20[•]
Settlement Date:	[•], 20[•]
CUSIP / ISIN:	[•] / [•]
Issue Ratings*:	[Moody’s: A3; Fitch: A]
Issuer Ratings**:	Moody’s: A3; Fitch: A]
Joint Bookrunners:	Goldman Sachs (Asia) L.L.C. BofA Securities, Inc. J.P. Morgan Securities LLC China International Capital Corporation Hong Kong Securities Limited BOCOM International Securities Limited
Co-Manager:	

[[•]% Notes due 20[•] (the “20[•] Notes”).

Issuer:	Baidu, Inc.
Principal Amount:	US\$[•]
Maturity Date:	[•], 20[•]
Coupon (Interest Rate):	[•]%
Public Offering Price:	[•]% of face amount
Ranking:	Senior unsecured
Format:	SEC registered
Listing:	Eligibility letter has been received for the listing and quotation of the 20[•] Notes on the Hong Kong Stock Exchange.
Minimum Denomination:	US\$200,000 and integral multiples of US\$1,000 in excess thereof
Yield to Maturity:	[•]%
Spread to Benchmark Treasury:	[•]%
Benchmark Treasury:	[•]% due [•]/[•]/20[•]
Benchmark Treasury Price and Yield:	[•] and [•]%
Interest Payment Dates:	[•] and [•], commencing [•], 2022
Interest Payment Record Dates:	[•] and [•]
Optional Redemption:	Make Whole Call at any time prior to [•], 20[•] at a redemption price equal to the greater of 100% and a discount rate of the Treasury Yield plus [•] basis points. Par Call at any time from or after [•], 20[•] at a redemption price equal to 100%.
Trade Date:	[•], 20[•]
Settlement Date:	[•], 20[•]
CUSIP / ISIN:	[•] / [•]
Issue Ratings*:	[Moody’s: A3; Fitch: A]
Issuer Ratings**:	Moody’s: A3; Fitch: A]
Joint Bookrunners:	Goldman Sachs (Asia) L.L.C. BofA Securities, Inc. J.P. Morgan Securities LLC China International Capital Corporation Hong Kong Securities Limited BOCOM International Securities Limited
Co-Manager:	

* A securities rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn at any time. Each rating should be evaluated independently of any other rating.

** See “Risk Factors — Risks Related to the Notes — Our credit ratings may not reflect all risks of your investments in the Notes.” in the preliminary prospectus supplement.

We expect that delivery of the notes will be made against payment thereof on or about the settlement date specified in this communication, which will be the [•] business day following the date of pricing of the notes (this settlement cycle being referred to as “T+[•]”). Under Rule 15c6-1 of the U.S. Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934, trades in the secondary market generally are required to settle in two business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade notes on the date of pricing or the next [•] business day will be required, by virtue of the fact that the notes initially will settle in T+[•], to specify an alternate settlement cycle at the time of any such trade to prevent a failed settlement. Purchasers of notes who wish to trade notes on the date of pricing should consult their own advisor.

The issuer has filed a registration statement (including a prospectus) with the SEC for the offering to which this communication relates. Before you invest, you should read the prospectus in that registration statement and other documents the issuer has filed with the SEC for more complete information about the issuer and this offering. You may get these documents for free by visiting EDGAR on the SEC Web site at www.sec.gov. Alternatively, the issuer, any underwriter or any dealer participating in the offering will arrange to send you the prospectus and prospectus supplement if you request it by calling Goldman Sachs & Co., an affiliate of Goldman Sachs (Asia) L.L.C., toll-free at 1-866-471-2526, BofA Securities, Inc., toll-free at 1-800-294-1322, J.P. Morgan Securities LLC collect at 1-212-834-4533 or China International Capital Corporation Hong Kong Securities Limited, at +852-2872-2000.

No PRIIPs Key Information Document (KID) has been prepared as not available to retail in EEA or in the United Kingdom.

Any disclaimer or other notice that may appear below is not applicable to this communication and should be disregarded. Such disclaimer or notice was automatically generated as a result of this communication being sent by Bloomberg or another email system.

A-B-3

Form of Opinion of U.S. Counsel for the Company

A-C-1-1

Form of Opinion of Cayman Islands Counsel for the Company.

Form of Opinion of PRC Counsel for the Company

A-C-3-1

Form of Opinion of British Virgin Islands Counsel for the Company.

A-C-4-1

Form of Opinion of Hong Kong Counsel for the Company.

A-C-5-1

BAIDU, INC.
OFFICER'S CERTIFICATE

[•], 2021

Reference is made to the Underwriting Agreement, dated as of [•], 2021 (the “**Underwriting Agreement**”), by and among Baidu, Inc., an exempted company limited by shares under the laws of the Cayman Islands (the “**Company**”), and Goldman Sachs (Asia) L.L.C., BofA Securities, Inc., J.P. Morgan Securities LLC and China International Capital Corporation Hong Kong Securities Limited, as representatives of the several Underwriters named in Schedule 1 thereto. Capitalized terms used but not defined herein have the respective meanings given to such terms in the Underwriting Agreement. This Officer's Certificate is being furnished pursuant to Section 6(d) of the Underwriting Agreement,

I, [name], [title] of the Company, do hereby certify on behalf of the Company as follows:

1. To the best of my knowledge, the representations set forth in Sections 2(a) and 2(c) of the Underwriting Agreement are true and correct as of the Closing Date.
2. The other representations and warranties of the Company in the Underwriting Agreement are true and correct as of the Closing Date and that the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied thereunder on or prior to the Closing Date.
3. No order suspending the effectiveness of the Registration Statement is in effect and no proceeding for such purpose, pursuant to Rule 401(g)(2) or pursuant to Section 8A under the Securities Act is pending before or threatened by the Commission.
4. No event or condition of a type described in Section 2(f) of the Underwriting Agreement has occurred or exists as of the Closing Date, which event or condition is not described in the Time of Sale Information (excluding any amendment or supplement thereto) and the Prospectus (excluding any amendment or supplement thereto).

IN WITNESS WHEREOF, I have signed this certificate as of date first written above.

BAIDU, INC.

By: _____

Name: [name]

Title: [title]

A-D-1-1

BAIDU, INC.
AS BORROWER

ARRANGED BY

BANK OF CHINA LIMITED
CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED
CHINA MINSHENG BANKING CORP., LTD., HONG KONG BRANCH (A JOINT
STOCK LIMITED COMPANY INCORPORATED IN THE PRC)
CITIGROUP GLOBAL MARKETS ASIA LIMITED
DBS BANK LTD.
AND
OTHERS
WITH

CITICORP INTERNATIONAL LIMITED
ACTING AS AGENT

US\$3,000,000,000 TERM AND REVOLVING CREDIT
FACILITIES AGREEMENT

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BETWEEN:

- (1) **BAIDU, INC.**, an exempted company incorporated with limited liability under the laws of Cayman Islands with registration number 96019 whose registered office is at P.O. Box 309, Ugland House, South Church Street, George Town, Grand Cayman, KY1-1104, Cayman Islands (the “**Borrower**”);
- (2) **BANK OF CHINA LIMITED, CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED, CHINA MINSHENG BANKING CORP., LTD., HONG KONG BRANCH (A JOINT STOCK LIMITED COMPANY INCORPORATED IN THE PRC), CITIGROUP GLOBAL MARKETS ASIA LIMITED** and **DBS BANK LTD.** as original mandated lead arrangers and bookrunners (the “**Original MLABs**” and each an “**Original MLAB**”);
- (3) **AGRICULTURAL BANK OF CHINA LIMITED HONG KONG BRANCH (INCORPORATED IN THE PEOPLE’S REPUBLIC OF CHINA WITH LIMITED LIABILITY), AGRICULTURAL BANK OF CHINA LIMITED, NEW YORK BRANCH (INCORPORATED IN THE PEOPLE’S REPUBLIC OF CHINA WITH LIMITED LIABILITY), HANG SENG BANK LIMITED, INDUSTRIAL AND COMMERCIAL BANK OF CHINA (ASIA) LIMITED, NANYANG COMMERCIAL BANK, LIMITED** and **CHINA CITIC BANK CORPORATION LIMITED, SHANGHAI BRANCH** as additional mandated lead arrangers and bookrunners (the “**Additional MLABs**” and each an “**Additional MLAB**”);
- (4) **JPMORGAN CHASE BANK, N.A., ACTING THROUGH ITS HONG KONG BRANCH, A NATIONAL BANKING ASSOCIATION ORGANIZED UNDER THE LAWS OF UNITED STATES OF AMERICA WITH LIMITED LIABILITY** as additional mandated lead arranger (the “**Additional MLA**”);
- (5) **BANK OF AMERICA, N.A., GOLDMAN SACHS BANK USA, BANCO BILBAO VIZCAYA ARGENTARIA, S.A., HONG KONG BRANCH (INCORPORATED IN SPAIN WITH LIMITED LIABILITY), INTESA SANPAOLO S.P.A., HONG KONG BRANCH, BANK OF COMMUNICATIONS (HONG KONG) LIMITED (A WHOLLY OWNED SUBSIDIARY OF BANK OF COMMUNICATIONS CO., LTD.), CRÉDIT INDUSTRIEL ET COMMERCIAL, HONG KONG BRANCH, OVERSEA-CHINESE BANKING CORPORATION LIMITED (INCORPORATED IN SINGAPORE WITH LIMITED LIABILITY), STANDARD CHARTERED BANK (HONG KONG) LIMITED, CATHAY UNITED BANK COMPANY, LIMITED, HONG KONG BRANCH (A BRANCH OF A COMPANY WITH LIMITED LIABILITY INCORPORATED IN TAIWAN)** and **CHIYU BANKING CORPORATION LIMITED** as additional lead arrangers (the “**Additional LAs**” and each an “**Additional LA**”);
- (6) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (*The Original Lenders*) as lenders (the “**Original Lenders**” and each an “**Original Lender**”); and

(7) **CITICORP INTERNATIONAL LIMITED** as agent of the Finance Parties (other than itself) (the “**Agent**”).

IT IS AGREED as follows:

SECTION 1 INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

“**Administrative Parties**” means each of the Agent and the Arrangers (each an “**Administrative Party**”).

“**Affiliate**” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of any Holding Company of that person.

“**Anti-Bribery and Corruption Laws**” means:

- (a) the FCPA;
- (b) the UK Bribery Act of 2010;
- (c) all laws, rules and regulations (concerning or relating to bribery or corruption) issued, administered or enforced by any of the United States of America, the United Kingdom, the European Union (or any member state thereof), Hong Kong, the PRC, Singapore or any Governmental Agency of any of the foregoing; and
- (d) all laws, rules and regulations (concerning or relating to bribery or corruption) issued, administered or enforced by any other country or jurisdiction applicable to any Group Member from time to time or any other Governmental Agency having jurisdiction over any Group Member from time to time.

“**Anti-Money Laundering Laws**” means all applicable financial recordkeeping and reporting requirements and all applicable anti-money laundering laws and regulations of any of the United States, the United Kingdom, the European Union, the Cayman Islands, Hong Kong, the PRC and Singapore, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, which in each case are issued, administered or enforced by any Governmental Agency in any such jurisdiction from time to time.

“Anti-Terrorism Laws” means any Executive Order, the U.S.A. Patriot Act, the Money Laundering Control Act of 1986, Public Law 99-570, the Currency and Foreign Transactions Reporting Act of 1970, 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1829 and 1951-1959, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq., the Trading with the Enemy Act, 50 U.S.C. App. §§ 1 et seq., the US United Nations Participation Act, the US Syria Accountability and Lebanese Sovereignty Act, the US Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, the Iran Sanctions Act, Section 1245 of the National Defense Authorization Act of 2012, any other regulation issued under authority of any Executive Order or administered by OFAC (**provided that**, with respect to each of the foregoing, “Anti-Terrorism Laws” shall not include provisions that have been suspended or waived by applicable U.S. Governmental Agencies and for so long as such suspension or waiver (as the case may be) has not been revoked), the Prevention of Terrorism Act 2005 of the United Kingdom, any sanction implemented or effective in the United Kingdom under the United Nations Act 1946 or the Emergency Laws (Re-enactments and Repeals) Act 1964 or the Anti-Terrorism, Crime and Security Act 2001 of the United Kingdom or under the Treaty establishing the European Community, and any similar law, regulations and/or sanctions enacted, issued and/or administered by any of the United Nations, the United States, the United Kingdom, the European Union, the Cayman Islands, Hong Kong, the PRC and Singapore.

“APLMA” means the Asia Pacific Loan Market Association Limited.

“Arrangers” means the Original MLABs, the Additional MLABs, the Additional MLA and the Additional LAs (each an **“Arranger”**).

“Assignment Agreement” means, in relation to any assignment by any Lender of any or all of its rights under this Agreement, an assignment agreement substantially in a recommended form of the APLMA or any other form agreed between the applicable assignor, the applicable assignee and the Agent.

“Auditors” means one of PricewaterhouseCoopers, Ernst & Young, KPMG or Deloitte & Touche or any other firm mutually agreed to by the Borrower and the Agent (acting on the instructions of the Majority Lenders).

“Authorisation” means:

- (a) an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, lodgement or registration; and/or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

“Availability Period” means:

- (a) (in relation to Facility A) the Facility A Availability Period; or
- (b) (in relation to Facility B) the Facility B Availability Period.

“Available Commitment” means in relation to a Lender:

- (a) (in relation to Facility A) that Lender’s Facility A Available Commitment; or
- (b) (in relation to Facility B) that Lender’s Facility B Available Commitment.

“**Available Facility**” means:

- (a) (in relation to Facility A) the Facility A Available Facility; or
- (b) (in relation to Facility B) the Facility B Available Facility.

“**Baidu Netcom**” means Beijing Baidu Netcom Science Technology Co., Ltd. (北京百度网讯科技有限公司), a company incorporated under the laws of the PRC with united social credit identification number 91110000802100433B.

“**Baidu Online**” means Baidu Online Network Technology (Beijing) Co., Ltd. (百度在线网络技术(北京)有限公司), a company incorporated under the laws of the PRC with registration number 110000410144104.

“**Blocking Law**” means:

- (a) any provision of Council Regulation (EC) No 2271/1996 of 22 November 1996 (or any law or regulation implementing such Regulation in any member state of the European Union or the United Kingdom);
- (b) section 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*);
- (c) any similar blocking or anti-boycott law in the United Kingdom; or
- (d) any similar blocking or anti-boycott law in the United States.

“**Break Costs**” means the amount (if any) by which:

- (a) the interest (excluding any portion thereof attributable to the Margin) which a Finance Party should have received pursuant to the terms of this Agreement for the period from the date of receipt or recovery of all or any part of the principal amount of a Loan or an Unpaid Sum to the last day of the current Interest Period in respect of that Loan or that Unpaid Sum, had the principal amount of that Loan or had that Unpaid Sum so received or recovered been paid on the last day of that Interest Period;

exceeds:

- (b) the amount of interest which that Finance Party would be able to obtain by placing an amount equal to the principal amount of that Loan or equal to that Unpaid Sum so received or recovered by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following such receipt or recovery and ending on the last day of that current Interest Period.

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in Hong Kong, the PRC and Singapore and:

- (a) (in relation to any Utilisation Date or the delivery of any Utilisation Request or Selection Notice) London and Taiwan;
- (b) (in relation to any determination of a rate of interest) London; and

(c) (in relation to any payment in US\$) New York City.

“**Code**” means the US Internal Revenue Code of 1986, and the regulations promulgated and rulings issued thereunder.

“**Commitment**” means in relation to a Lender:

- (a) (in relation to Facility A) that Lender’s Facility A Commitment; or
- (b) (in relation to Facility B) that Lender’s Facility B Commitment.

“**Compliance Certificate**” means a certificate substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*) and signed by an authorised signatory of the Borrower.

“**Confidential Information**” means all information relating to the Borrower, the Group, the Finance Documents or a Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or a Facility from either:

- (a) any Group Member or any of its advisers; or
- (b) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any Group Member or any of its advisers,

in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 23 (*Disclosure of Information*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any Group Member or any of its advisers; or
- (iii) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

“**Confidentiality Undertaking**” means a confidentiality undertaking substantially in a recommended form of the APLMA or in any other form agreed between the Borrower and the Agent.

“**Consolidated EBITDA**” has the meaning given to it in Clause 19.1 (*Financial definitions*).

“**Deal Site**” means “Debt domain”.

“**Debt Purchase Transaction**” means, in relation to a person, a transaction where such person:

- (a) purchases or acquires by way of assignment or transfer any rights and/or obligations in respect of;
- (b) enters into any sub-participation in respect of; or
- (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of, any Commitment in respect of any Facility (or any commitment represented thereby) or any amount outstanding under any Finance Document.

“**Default**” means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

“**Equity Interest**” means, in relation to any person:

- (a) any shares of any class or capital stock of or equity interest (including, without limitation, partnership or membership interest) in such person or any depositary receipt in respect of any such shares, capital stock or equity interest;
- (b) any securities convertible or exchangeable (whether at the option of the holder thereof or otherwise and whether such conversion is conditional or otherwise) into any such shares, capital stock, equity interest or depositary receipt, or any depositary receipt in respect of any such securities; or
- (c) any option, warrant or other right to acquire any such shares, capital stock, equity interest, securities or depositary receipts referred to in paragraphs (a) and/or (b).

“**Event of Default**” means any event or circumstance specified in any of Clauses 21.1 (*Non-payment*) to 21.12 (*Material adverse change*).

“**Excluded Lease**” means a lease or hire purchase contract which would, in accordance with GAAP in force prior to 1 January 2019, have been treated as an operating lease.

“**Excluded Redeemable Preference Shares**” means:

- (a) any redeemable preference shares issued by any iQIYI Group Member;
- (b) the redeemable preference shares which constitute the line item “Redeemable noncontrolling interests” in the consolidated financial statements of the Borrower most recently provided to the Agent; and

- (c) any other redeemable preference shares which are not redeemable on or prior to the Final Maturity Date (other than at the option of the issuer thereof) or which are otherwise categorised as equity in the consolidated financial statements of the Borrower in accordance with GAAP.

“**Executive Orders**” means:

- (a) the US Executive Order No. 13224 on Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, which came into effect on 23 September 2001, as amended; and
- (b) any other US Executive Order issued and in effect in connection with restrictions on the export of goods or economic or trade sanctions, (each an “**Executive Order**”).

“**Facilities**” means Facility A and Facility B (each a “**Facility**”).

“**Facility A**” means the term loan facility made or to be made available under this Agreement as described in paragraph (a) of Clause 2.1 (*The Facilities*).

“**Facility A Availability Period**” means the period from and including the date of this Agreement to and including the earlier of (a) the date falling 6 Months after the date of this Agreement and (b) the first date on which the Facility A Available Facility is zero.

“**Facility A Available Commitment**” means in relation to a Lender and save as otherwise provided in this Agreement, that Lender’s Facility A Commitment *minus*:

- (a) the aggregate amount of its participation in any outstanding Facility A Loan (for such purpose taking into account the principal amount of each such Facility A Loan when it is made and disregarding any subsequent reduction in such principal amount); and
- (b) in relation to any proposed Utilisation, that Lender’s participation in any Facility A Loan (other than the Facility A Loan the subject of such proposed Utilisation) that is due to be made on or before the Utilisation Date for such proposed Utilisation.

“**Facility A Available Facility**” means the aggregate for the time being of each Lender’s Facility A Available Commitment.

“**Facility A Commitment**” means:

- (a) in relation to an Original Lender, the sum of the amount set opposite its name under the heading “Facility A Commitment” in Schedule 1 (*The Original Lenders*) and the amount of any other Facility A Commitment transferred to it pursuant to Clause 22 (*Changes to the Parties*); and
- (b) in relation to any other Lender, the amount of any Facility A Commitment transferred to it pursuant to Clause 22 (*Changes to the Parties*),

to the extent not cancelled or reduced under this Agreement or transferred by it pursuant to Clause 22 (*Changes to the Parties*).

“Facility A Loan” means, as the context requires, a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

“Facility B” means the revolving credit facility made or to be made available under this Agreement as described in paragraph (b) of Clause 2.1 (*The Facilities*).

“Facility B Availability Period” means the period from and including the date of this Agreement to and including the date falling 1 Month prior to the Final Maturity Date.

“Facility B Available Commitment” means in relation to a Lender and save as otherwise provided in this Agreement, that Lender’s Facility B Commitment *minus*:

- (a) the aggregate amount of its participation in any outstanding Facility B Loan; and
- (b) in relation to any proposed Utilisation, that Lender’s participation in any Facility B Loan (other than the Facility B Loan the subject of such proposed Utilisation) that is due to be made on or before the Utilisation Date for such proposed Utilisation,

provided that, for the purposes of calculating a Lender’s Facility B Available Commitment in relation to any proposed Utilisation under Facility B only, the amount of that Lender’s participation in any Facility B Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date (for such proposed Utilisation) shall not be deducted from that Lender’s Facility B Available Commitment.

“Facility B Available Facility” means the aggregate for the time being of each Lender’s Facility B Available Commitment.

“Facility B Commitment” means:

- (a) in relation to an Original Lender, the sum of the amount set opposite its name under the heading “Facility B Commitment” in Schedule 1 (*The Original Lenders*) and the amount of any other Facility B Commitment transferred to it pursuant to Clause 22 (*Changes to the Parties*); and
- (b) in relation to any other Lender, the amount of any Facility B Commitment transferred to it pursuant to Clause 22 (*Changes to the Parties*),

to the extent not cancelled or reduced under this Agreement or transferred by it pursuant to Clause 22 (*Changes to the Parties*).

“Facility B Loan” means, as the context requires, a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

“Facility Office” means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days’ written notice) as the office(s) through which it will perform its obligations under this Agreement.

“FATCA” means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“FATCA Deduction” means a deduction or withholding from a payment under a Finance Document required by FATCA.

“FATCA Exempt Party” means a Party that is entitled to receive payments free from any FATCA Deduction.

“FCPA” means the United States Foreign Corrupt Practices Act 1977, as amended, and the rules and regulations thereunder.

“Fee Letters” means any letter or letters referring to this Agreement or any Facility between one or more of the Administrative Parties (on the one hand) and the Borrower (on the other hand) setting out any of the fees referred to in Clause 11 (*Fees*) (each a **“Fee Letter”**).

“Final Maturity Date” means the date falling 60 Months after the date of this Agreement.

“Finance Documents” means this Agreement, the Fee Letters, any Utilisation Request, any Selection Notice, any Compliance Certificate and any other document(s) designated as a “Finance Document” by the Agent and the Borrower (each a **“Finance Document”**).

“Finance Parties” means the Agent, the Arrangers and the Lenders (each a **“Finance Party”**).

“Finance Lease” means any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability (other than any Excluded Lease).

“Financial Indebtedness” means any indebtedness for or in respect of:

- (a) any moneys borrowed;
- (b) any redeemable preference shares;
- (c) any amount raised by acceptance under any acceptance credit facility (including any dematerialised equivalent thereof);

- (d) any amount raised pursuant to any bond, note, debenture, loan stock or other similar instrument;
- (e) the amount of any liability in respect of any Finance Lease;
- (f) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (g) any amount of any liability under an advance or deferred purchase agreement primarily entered into as a method of raising finance or to finance the acquisition of any asset;
- (h) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (i) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (j) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and/or
- (k) the amount of any liability in respect of any guarantee or indemnity or similar assurance against financial loss for any of the items referred to in paragraphs (a) to (j) above,

(excluding, for the avoidance of doubt, any liabilities of Group Members to any investors purchasing financial products from any Group Member).

“**Financial Half-Year**” means the period commencing on the day after one Half-Year Date and ending on the next Half-Year Date.

“**Financial Quarter**” means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

“**Financial Year**” means the annual accounting period of the Group ending on 31 December in each year.

“**GAAP**” means generally accepted accounting principles in the United States of America.

“**Governmental Agency**” means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute).

“**Group**” means the Borrower and its Subsidiaries from time to time.

“**Group Member**” means any member of the Group.

“**Half-Year Date**” means each of 30 June and 31 December (each a “**Half-Year Date**”).

“**Holding Company**” means, in relation to a company, corporation or entity, any other company, corporation or entity in respect of which it is a Subsidiary.

“**Indirect Tax**” means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

“**Information Memorandum**” means the document in the form approved by the Borrower concerning, among other things, the Group which, at the Borrower’s request and on its behalf, was or will be prepared in relation to the Facilities (or any part thereof) and has been or will be distributed by one or more of the Arrangers in connection with syndication of the Facilities (or any part thereof).

“**Initial Utilisation Date**” means the date on which the first Loan is made under this Agreement.

“**Interest Period**” means:

- (a) in relation to a Loan, any period determined in accordance with Clause 9 (*Interest Periods*); and/or
- (b) in relation to an Unpaid Sum, any period determined in accordance with Clause 8.3 (*Default interest*).

“**Interpolated Screen Rate**” means, in relation to LIBOR for any Loan or any Unpaid Sum and any Interest Period relating thereto, the rate per annum (rounded upwards to 4 decimal places) which results from interpolating on a linear basis between:

- (a) the rate per annum that is equal to the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the length of such Interest Period; and
- (b) the rate per annum that is equal to the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the length of such Interest Period,

each as of the Specified Time on the Quotation Day for the currency of such Loan or such Unpaid Sum and for such Interest Period.

“**iQIYI**” means iQIYI, Inc., a company incorporated in the Cayman Islands and, as of the date of this Agreement, listed on the NASDAQ Global Select Market.

“**iQIYI Convertible Notes**” means:

- (a) any present and future convertible promissory notes issued or to be issued by any iQIYI Group Member; and
- (b) any other securities into which any of such convertible promissory notes referred to in paragraph (a) are converted.

“**iQIYI Group**” means iQIYI and its Subsidiaries from time to time.

“**iQIYI Group Member**” means any member of the iQIYI Group.

“**Lender**” means:

- (a) any Original Lender; and/or
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 22 (*Changes to the Parties*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

“**LIBOR**” means, in relation to any Loan or Unpaid Sum and any Interest Period relating thereto, the rate per annum equal to:

- (a) the applicable Screen Rate;
- (b) (if no Screen Rate is available for the currency of such Loan or such Unpaid Sum and a period equal in length to such Interest Period) the Interpolated Screen Rate for such Loan or such Unpaid Sum and such Interest Period; or
- (c) (if (i) no Screen Rate is available for the currency of such Loan or such Unpaid Sum and a period equal in length to such Interest Period and (ii) it is not possible to calculate the Interpolated Screen Rate for such Loan or such Unpaid Sum and such Interest Period) the Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, the Specified Time on the Quotation Day for the currency of such Loan or Unpaid Sum and for a period equal in length to that Interest Period, **provided that** (in the case of paragraphs (a), (b) and (c)) if such rate is less than zero, LIBOR for such Loan or Unpaid Sum and such Interest Period shall (without prejudice to Clause 10.2 (*Market disruption*)) be deemed to be zero.

“**Loan**” means a Facility A Loan or a Facility B Loan.

“**London Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks are open for general business including dealings in interbank deposits in London.

“**Majority Facility A Lenders**” means a Lender or Lenders whose Facility A Commitments aggregate more than 50 per cent. of the Total Facility A Commitments (or, if the Total Facility A Commitments have been reduced to zero, aggregated more than 50 per cent. or more of the Total Facility A Commitments immediately prior to the reduction of the Total Facility A Commitments to zero).

“**Majority Facility B Lenders**” means a Lender or Lenders whose Facility B Commitments aggregate more than 50 per cent. of the Total Facility B Commitments (or, if the Total Facility B Commitments have been reduced to zero, aggregated more than 50 per cent. or more of the Total Facility B Commitments immediately prior to the reduction of the Total Facility B Commitments to zero).

“**Majority Lenders**” means a Lender or Lenders whose Commitments (for any or all Facilities) aggregate more than 50 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 50 per cent. of the Total Commitments immediately prior to the reduction of the Total Commitments to zero).

“**Margin**” means 0.85 per cent. per annum.

“**Material Adverse Effect**” means a material adverse effect on:

- (a) the business or financial condition of the Group (taken as a whole);
- (b) the ability of the Borrower to perform its payment obligations under any or all of the Finance Documents; or
- (c) the legality, validity or enforceability of any or all of the Finance Documents or any or all of the rights or remedies of any Finance Party under any or all of the Finance Documents.

“**Material Subsidiary**” means, at any time, any Group Member whose:

- (a) revenue (calculated on a consolidated basis if such Group Member has any Subsidiary) represents 10 per cent. or more of the revenue of the Group (calculated on a consolidated basis); or
- (b) earnings before interest, Tax, depreciation and amortisation calculated on a similar basis as Consolidated EBITDA (calculated *mutatis mutandis* as if any reference in the definition of “Consolidated EBITDA” and any related definition to the Group were a reference to such Group Member and (if any) its Subsidiaries (on a consolidated basis)) represents 10 per cent. or more of Consolidated EBITDA.

Whether a Group Member meets any of the conditions set out in paragraphs (a) and/or (b) above shall be determined annually by reference to the period covered by the most recent audited consolidated financial statements of the Borrower delivered under this Agreement (and the Compliance Certificate delivered in respect of such financial statements) and (where available) the financial statements of that Group Member (for the period covered by such most recent audited consolidated financial statements of the Borrower), **provided** that if a person becomes a Group Member (whether as a result of acquisition or establishment or otherwise) or ceases to be a Group Member (whether as a result of disposal or otherwise) since the date as at which the latest audited consolidated financial statements of the Borrower delivered under this Agreement were prepared, such financial statements shall be deemed to be adjusted (on a *pro forma* basis as if such person had become or (as the case may be) ceased to be a Group Member with effect from the commencement of the period to which such financial statements relate) in order to take into account that person’s becoming or (as the case may be) ceasing to be a Group Member.

A report by the Group’s auditors (which shall be one of the Auditors) that a Group Member is or is not a Material Subsidiary (for the purposes of paragraphs (a) and/or (b) above) shall, in the absence of manifest error, be conclusive and binding on all Parties.

“**Month**” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day in that next calendar month (in which that period is to end) is not a Business Day, that period shall end on the next Business Day in that next calendar month if there is one, or if there is not, on the immediately preceding Business Day in that next calendar month;
- (b) if there is no numerically corresponding day in that next calendar month (in which that period is to end), that period shall end on the last Business Day in that next calendar month; and
- (c) if any period begins on the last Business Day of a calendar month, that period shall end on the last Business Day in the calendar month in which that period is to end.

The above rules will only apply to the last Month of any period.

“**OFAC**” means the Office of Foreign Assets Control of the US Department of the Treasury.

“**Offshore Group Member**” means a Group Member that is not an Onshore Group Member.

“**Offshore SBLC**” means, in relation to an SBLC Loan provided to an Onshore Group Member, any standby letter of credit or on demand guarantee (or similar instrument) issued by a bank or financial institution through its head office or branch not in the PRC, in favour of any lender (or agent or trustee acting for any lender) who is providing such SBLC Loan to that Onshore Group Member, the face value of which is at least 100 per cent. collateralised by cash and cash equivalents (including deposits and certificates of deposits) (disregarding any discrepancy arising solely as a result of any currency fluctuation) deposited with the issuer of such Offshore SBLC by any Offshore Group Member.

“**Onshore Group Member**” means a Group Member that is established or incorporated in the PRC.

“**Onshore SBLC**” means, in relation to an SBLC Loan provided to an Offshore Group Member, any standby letter of credit or on demand guarantee (or similar instrument) issued by a bank or financial institution through its head office or branch in the PRC, in favour of any lender (or agent or trustee acting for any lender) who is providing such SBLC Loan to that Offshore Group Member, the face value of which is at least 100 per cent. collateralised by cash and cash equivalents (including deposits and certificates of deposits) (disregarding any discrepancy arising solely as a result of any currency fluctuation) deposited with the issuer of such Onshore SBLC by any Onshore Group Member.

“**Original Financial Statements**” means the audited consolidated financial statements of the Borrower for its Financial Year ended 31 December 2020.

“**Party**” means a party to this Agreement.

“**PRC**” means the People’s Republic of China (which, for the purposes of this Agreement, does not include Hong Kong, the Special Administrative Region of Macau or Taiwan).

“**Quarter Dates**” means each of 31 March, 30 June, 30 September and 31 December (each a “**Quarter Date**”).

“**Quotation Day**” means:

- (a) in relation to any period for which an interest rate is to be determined (other than any Interest Period referred to in paragraph (b)), two London Business Days before the first day of that period unless market practice differs in the Relevant Interbank Market, in which case the Quotation Day will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days); or
- (b) in relation to any Interest Period the duration of which is selected by the Agent pursuant to Clause 8.3 (*Default interest*), such date as may be determined by the Agent (acting reasonably).

“**Reference Bank Rate**” means, in relation to any Loan or Unpaid Sum and any period relating thereto, the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by each of the Reference Banks as the rate at which such Reference Bank could borrow funds in the London interbank market in the currency of such Loan or Unpaid Sum and for such period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in such currency and for such period.

“**Reference Banks**” means the principal London offices of such banks as may be appointed by the Agent after consultation with the Borrower.

“**Related Fund**” in relation to a fund (the “**first fund**”), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

“**Relevant Interbank Market**” means the London interbank market.

“**Relevant Period**” has the meaning given to it in Clause 19.1 (*Financial definitions*).

“**Relevant Stock Exchange**” has the meaning given to it in 20.10 (*No delisting or suspension of the Borrower’s shares*).

“**Repeating Representations**” means each of the representations and warranties set out in Clauses 17.1 (*Status*) to 17.6 (*Governing law and enforcement*) (inclusive), paragraphs (a) and (b) of Clause 17.9 (*No default*), paragraph (c) of Clause 17.10 (*No misleading information*), Clause 17.11 (*Financial statements*), Clause 17.13 (*No proceedings pending or threatened*), Clause 17.14 (*Authorised Signatures*) and Clause 17.15 (*Sanctions, anti-terrorism, anti-money laundering and anti-corruption*).

“**Representative**” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“**Restricted Material Subsidiaries**” means:

- (a) Baidu Netcom;
- (b) Baidu Online; and
- (c) any Group Member to or in favour of whom all or substantially all of the assets of any of Baidu Netcom or Baidu Online has been transferred or otherwise disposed of (whether in a single transaction or a series of transactions (whether related or not)),

(each a “**Restricted Material Subsidiary**”).

“**Restricted Party**” means a person:

- (a) that is listed on, or owned or controlled by a person listed on, or acting on behalf of a person listed on, any Sanctions List;
- (b) that is located in or incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organised under the laws of any Sanctioned Jurisdiction; or
- (c) that is otherwise a target of Sanctions (“**target of Sanctions**” signifying a person with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities).

“**Rollover Loan**” means one or more Facility B Loans:

- (a) made or to be made on the same day that a maturing Facility B Loan is due to be repaid;
- (b) the aggregate amount of which is equal to or less than the amount of that maturing Facility B Loan; and
- (c) made or to be made for the purpose of refinancing that maturing Facility B Loan and identified as a “Rollover Loan” or “Rollover Loans” in the Utilisation Request for such first-mentioned Facility B Loans.

“**Sanctioned Jurisdiction**” means any country or territory that is the target of countrywide or territory-wide Sanctions.

“**Sanctions**” means any trade, economic or financial sanctions, embargoes, laws, regulations or restrictive measures administered, enacted or enforced by:

- (a) the European Union;

- (b) the United Kingdom;
- (c) the United Nations;
- (d) the US;
- (e) Hong Kong;
- (f) the PRC;
- (g) Singapore; and/or
- (h) the respective governmental institutions and agencies of any of the foregoing, including, without limitation, OFAC, the United Nations Security Council, the United States Department of State, the United States Department of the Treasury, Her Majesty's Treasury ("HMT") and the Hong Kong Monetary Authority (together the "**Sanctions Authorities**" and each a "**Sanctions Authority**").

"**Sanctions List**" means the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC and the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by HMT, or any similar list maintained by, or any public announcement of Sanctions designation made by, any of the Sanctions Authorities.

"**SBLC Loan**" means any Financial Indebtedness of (a) any Offshore Group Member where such Financial Indebtedness is secured or supported by an Onshore SBLC which is in turn secured by cash and cash equivalents (including deposits and certificates of deposits) in an amount that is not less than the face value of such Onshore SBLC (disregarding any discrepancy arising solely as a result of any currency fluctuation) or (b) any Onshore Group Member where such Financial Indebtedness is secured or supported by an Offshore SBLC which is in turn secured by cash and cash equivalents (including deposits and certificates of deposits) in an amount that is not less than the face value of that Offshore SBLC (disregarding any discrepancy arising solely as a result of any currency fluctuation).

"**Screen Rate**" means, in relation to any Loan or Unpaid Sum and any period relating thereto, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the currency of such Loan or Unpaid Sum and such period, as displayed (before any correction, recalculation or republication by such administrator) on the appropriate page of the Thomson Reuters screen (being currently page LIBOR01 or LIBOR02) or, if such page is replaced or such service ceases to be available, such replacement page or service displaying such rate as the Agent may select after consultation with the Borrower and the Lenders.

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Selection Notice**" means a notice in substantially the form set out in Part II of Schedule 3 (*Requests*).

“**Specified Time**” means the applicable time determined in accordance with Schedule 6 (*Timetables*).

“**Standing Payment Instructions**” means, in relation to any Lender, the standing payment instructions for that Lender set out in Schedule 7 (*Standing Payment Instructions*) or in the Transfer Certificate or the Assignment Agreement relating to any assignment or transfer or rights and/or obligations under this Agreement to such Lender, in each case as amended from time to time by written instruction to the Agent by a duly authorised officer of such Lender, **provided that** such written instructions are made by letter in original.

“**Subsidiary**” means in relation to any company, corporation or entity, a company, corporation or entity:

- (a) which is controlled, directly or indirectly, by the first mentioned company, corporation or entity;
- (b) more than half the issued equity share capital, registered capital or equity interest of which is beneficially owned, directly or indirectly by the first mentioned company, corporation or entity;
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company, corporation or entity; or
- (d) the financial condition or results of operation of which are or are required under GAAP to be consolidated for the purposes of the consolidated financial statements of the first mentioned company, corporation or entity,

and for this purpose, a company, corporation or entity shall be treated as being controlled by another if that other company, corporation or entity is able to direct its affairs and/or to control the majority of the composition of its board of directors or equivalent body.

“**Super Majority Lenders**” means a Lender or Lenders whose Commitments (for any or all Facilities) aggregate 80 per cent. or more of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated 80 per cent. or more of the Total Commitments immediately prior to the reduction of the Total Commitments to zero).

“**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“**Tax Deduction**” has the meaning given to such term in paragraph (a) of Clause 12.1 (*Definitions*).

“**Total Commitments**” means the aggregate of the Facility A Commitments and the Facility B Commitments, being US\$3,000,000,000 at the date of this Agreement.

“**Total Facility A Commitments**” means the aggregate of the Facility A Commitments, being US\$1,500,000,000 at the date of this Agreement.

“**Total Facility B Commitments**” means the aggregate of the Facility B Commitments, being US\$1,500,000,000 at the date of this Agreement.

“**Transfer Certificate**” means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Agent and the Borrower.

“**Transfer Date**” means, in relation to an assignment by a Lender of any or all of its rights under this Agreement or a transfer by a Lender of any or all of its rights and obligations under this Agreement, the later of:

- (a) the proposed Transfer Date specified in the Assignment Agreement relating to such assignment or (as the case may be) the Transfer Certificate relating to such transfer; and
- (b) the date on which the Agent executes the Assignment Agreement relating to such assignment or (as the case may be) the Transfer Certificate relating to such transfer.

“**Unpaid Sum**” means any sum due and payable but unpaid by the Borrower under any or all of the Finance Documents.

“**US**”, “**U.S.**” and “**United States**” means the United States of America, its territories, possessions and other areas subject to the jurisdiction of the United States of America.

“**US Bankruptcy Code**” means Title 11 of the United States Code, 11 USC. 101 et seq., entitled “Bankruptcy”.

“**U.S.A. Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56.

“**US Tax Obligor**” means the Borrower if:

- (a) it is resident for tax purposes in the US; or
- (b) its payments under the Finance Documents are from sources within the US for United States federal income tax purposes.

“**Utilisation**” means a utilisation of any Facility.

“**Utilisation Date**” means the date of a Utilisation, being the date on which the Loan (the subject of such Utilisation) is made or to be made.

“**Utilisation Request**” means a notice substantially in the form set out in Part I (*Form of Utilisation Request*) of Schedule 3 (*Requests*).

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
 - (i) the Agent, any Arranger, any Administrative Party, any Finance Party, any Lender or any Party shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

- (ii) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended and/or restated from time to time;
- (iii) a document in “**agreed form**” is a document which is in the form agreed in writing by or on behalf of the Borrower and the Agent;
- (iv) “**asset**” includes present and future properties, revenues and rights of every description;
- (v) “**disposal**” includes any sale, lease, transfer, conveyance, assignment and other disposal of any asset or any interest therein (including, without limitation, any other transaction or arrangement pursuant to which the economic benefit of or beneficial interest in such asset is lost or diluted) and “**dispose**” shall be construed accordingly;
- (vi) “**guarantee**” includes 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 (and “**guarantor**” shall be construed accordingly);
- (vii) “**including**” shall be construed as “including without limitation” (and cognate expressions shall be construed similarly);
- (viii) “**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;
- (ix) a Finance Party’s “**participation**” in any Loan or Unpaid Sum includes an amount (in the currency of such Loan or Unpaid Sum) representing the fraction or portion (attributable to such Finance Party by virtue of the provisions of this Agreement) of the total amount of such Loan or Unpaid Sum and such Finance Party’s rights under this Agreement and/or any other Finance Document in respect thereof;
- (x) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- (xi) 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;

- (xii) any gender shall be construed to include a reference to each other gender;
 - (xiii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xiv) a time of day is a reference to Hong Kong time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (d) A Default (other than an Event of Default) is “**continuing**” if it has not been remedied or waived and an Event of Default is “**continuing**” if it has not been waived.
- (e) The “**equivalent**” of an amount in a given currency (the “**specified currency**”) is a reference to the amount of any other currency which, when converted into the specified currency utilising the Agent’s spot rate of exchange (or, if no such spot rate of exchange is quoted by the Agent, such other prevailing market rate of exchange selected by the Agent) for the purchase of the specified currency with that other currency at or about 11:00 a.m. (Hong Kong time) on the applicable date of determination, is equal to the applicable amount in the specified currency.

1.3 **Currency symbols and definitions**

“\$”, “US\$”, “US dollar”, “US dollars”, “dollar” and “dollars” denote lawful currency of the United States of America.

1.4 **Third party rights**

- (a) A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Agreement, except as otherwise provided in paragraph (b) of Clause 24.9 (*Exclusion of liability*) and Clause 24.18 (*Liability*).
- (b) Notwithstanding any provision of this Agreement (including paragraph (a) above), the Parties do not require the consent of any person who is not a Party to rescind, amend, vary or waive any provision of this Agreement at any time.

SECTION 2
THE FACILITIES

2. THE FACILITIES

2.1 The Facilities

Subject to the terms of this Agreement, the Lenders agree to make available to the Borrower:

- (a) a US dollar term loan facility in an aggregate amount of up to the Total Facility A Commitments; and
- (b) a US dollar revolving credit facility in an aggregate amount of up to the Total Facility B Commitments.

2.2 Finance Parties' rights and obligations

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under any or all of the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under any or all of the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under any or all of the Finance Documents to a Finance Party from the Borrower shall be a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by the Borrower.
- (c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents. Each Finance Party shall be entitled to separately enforce its rights under the Finance Documents against the Borrower to recover any amount that is due and payable to it under any Finance Document (or to recover its share of any amount that is due and payable under any Finance Document) without the consent of any other Party; and nothing shall prejudice the rights of a Finance Party from separately enforcing its rights in relation to any debt arising under any Finance Document owing to it (or its share of any debt arising under a Finance Document), which debt is due and payable.

3. **PURPOSE**

3.1 **Purpose**

The Borrower shall ensure that all amounts borrowed by it under the Facilities are applied towards:

- (a) financing the general corporate purposes of the Group; and/or
- (b) payment of fees, costs and expenses incurred by the Borrower in connection with the Finance Documents.

3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. **CONDITIONS OF UTILISATION**

4.1 **Initial conditions precedent**

- (a) The Borrower may not deliver a Utilisation Request unless the Agent has received all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent. The Agent shall notify the Borrower and the Lenders promptly upon being so satisfied.
- (b) Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification described in paragraph (a) above, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.

4.2 **Further conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to any Loan if on the date of the Utilisation Request (relating to such Loan) and on the proposed Utilisation Date (for such Loan):

- (a) (in the case of a Rollover Loan) the Agent has not given notice pursuant to Clause 21.13 (*Acceleration*) to the Borrower to declare that no Rollover Loan shall be made or (in the case of any Loan other than a Rollover Loan) no Default is continuing or would result from such proposed Loan; and
- (b) (in the case of any Loan other than a Rollover Loan) the representations and/or warranties to be repeated by the Borrower under any or all of the Finance Documents upon the date of any Utilisation Request or any Utilisation Date are true in all material respects (whether before or after giving effect to such proposed Loan).

4.3 **Maximum number of Loans**

- (a) The Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation, 10 or more Facility A Loans would be outstanding.
- (b) The Borrower may not request that any Loan be divided.

**SECTION 3
UTILISATION**

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Borrower may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

- (a) Each Utilisation Request for a Loan under any Facility is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Facility to be utilised;
 - (ii) the proposed Utilisation Date is a Business Day within the Availability Period for such Facility;
 - (iii) the currency and amount of such Loan (the subject of such Utilisation Request) comply with Clause 5.3 (*Currency and amount*); and
 - (iv) the proposed first Interest Period complies with Clause 9 (*Interest Periods*).
- (b) Only one Loan in respect of each Facility may be requested in each Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be US dollars.
- (b) The amount of the proposed Loan under any Facility specified in a Utilisation Request must be an amount which does not exceed the Available Facility for such Facility and which is (i) a minimum of US\$50,000,000 and an integral multiple of US\$10,000,000, or (ii) if less, the Available Facility for such Facility.

5.4 Lenders' participation

- (a) If the conditions set out in this Agreement have been met and subject to Clause 7.1 (*Illegality*) and paragraph (b) of Clause 6.2 (*Repayment of Facility B Loans*), each Lender shall make its participation in each Loan available by the Utilisation Date for such Loan through its Facility Office.
- (b) The amount of each Lender's participation in each Loan under any Facility will be equal to a proportion of such Loan, such proportion being equal to the proportion borne by such Lender's Available Commitment for such Facility to the Available Facility for such Facility immediately prior to making such Loan.

- (c) The Agent shall notify each Lender of the amount of each Loan and the amount of its participation in that Loan (and, in the case of a Facility B Loan and if different, the amount of its participation in that Loan to be made available to the Agent under Clause 26.1 (*Payments to the Agent*) in accordance with paragraph (b) of Clause 6.2 (*Repayment of Facility B Loans*)), in each case by the Specified Time.

5.5 Cancellation of Available Facility

On the expiry of the Availability Period in respect of any Facility (in the principal financial centre of the country of the currency in which such Facility is denominated):

- (a) the Available Commitment (if any) of each Lender in respect of such Facility shall be immediately and automatically reduced to zero; and
- (b) the Commitment of each Lender in respect of such Facility shall be immediately and automatically reduced by the amount (if any) of the Available Commitment of such Lender in respect of such Facility immediately before the reduction to zero of its Available Commitment in respect of such Facility in accordance with paragraph (a) above.

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

6.1 Repayment of Facility A Loans

- (a) The Borrower shall repay each Facility A Loan in full on the Final Maturity Date.
- (b) The Borrower may not re-borrow any part of Facility A which is repaid.

6.2 Repayment of Facility B Loans

- (a) Subject to paragraph (c), the Borrower shall repay each Facility B Loan in full on the last day of its Interest Period.
- (b) Without prejudice to the Borrower's obligation under paragraph (a) above, if:
 - (i) one or more Facility B Loans are to be made available to the Borrower in accordance with the provisions of this Agreement ("**New Facility B Loans**"):
 - (A) on the same day that a maturing Facility B Loan is due to be repaid; and
 - (B) in whole or in part for the purpose of refinancing such maturing Facility B Loan (as specified in the Utilisation Request(s) for such New Facility B Loans); and
 - (ii) each Lender's aggregate participation in such New Facility B Loans (expressed as a percentage of the aggregate amount of such New Facility B Loans) is equal to such Lender's participation in such maturing Facility B Loan (expressed as a percentage of the aggregate amount of such Facility B Loan),

the aggregate amount of such New Facility B Loans shall, unless the Borrower notifies the Agent to the contrary in the Utilisation Request(s) for such New Facility B Loans, be treated as if applied in or towards repayment of such maturing Facility B Loan so that:

- (A) if the amount of such maturing Facility B Loan exceeds the aggregate amount of the New Facility B Loans:
 - (1) the Borrower will only be required to make a payment under Clause 26.1 (*Payments to the Agent*) in an amount equal to that excess; and
 - (2) each Lender's participation in such New Facility B Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in such maturing Facility B Loan and that Lender will not be required to make a payment under Clause 26.1 (*Payments to the Agent*) in respect of its participation in such New Facility B Loans; and

- (B) if the amount of such maturing Facility B Loan is equal to or less than the aggregate amount of such New Facility B Loans:
 - (1) the Borrower will not be required to make a payment under Clause 26.1 (*Payments to the Agent*); and
 - (2) each Lender will be required to make a payment under 26.1 (*Payments to the Agent*) in respect of its participation in such New Facility B Loans only to the extent that its participation in such New Facility B Loans exceeds that Lender's participation in such maturing Facility B Loan and the remainder of that Lender's participation in such New Facility B Loans shall be treated as having been made available and applied by the Borrower in or towards repayment of that Lender's participation in such maturing Facility B Loan.
- (c) All of the Facility B Loans must be repaid in full on the Final Maturity Date.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan or any part thereof:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event and the Agent shall promptly notify the Borrower upon the receipt of such notification from that Lender;
- (b) upon the Agent notifying the Borrower, the Available Commitment of that Lender for each Facility will be immediately cancelled and reduced to zero and the Lenders' Commitment for each Facility shall be reduced by the amount of the Available Commitment for such Facility so cancelled (and that Lender shall not be obliged to participate in the making of any Loan under any Facility); and
- (c) to the extent that that Lender's participation in each Loan has not been transferred to another person pursuant to Clause 7.5 (*Right of repayment and cancellation in relation to a single Lender*), the Borrower shall repay that Lender's participation in each Loan on the last day of the Interest Period for such Loan occurring after the Agent has notified the Borrower or, if earlier, the date specified by that Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

7.2 Voluntary cancellation

- (a) The Borrower may, if it gives the Agent not less than 3 Business Days' (or such shorter period as the Majority Facility A Lenders may agree) prior notice, reduce the Facility A Available Facility to zero or by such amount (being a minimum amount of US\$50,000,000 and an integral multiple of US\$10,000,000) as the Borrower may specify in such notice.
- (b) The Borrower may, if it gives the Agent not less than 3 Business Days' (or such shorter period as the Majority Facility B Lenders may agree) prior notice, reduce the Facility B Available Facility to zero or by such amount (being a minimum amount of US\$50,000,000 and an integral multiple of US\$10,000,000) as the Borrower may specify in such notice.
- (c) Any such reduction of the Available Facility for any Facility under this Clause 7.2 shall reduce the Commitments of the Lenders for such Facility rateably.

7.3 Voluntary prepayment of Facility A Loans

- (a) The Borrower may, if it gives the Agent not less than 3 Business Days' (or such shorter period as the Majority Facility A Lenders may agree) prior notice in writing, prepay the whole or any part of any Facility A Loan, **provided that**, in the case of any prepayment of any Facility A Loan in part, the amount of such prepayment reduces the amount of such Facility A Loan by an amount that is (i) not less than US\$50,000,000 and (ii) if in excess of US\$50,000,000, an integral multiple of US\$10,000,000.
- (b) A Facility A Loan may only be prepaid under this Clause 7.3 after the last day of the Availability Period in respect of Facility A (or, if earlier, the day on which the Facility A Available Facility is zero).

7.4 Voluntary prepayment of Facility B Loans

The Borrower may, if it gives the Agent not less than 3 Business Days' (or such shorter period as the Majority Facility B Lenders may agree) prior notice in writing, prepay the whole or any part of any Facility B Loan, **provided that**, in the case of any prepayment of any Facility B Loan in part, the amount of such prepayment reduces the amount of such Facility B Loan by an amount that is (i) not less than US\$50,000,000 and (ii) if in excess of US\$50,000,000, an integral multiple of US\$10,000,000.

7.5 Right of repayment and cancellation in relation to a single Lender

- (a) If:
 - (i) any sum payable to any Lender by the Borrower is required to be increased under Clause 12.2 (*Tax gross-up*); or
 - (ii) any Lender claims indemnification from the Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13 (*Increased Costs*),the Borrower may, whilst the circumstance giving rise to such requirement or indemnification continues, give the Agent and that Lender notice of its intention to procure the repayment of that Lender's participation in the Loans and the cancellation of the Commitment of that Lender for each Facility (a "**Cancellation Notice**").

- (b) On receipt of a Cancellation Notice referred to in paragraph (a) above in respect of any Lender, the Available Commitment of that Lender for each Facility shall immediately be cancelled and reduced to zero (and the Lenders' Commitment for each Facility shall be reduced by the amount of the Available Commitment for such Facility so cancelled).
- (c) On the last day of each Interest Period relating to any Loan which ends after the Borrower has given a Cancellation Notice under paragraph (a) above in respect of any Lender (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in that Loan.
- (d) If:
 - (i) any sum payable to any Lender by the Borrower is required to be increased under Clause 12.2 (*Tax gross-up*);
 - (ii) any Lender claims indemnification from the Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13 (*Increased Costs*);
 - (iii) the Borrower becomes obliged to repay any Loan in accordance with Clause 7.1 (*Illegality*); or
 - (iv) any Lender becomes a Non-Consenting Lender (as defined in paragraph (f) below),

the Borrower may, on not less than 10 Business Days' prior written notice to the Agent and that Lender of its intention to replace that Lender (a "**Replacement Notice**"), replace that Lender (a "**Replaced Lender**") by requiring such Replaced Lender to (and, to the extent permitted by law, such Replaced Lender shall) transfer pursuant to Clause 22 (*Changes to the Parties*) all (and not part only) of its rights and obligations under this Agreement to a Lender or any other bank, financial institution selected by the Borrower (a "**Replacement Lender**") which confirms (x) its willingness to assume and does assume all the obligations of such Replaced Lender in accordance with Clause 22 (*Changes to the Parties*) for a purchase price in cash payable, free and clear from any and all withholdings and deductions, at the time of such transfer equal to the sum of (and in the currency of) (A) the aggregate outstanding principal amount of such Replaced Lender's participation in each of the outstanding Loans, (B) all accrued interest (whether or not due) thereon, (C) any Break Costs that would have been payable to such Replaced Lender had such Replaced Lender received payment of its participation in each of the Loans and accrued interest thereon and other sums payable under the Finance Documents from the Borrower on the date of such transfer and (D) all other amounts owing or payable to such Replaced Lender under the Finance Documents, and (y) (in the case where such Replaced Lender is a Non-Consenting Lender) its consent to the waiver or amendment (that is the subject of the applicable Non-Consenting Event which constitutes such Replaced Lender as a Non-Consenting Lender).

- (e) The replacement of a Replaced Lender and the transfer of rights and obligations of such Replaced Lender to the applicable Replacement Lender pursuant to paragraph (d) above shall be subject to the following conditions:
- (i) without prejudice to paragraph (h) of Clause 24.11 (*Resignation of the Agent*), the Borrower shall have no right to replace the Agent;
 - (ii) none of the Finance Parties (including without limitation such Replaced Lender) shall have any obligation to find a Replacement Lender;
 - (iii) in no event shall such Replaced Lender be required to pay, account for or surrender to such Replacement Lender for any amount (including without limitation any fees) received or recovered by such Replaced Lender pursuant to the Finance Documents prior to or in respect of any time prior to such transfer;
 - (iv) such Replaced Lender shall not be obliged to make such transfer or execute any Transfer Certificate in respect of such transfer unless it is satisfied (acting reasonably) that it has completed all “know your customer” and other similar procedures that it is required to conduct in relation to such transfer to such Replacement Lender (and the Replaced Lender shall perform such procedures as soon as reasonably practicable following delivery of a Replacement Notice to it in respect of such transfer and shall notify the Agent and the Borrower when it is satisfied that it has completed such procedures);
 - (v) such Replaced Lender shall be paid the purchase price in respect of such transfer as set out in paragraph (d) by no later than the time of such transfer, and any and all costs and expenses incurred or to be incurred in connection with such transfer by such Replaced Lender shall be paid by the Borrower to such Replaced Lender no later than the time of such transfer;
 - (vi) such Replacement Lender is not a Group Member or any Affiliate of a Group Member except with the prior written consent of the Agent (acting on the instructions of the Majority Lenders) **provided that** in no event shall such Replacement Lender be the Borrower;
 - (vii) such Replaced Lender shall not be required to make any such transfer to the extent that such transfer is, or would be reasonably likely to result, in breach of or non-compliance with any applicable law or regulation, or any rules or regulations of any applicable securities exchange;
 - (viii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 30 days after the date on which the Non-Consenting Event constituting such Replaced Lender a Non-Consenting Lender first arose; and

- (ix) in the case of paragraph (d)(i), (d)(ii) or (d)(iii), such Replaced Lender shall only be obliged to make such transfer if at the time of such transfer the circumstance giving rise to such requirement for increased payments to such Replaced Lender under Clause 12.2 (*Tax gross-up*) or such indemnification in favour of such Replaced Lender under Clause 12.3 (*Tax indemnity*) or Clause 13 (*Increased Costs*) or the Borrower's obligation to repay any Loan in accordance with Clause 7.1 (*Illegality*) (as the case may be) is continuing.
- (f) In the event that:
 - (i) the Borrower or the Agent (at the request of the Borrower) has requested the Lenders to consent to a waiver or amendment of any provisions of the Finance Documents;
 - (ii) the waiver or amendment in question requires the consent of all the Lenders; and
 - (iii) the Super Majority Lenders have consented to such waiver or amendment,then any Lender who does not and continues not to consent to such waiver or amendment shall be deemed a "**Non-Consenting Lender**" and such event shall be a "**Non-Consenting Event**".

7.6 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) The Borrower may not re-borrow any part of Facility A which is prepaid.
- (d) Unless a contrary indication appears in this Agreement, any part of Facility B which is prepaid or repaid may be re-borrowed during the Facility B Availability Period in accordance with the terms of this Agreement.
- (e) The Borrower shall not repay or prepay all or any part of the Loans or cancel or reduce all or any part of the Commitments or Available Commitments of the Lenders for any Facility except at the times and in the manner expressly provided for in this Agreement.
- (f) If any Commitment of any Lender in respect of any Facility is cancelled or reduced under this Agreement, such Commitment so cancelled or reduced may not be subsequently reinstated.
- (g) If the Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.

- (h) If all or part of any Lender's participation in a Loan under any Facility is repaid or prepaid and is not available for redrawing (other than by reason of the operation of Clause 4.2 (*Further conditions precedent*)), an amount of that Lender's Commitment in respect of that Facility (equal to the amount of such Lender's participation in such Loan which is so repaid or prepaid) will be deemed to be cancelled on the date of such repayment or prepayment.

**SECTION 5
COSTS OF UTILISATION**

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Loan at any time during an Interest Period relating thereto is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin for such Loan;
- (b) LIBOR for such Loan and such Interest Period.

8.2 Payment of interest

On the last day of each Interest Period relating to a Loan the Borrower shall pay accrued interest on such Loan.

8.3 Default interest

- (a) If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on such overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is one (1) per cent. per annum higher than the rate which would have been payable if such overdue amount had, during the period of non-payment, constituted a Loan in the currency of such overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 on any overdue amount owing by the Borrower shall be immediately payable by the Borrower on demand by the Agent.
- (b) If any Unpaid Sum consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
 - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
 - (ii) the rate of interest applying to that Unpaid Sum during that first Interest Period shall be one (1) per cent. per annum higher than the rate which would have applied if that Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on any Unpaid Sum will be compounded with that Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

8.4 Notification of rates of interest

The Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

9. INTEREST PERIODS

9.1 Selection of Interest Periods

- (a) Subject to the provisions of this Agreement:
- (i) the Borrower may select an Interest Period for any Loan in the Utilisation Request for such Loan or (if such Loan is a Facility A Loan which has already been borrowed) in a Selection Notice;
 - (ii) each Selection Notice in respect of an Interest Period for any Facility A Loan is irrevocable and must be delivered to the Agent by the Borrower not later than three Business Days prior to the commencement of that Interest Period;
 - (iii) if the Borrower fails to deliver a Selection Notice to the Agent in accordance with paragraph (a)(ii) above in relation to any Interest Period for a Facility A Loan, such Interest Period will, subject to paragraph (b), be one Month; and
 - (iv) the Borrower may (pursuant to paragraph (a)(i)) select an Interest Period for any Loan of one, three or six Month(s) or any other period agreed between the Borrower and the Agent (acting on the instructions of all the Lenders that have any participation in that Loan).
- (b) No Interest Period for any Loan shall extend beyond the Final Maturity Date.
- (c) Each Interest Period for a Facility A Loan shall start on the Utilisation Date for such Loan or (if such Facility A Loan has already been made) on the last day of the preceding Interest Period relating to such Loan.
- (d) A Facility B Loan has one Interest Period only and such Interest Period shall start on the Utilisation Date of that Facility B Loan.

9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day.

9.3 Consolidation of Facility A Loans

If two or more Interest Periods relating to Facility A Loans end on the same date, then those Facility A Loans will be consolidated into, and treated as, a single Facility A Loan on the last day of such first-mentioned Interest Periods.

10. CHANGES TO THE CALCULATION OF INTEREST

10.1 Absence of quotations

Subject to Clause 10.2 (*Market disruption*), if LIBOR for any sum and any Interest Period relating thereto is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by noon (London time) on the Quotation Day for such Interest Period, the applicable LIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

10.2 Market disruption

- (a) Subject to any alternative basis agreed and consented to as contemplated by paragraphs (a) and (b) of Clause 10.3 (*Alternative basis of interest or funding*), if a Market Disruption Event occurs in relation to a Loan for any Interest Period relating thereto, then the rate of interest on each Lender's participation in that Loan at any time during that Interest Period shall be the rate per annum which is the sum of:
- (i) the applicable Margin as at such time;
 - (ii) (subject to paragraph (b)) the percentage rate per annum notified to the Agent by that Lender, as soon as practicable and in any event no later than five Business Days before interest is due to be paid in respect of that Interest Period (or such later date as may be acceptable to the Agent), as the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select (**provided that** if such percentage rate per annum is below zero, then such percentage rate per annum shall be deemed to be zero).
- (b) In relation to a Market Disruption Event (in respect of any Loan and any Interest Period relating thereto) falling within paragraph (c)(ii), if the percentage rate per annum notified by a Lender pursuant to paragraph (a)(ii) above in respect of such Loan and such Interest Period is less than LIBOR for such Loan and such Interest Period or if a Lender shall fail to notify the Agent of any such percentage rate per annum pursuant to paragraph (a)(ii) above in respect of such Loan and such Interest Period, then the cost of that Lender of funding its participation in such Loan for such Interest Period shall be deemed, for the purposes of paragraph (a)(ii) above, to be equal to LIBOR for such Loan and such Interest Period, and such Lender shall be deemed to have notified the Agent of such cost of funding pursuant to paragraph (a)(ii) above.
- (c) In this Agreement "**Market Disruption Event**" means in relation to any Loan and any Interest Period relating thereto:
- (i) at or about noon (London time) on the Quotation Day for such Loan and such Interest Period, LIBOR for such Loan and such Interest Period is to be determined by reference to the Reference Banks and none or only one of the Reference Banks supplies a rate to the Agent to determine LIBOR for such Loan and such Interest Period; or
 - (ii) as at 5:00 p.m. (Hong Kong time) on the Business Day immediately following the Quotation Day for such Loan and such Interest Period, the Agent has received notifications from a Lender or Lenders (whose aggregate participations in such Loan exceed 50 per cent. of such Loan) that the cost to it or them of funding its/their participation(s) in such Loan from whatever source(s) it/they may reasonably select would be in excess of LIBOR for such Loan and such Interest Period.

- (d) If a Market Disruption Event occurs in relation to any Loan and any Interest Period relating thereto, the Agent shall promptly notify the Lenders and the Borrower thereof upon becoming aware of the same.

10.3 **Alternative basis of interest or funding**

- (a) If a Market Disruption Event occurs and the Agent or the Borrower so requires, the Agent and the Borrower shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest under this Agreement.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Borrower, be binding on all Parties.
- (c) For the avoidance of doubt, in the event that no substitute basis is agreed at the end of such 30-day period, the rate of interest shall continue to be determined in accordance with the terms of this Agreement (including without limitation Clause 10.2 (*Market disruption*)).

10.4 **Break Costs**

- (a) The Borrower shall, within ten Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or any Unpaid Sum being paid by or recovered from the Borrower on a day other than the last day of an Interest Period for that Loan or that Unpaid Sum.
- (b) Each Finance Party shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs in relation to any Loan or any Unpaid Sum and any Interest Period relating thereto.

11. **FEES**

11.1 **Commitment fee**

- (a) The Borrower shall, in respect of Facility B, pay to the Agent (for the account of each Lender) a commitment fee in US dollars computed and accruing on a daily basis at the rate of 0.2 per cent. per annum on that Lender's Facility B Available Commitment on each day of the Facility B Availability Period. For such purposes, such Lender's commitment fee for Facility B in respect of any day during the Facility B Availability Period shall be calculated on such Lender's Facility B Available Commitment as at the close of business on such day (or, if any such day is not a Business Day, the immediately preceding Business Day).
- (b) The accrued commitment fee under paragraph (a) is payable in arrears:
 - (i) on the last day of each successive period of three Months which ends during the Facility B Availability Period;
 - (ii) on the last day of the Facility B Availability Period; and

- (iii) if a Lender's Facility B Commitment is reduced to zero before the last day of the Facility B Availability Period, on the day on which such reduction to zero becomes effective.

11.2 Arrangement fee

The Borrower shall pay to the Agent (for the account of the Original MLABs) an arrangement fee in the amount and at the times agreed in a Fee Letter.

11.3 Agency fee

The Borrower shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

11.4 Deduction of fees

Payment of the fees in Clause 11.2 (*Arrangement fee*) and/or Clause 11.3 (*Agency fee*) may, at the election of the Agent, be made out of the proceeds of the first Loan and the Agent is hereby irrevocably authorised to deduct the amount of such fees and apply the same towards payment of such fees on behalf of the Borrower.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

12. TAX GROSS UP AND INDEMNITIES

12.1 Definitions

(a) In this Agreement:

“**Tax Credit**” means a credit against, relief or remission for, or repayment of any Tax.

“**Tax Deduction**” means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

“**Tax Payment**” means an increased payment made by the Borrower to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 12 a reference to “determines” or “determined” means a determination made in the absolute discretion of the person making the determination.

12.2 Tax gross-up

(a) All payments to be made by the Borrower to any Finance Party under any of the Finance Documents shall be made free and clear of and without any Tax Deduction unless the Borrower is required to make a Tax Deduction, in which case the sum payable by the Borrower (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that such Finance Party receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.

(b) The Borrower shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable by the Borrower to that Lender. If the Agent receives such notification from a Lender it shall notify the Borrower.

(c) If the Borrower is required to make a Tax Deduction, the Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(d) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall deliver to the Agent for the Finance Party entitled to the payment (to which such Tax Deduction relates) an original receipt (or a certified copy thereof) reasonably satisfactory to that Finance Party that such Tax Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority.

- (e) The Agent shall not have any duty or obligation to facilitate the making of any Tax Deduction by the Borrower.

12.3 Tax indemnity

- (a) Without prejudice to Clause 12.2 (*Tax gross-up*), if any Finance Party is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under any of the Finance Documents (including any sum deemed for purposes of Tax to be received or receivable by such Finance Party whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, the Borrower shall, within ten Business Days of demand of the Agent, promptly indemnify each Finance Party which suffers a loss or liability as a result against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection therewith, **provided that** this Clause 12.3 shall not apply to:
- (i) any Tax imposed on and calculated by reference to the net income actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which such Finance Party is incorporated; or
 - (ii) any Tax imposed on and calculated by reference to the net income of the Facility Office of such Finance Party actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which its Facility Office is located.
- (b) A Finance Party (other than the Agent) intending to make a claim under paragraph (a) shall notify the Agent of the event giving rise to such claim, whereupon the Agent shall notify the Borrower thereof.
- (c) A Finance Party shall, on receiving a payment from the Borrower under this Clause 12.3, notify the Agent.

12.4 Tax Credit

If the Borrower makes a Tax Payment in respect of a Finance Party and that Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

that Finance Party shall pay an amount to the Borrower which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Borrower.

12.5 **Stamp taxes**

The Borrower shall:

- (a) pay all stamp duty, registration and other similar Taxes payable in respect of any Finance Document; and
- (b) within ten Business Days of demand, indemnify each Finance Party against any cost, loss or liability which that Finance Party incurs in relation to any or all stamp duty, registration and/or other similar Taxes paid or payable in respect of any Finance Document.

12.6 **Indirect Tax**

- (a) All amounts set out or expressed in any Finance Document to be payable by any Party to a Finance Party shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by any Finance Party to any Party under or in connection with any Finance Document, that Party shall pay to such Finance Party (in addition to and at the same time as paying the consideration for such supply) an amount equal to the amount of such Indirect Tax.
- (b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify that Finance Party against all Indirect Tax incurred by that Finance Party in respect of such costs or expenses to the extent that such Finance Party reasonably determines that it is not entitled to credit or repayment in respect of such Indirect Tax.

12.7 **FATCA Information**

- (a) Subject to paragraph (c) below, each Party shall, within ten Business Days of a reasonable request by another Party:
 - (i) confirm to that requesting Party whether it is a FATCA Exempt Party or not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party within 30 days upon becoming aware of the same.

- (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
- (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides such requested confirmation, forms, documentation or other information.
- (e) If the Borrower is a US Tax Obligor or the Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within ten Business Days of:
- (i) where the Borrower is a US Tax Obligor and such Lender is an Original Lender, the date of this Agreement;
 - (ii) where the Borrower is a US Tax Obligor on a Transfer Date and such Lender is a New Lender (in respect of any assignment or transfer by an Existing Lender to such New Lender), the Transfer Date in respect of such assignment or transfer; or
 - (iii) where the Borrower is not a US Tax Obligor, the date of a request from the Agent,
- supply to the Agent:
- (A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or
 - (B) any withholding statement or other document, authorisation or waiver as the Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.
- (f) The Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Borrower.
- (g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Agent unless it is unlawful for that Lender to do so (in which case that Lender shall promptly notify the Agent). The Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Borrower.

- (h) The Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.
- (i) If a Lender fails to supply any withholding certificate, withholding statement, document, authorisation, waiver or information in accordance with paragraph (e) above, or any withholding certificate, withholding statement, document, authorisation, waiver or information provided by a Lender to the Agent is or becomes materially inaccurate or incomplete, then such Lender shall indemnify the Agent, within three Business Days of demand, against any cost, loss, Tax or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (including any related interest and penalties) in acting as Agent under the Finance Documents as a result of such failure.
- (j) If, in accordance with paragraph (f) above, the Agent provides the Borrower with sufficient information to determine its withholding obligations under FATCA, but the Borrower fails to withhold as required by FATCA, the Borrower shall indemnify the Agent, within three Business Days of demand, against any cost, loss, Tax or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (including any related interest and penalties) in acting as Agent under the Finance Documents as a result of such failure.

12.8 **FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of that payment for that FATCA Deduction.
- (b) Each Party shall promptly upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment (to which such FATCA Deduction relates) and, in addition, shall notify the Borrower and the Agent and the Agent shall notify the other Finance Parties.

13. **INCREASED COSTS**

13.1 **Increased costs**

- (a) Subject to Clause 13.3 (*Exceptions*), the Borrower shall, within ten Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
 - (ii) compliance with any law or regulation made, enacted, issued or put into effect after the date of this Agreement.

The terms “law” and “regulation” in this paragraph (a) shall include, without limitation, any law or regulation concerning capital adequacy, prudential limits, liquidity, reserve assets or Tax.

- (b) In this Agreement:

- (i) **“Basel III”** means:
 - (A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
 - (B) the rules for global systemically important banks contained in “Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text” published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
 - (C) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”;
- (ii) **“Increased Costs”** means:
 - (A) a reduction in the rate of return from the Facility (or any part thereof) or on a Finance Party’s (or its Affiliate’s) overall capital;
 - (B) an additional or increased cost; or
 - (C) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to the undertaking, funding or performance by that Finance Party of any of its obligations under any Finance Document or any participation of that Finance Party in any Loan or Unpaid Sum.

13.2 Increased cost claims

- (a) A Finance Party (other than the Agent) intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Agent of the event giving rise to such claim, following which the Agent shall promptly notify the Borrower.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs in respect of any claim made by such Finance Party under Clause 13.1 (*Increased costs*).

13.3 Exceptions

Clause 13.1 (*Increased costs*) does not apply to any Increased Cost to the extent such Increased Cost is:

- (a) attributable to a Tax Deduction that is required by law to be made by the Borrower and that is already compensated for by Clause 12.2 (*Tax gross-up*);
- (b) attributable to a FATCA Deduction required to be made by a Party;
- (c) attributable to compliance by the relevant Finance Party or its Affiliates with the reserve requirement ratio or any similar measures imposed by the People's Bank of China;
- (d) attributable to the implementation or application or compliance with Basel III or any other law or regulation which implements Basel III (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates or otherwise);
- (e) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (a) of Clause 12.3 (*Tax indemnity*) applied); or
- (f) incurred by a Finance Party or an Affiliate of a Finance Party and is attributable to the wilful breach by such Finance Party or such Affiliate of any law or regulation.

14. MITIGATION BY THE LENDERS

14.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 12 (*Tax Gross Up and Indemnities*) or Clause 13 (*Increased costs*).
- (b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents.

14.2 **Limitation of liability**

- (a) The Borrower shall indemnify each Finance Party, within ten Business Days of demand, for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 14.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 14.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

14.3 **Conduct of business by the Finance Parties**

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any such claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

15. **OTHER INDEMNITIES**

15.1 **Currency indemnity**

- (a) If any sum due from the Borrower under any or all of the Finance Documents (a “**Sum**”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “**First Currency**”) in which that Sum is payable into another currency (the “**Second Currency**”) for the purpose of:
 - (i) making or filing a claim or proof against the Borrower; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,the Borrower shall as an independent obligation, within ten Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of such conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt or recovery of that Sum.
- (b) The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

15.2 Other indemnities

The Borrower shall, within ten Business Days of demand, indemnify each of the Finance Parties against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) the Information Memorandum or any other information produced or approved by the Borrower or any Group Member being or being alleged to be misleading and/or deceptive in any respect;
- (c) any enquiry, investigation, subpoena (or similar order) or legal or arbitral proceedings with respect to the Borrower or with respect to any transactions contemplated or financed under any Finance Document;
- (d) a failure by the Borrower to pay any amount due under a Finance Document on its due date and in the currency in which such amount is due, including without limitation, any cost, loss or liability arising as a result of Clause 25 (*Sharing Among the Finance Parties*);
- (e) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (f) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

15.3 Indemnity to the Agent

- (a) The Borrower shall promptly (and in any event within ten Business Days of demand) indemnify the Agent against:
 - (i) any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
 - (A) investigating any event which it reasonably believes is a Default;
 - (B) any Default by the Borrower in respect of the performance of any of its obligations under the Finance Documents to which it is a party;
 - (C) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; and/or
 - (D) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; and/or
 - (ii) any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct (as determined in a final non-appealable judgment of a court of competent jurisdiction)) in acting as Agent under the Finance Documents.

- (b) Any termination or expiry of this Agreement or any Commitment in respect of any Facility (or any commitment represented thereby) is without prejudice to the rights and obligations of any Party which have accrued during the subsistence of this Agreement.

16. COSTS AND EXPENSES

16.1 Transaction expenses

The Borrower shall pay each Administrative Party, promptly (and in any event within fifteen (15) Business Days of demand by such Administrative Party or on a date as may be mutually agreed between the Borrower and such Administrative Party), the amount of all costs and expenses (including without limitation legal fees, subject to any arrangements agreed between the Borrower and the relevant legal counsel) reasonably incurred by any or all of the Administrative Parties in connection with the negotiation, preparation, printing, execution, delivery and syndication of:

- (a) this Agreement and/or any other documents referred to in this Agreement; and/or
- (b) any other Finance Documents executed after the date of this Agreement.

16.2 Amendment costs

If (a) the Borrower requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 26.9 (*Change of currency*) or Clause 32.3 (*Replacement of Screen Rate*), the Borrower shall, within ten Business Days of demand, reimburse the Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Agent in responding to, evaluating, negotiating or complying with that request or requirement.

16.3 Enforcement costs

The Borrower shall, within ten Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under any Finance Document.

SECTION 7
REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

17. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 17 to each Finance Party on the date of this Agreement.

17.1 Status

- (a) It is a corporation, duly incorporated, validly existing and in good standing under the laws of the Cayman Islands.
- (b) Each of it and the Material Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
- (c) It is acting as principal for its own account and not as agent or trustee in any capacity on behalf of any person in relation to the Finance Documents.

17.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are, subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered in accordance with Clause 4 (*Conditions of Utilisation*), legal, valid, binding and enforceable obligations.

17.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not:

- (a) conflict with any law or regulation applicable to it;
- (b) conflict with the constitutional documents of it or any of its Subsidiaries;
- (c) conflict with any agreement or instrument binding upon it or any of its Subsidiaries or any asset of it or any of its Subsidiaries; or
- (d) result in the existence of or oblige it or its Subsidiaries to create any Security over all or any of the assets of it or its Subsidiaries (other than any Security permitted by Clause 20.4 (*Negative pledge*)).

17.4 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents and the transactions contemplated by the Finance Documents.
- (b) No limit on its powers will be exceeded as a result of the borrowing contemplated by the Finance Documents.

17.5 Validity and admissibility in evidence

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents;
- (b) to make the Finance Documents admissible in evidence in its jurisdiction of incorporation; and/or
- (c) for it and the Material Subsidiaries to carry on their respective business, and which are material,

have been obtained or effected and are in full force and effect.

17.6 Governing law and enforcement

Subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered in accordance with Clause 4 (*Conditions of Utilisation*):

- (a) the choice of English law as the governing law of each Finance Document will be recognised and enforced in its jurisdiction of incorporation; and
- (b) any judgment obtained in England in relation to any Finance Document will be recognised and enforced in its jurisdiction of incorporation.

17.7 Deduction of Tax

It is not required under the law applicable where it is incorporated or resident or at its address specified in this Agreement to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

17.8 No filing or stamp taxes

Under the law of its jurisdiction of incorporation it is not necessary that any of the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to any or all of the Finance Documents or the transactions contemplated by the Finance Documents except that Cayman Islands stamp duty will be payable on a Finance Document if that Finance Document is executed in, brought into, or produced to a court of, the Cayman Islands.

17.9 No default

- (a) No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries (excluding any iQIYI Group Member) or to which any asset of it or any of its Subsidiaries (excluding any iQIYI Group Member) is subject to an extent or in a manner which has or could reasonably be expected to have a Material Adverse Effect.

- (c) No Default is continuing.

17.10 No misleading information

- (a) Any factual information contained in or provided by or on behalf of the Borrower or any Group Member for the purposes of the Information Memorandum was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) Nothing has occurred or been omitted from the Information Memorandum and no information has been given or withheld that results in the information contained in the Information Memorandum being untrue or misleading in any material respect.
- (c) All written (including by way of electronic mail or other electronic means) information (other than the Information Memorandum) supplied by or on behalf of the Borrower or any Group Member in connection with the Finance Documents is true, complete and accurate in all material respects as at the date it was given or (if any) as at the date it is stated and is not misleading in any material respect.

17.11 Financial statements

- (a) Its financial statements most recently supplied to the Agent (which, as at the date of this Agreement, are its Original Financial Statements) were prepared in accordance with GAAP consistently applied save to the extent expressly disclosed in such financial statements.
- (b) Its financial statements most recently supplied to the Agent (which, as at the date of this Agreement, are its Original Financial Statements) give a true and fair view of (if audited) or fairly represent (if unaudited) the consolidated financial condition and operations of the Group as at the end of and during the applicable period to which such financial statements relate, save to the extent expressly disclosed in such financial statements.
- (c) There has been no material adverse change in the business or consolidated financial condition of the Group (taken as a whole) since 31 December 2020.

17.12 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

17.13 No proceedings pending or threatened

No litigation, arbitration, investigation or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, could reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened, or are pending, against it or any of its Subsidiaries.

17.14 Authorised Signatures

Any person specified as its authorised signatory under Schedule 2 (*Conditions Precedent*) or paragraph (d) of Clause 18.4 (*Information: miscellaneous*) (in each case, to the extent not replaced as notified by the Borrower pursuant to paragraph (d) of Clause 18.4 (*Information: miscellaneous*)) is authorised to sign Utilisation Requests and Selection Notices and other notices on its behalf.

17.15 Sanctions, anti-terrorism, anti-money laundering and anti-corruption

- (a) None of any Group Member or any director or officer of any Group Member or, to its knowledge, any agent or employee of, or any person acting on behalf of, any Group Member is a Restricted Party.
- (b) None of any Group Member or any director or officer of any Group Member or, to its knowledge, any employee of any Group Member is in violation of or, since the date that the representations and warranties under this Clause 17.15 were last made or deemed to be made, has violated, any applicable Sanctions.
- (c) None of any Group Member or any director or officer of any Group Member or, to its knowledge, any employee of, or any person acting on behalf of, any Group Member receives or, since the date that the representations and warranties under this Clause 17.15 were last made or deemed to be made, has received, funds or other property from a Restricted Party in violation of any applicable Sanctions or conducts or, since the date that the representations and warranties under this Clause 17.15 were last made or deemed to be made, has conducted, any activities or business dealings, directly or indirectly, with or for the benefit of a Restricted Party in violation of any applicable Sanctions.
- (d) None of any Group Member or any director or officer of any Group Member or, to its knowledge, any employee of, or any person acting on behalf of, any Group Member is engaging or, since the date that the representations and warranties under this Clause 17.15 were last made or deemed to be made, has engaged, directly or indirectly, in any transaction or conduct that could reasonably be expected to result in it becoming a Restricted Party, or which evades or avoids any applicable prohibitions or restrictions set forth in any applicable Sanctions.
- (e) None of any Group Member or any director or officer any Group Member or, to its knowledge, any agent, representative or employee of, or any person acting on behalf of, or any Affiliate of, any Group Member:
 - (i) has violated or is in violation of any Anti-Bribery and Corruption Laws;
 - (ii) has directly or indirectly paid, given or offered or promised to pay or give, or authorised the payment or giving of, directly or indirectly, any unlawful payment or improper transfer of value within the meaning of the FCPA or any other Anti-Bribery and Corruption Laws;
 - (iii) has directly or indirectly used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political office or activity or made any direct or indirect unlawful payment or improper transfer of value to any public official or any company employee from corporate funds; or

- (iv) has been subject to any action, suit, proceeding, arbitration, litigation, regulatory or criminal investigation with regard to any actual or alleged unlawful payment, improper transfer of value or violation in any way of the FCPA or any other Anti-Bribery and Corruption Laws.
- (f) None of any Group Member or any director or officer of any Group Member or, to its knowledge, any employee of, or any person acting on behalf of, any Group Member:
 - (i) is in violation of or, since the date that the representations and warranties under this Clause 17.15 were last made or deemed to be made, has violated, any Anti-Money Laundering Laws or Anti-Terrorism Laws; or
 - (ii) or deals or engages in or, since the date that the representations and warranties under this Clause 17.15 were last made or deemed to be made, has dealt or engaged in, directly or indirectly, any transaction or activities relating to any property or interest in property blocked pursuant to any Sanctions in violation of any applicable Sanctions,
and no action, suit, proceeding, arbitration, litigation, regulatory or criminal investigation involving any Group Member or any director or officer of any Group Member or, to its knowledge, any agent, employee of, or any person acting on behalf of, any Group Member, with respect to any Anti-Money Laundering Laws or Anti-Terrorism Laws is pending or, to the knowledge of any Group Member, threatened.
- (g) Each of the Group Members has instituted and maintained systems, controls and other arrangements designed to:
 - (i) promote and ensure compliance by the Group with all applicable Sanctions, Anti-Bribery and Corruption Laws, Anti-Money Laundering Laws and Anti-Terrorism Laws; and
 - (ii) detect incidences of bribery and corruption.
- (h) Any provision of this Clause 17.15 shall not apply to or in favour of any person if and to the extent that it would result in a breach, by or in respect of that person, of any applicable Blocking Law.

17.16 List of Material Subsidiaries

The list of Material Subsidiaries delivered to the Agent pursuant to Clause 4.1 (*Initial conditions precedent*) is true, complete and accurate.

17.17 Repetition

- (a) All of the representations and warranties set out in this Clause 17 are deemed to be made by the Borrower in favour of each Finance Party on the date of delivery of the first Utilisation Request under this Agreement and on the Initial Utilisation Date, in each case by reference to the facts and circumstances then existing.

- (b) The Repeating Representations are deemed to be made by the Borrower on:
- (i) the date of each Utilisation Request (other than the first Utilisation Request delivered under this Agreement);
 - (ii) each Utilisation Date (other than the Initial Utilisation Date); and
 - (iii) the first day of each Interest Period relating to any Loan,
- in each case by reference to the facts and circumstances then existing.
- (c) The representations and warranties set out in Clause 17.10 (*No misleading information*) are deemed to be made by the Borrower, to the extent that they relate to the Information Memorandum, on the date the Information Memorandum is approved by the Borrower.

18. INFORMATION UNDERTAKINGS

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under any of the Finance Documents or any Commitment in respect of any Facility (or any commitment represented thereby) is in force.

18.1 Financial statements

The Borrower shall supply or procure the supply to the Agent in sufficient copies for all the Lenders:

- (a) as soon as the same become available, but in any event within 150 days after the end of each of its Financial Years, the audited consolidated financial statements of the Borrower for that Financial Year audited by an independent firm of certified public accountants (which shall be one of the Auditors); and
- (b) as soon as the same become available, but in any event within 120 days after the end of the first Financial Half-Year of each of its Financial Years, the unaudited consolidated financial statements of the Borrower for that Financial Half-Year,

provided that, in the case of any consolidated financial statements of the Borrower to be delivered pursuant to this Clause 18.1, such financial statements shall be deemed to be so delivered upon being posted onto any electronic website of (i) the U.S. Securities and Exchange Commission, (ii) any other Relevant Stock Exchange and/or (iii) the Borrower.

18.2 Compliance Certificate

- (a) The Borrower shall supply to the Agent, with each set of financial statements in respect of any Financial Half-Year or any Financial Year delivered under Clause 18.1 (*Financial statements*), a Compliance Certificate:
 - (i) setting out (in reasonable detail) computations as to compliance with Clause 19 (*Financial Covenants*) as at the date as at which (and in respect of the Relevant Period ending on the date as at which) such financial statements were prepared;
 - (ii) confirming that no Default has occurred and is continuing or, if a Default is continuing, specifying the nature of such Default and the steps being taken to remedy such Default; and
 - (iii) setting out an up-to-date list of Material Subsidiaries.
- (b) Each Compliance Certificate delivered under paragraph (a) shall be signed by an authorised signatory of the Borrower.

18.3 Requirements as to financial statements

- (a) The Borrower shall ensure that each set of financial statements delivered (or deemed delivered) pursuant to Clause 18.1 (*Financial statements*) shall be certified by an authorised signatory of the Borrower as giving a true and fair view of (if audited) or fairly representing (if unaudited) the consolidated financial condition and operations of the Group as at the end of and during the applicable period to which such financial statements relate.
- (b) The Borrower shall procure that each set of financial statements delivered (or deemed delivered) pursuant to Clause 18.1 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the audited Original Financial Statements unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, accounting practices or reference periods and, if the Agent so requests, the Borrower shall deliver to the Agent a certificate signed by an authorised signatory of the Borrower (and which is a director or the chief financial officer of the Borrower) on its behalf setting out (in reasonable detail):
 - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which the audited Original Financial Statements were prepared; and
 - (ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Lenders to determine whether Clause 19 (*Financial Covenants*) has been complied with, to determine which Group Members are Material Subsidiaries and to make an accurate comparison between the financial position indicated in those financial statements and the audited Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the audited Original Financial Statements were prepared.

18.4 Information: miscellaneous

The Borrower shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- (a) all documents dispatched by the Borrower to its creditors (or any class of them) generally at the same time as they are dispatched (to the extent such documents relate to any event or circumstance in relation to any Group Member falling within any of Clause 21.5 (*Cross default*), Clause 21.6 (*Insolvency*), Clause 21.7 (*Insolvency proceedings*) or Clause 21.8 (*Creditors' process*) (as if any reference in any of such Clauses to the Borrower or any Material Subsidiary included a reference to any Group Member) or any restructuring matter (howsoever described) which may have a material adverse effect on the ability of the Borrower to repay its indebtedness);
- (b) promptly upon becoming aware of them, the details of any litigation, investigation, arbitration or administrative proceedings which are current, threatened or pending against the Borrower or any Group Member and which might, if adversely determined, have a Material Adverse Effect;
- (c) promptly, such further information regarding the financial condition, business and operations of any Group Member or such further information in relation to the Borrower as any Finance Party (through the Agent) may reasonably request or such further information as may otherwise be required by appropriate laws and/or regulations and/or governmental or regulatory authorities;
- (d) promptly, notice of any change in authorised signatories of the Borrower signed by a director, company secretary or an authorised signatory (other than any authorised signatory which has been replaced or is to be replaced pursuant to a notice given by the Borrower under this paragraph (d)) of the Borrower accompanied by specimen signatures of any new authorised signatories of the Borrower; and
- (e) promptly, such information as the Agent may from time to time reasonably require for the performance of its obligations or the exercise of its rights under the Finance Documents.

18.5 Notification of default

- (a) The Borrower shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly upon a request by the Agent, the Borrower shall supply to the Agent a certificate signed by an authorised signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying such Default and the steps, if any, being taken to remedy it).

18.6 Use of websites

- (a) The Borrower may satisfy its obligations under this Agreement to deliver any information in relation to those Lenders (the “**Website Lenders**”) who accept this method of communication by posting this information onto an electronic website designated by the Borrower and the Agent (the “**Designated Website**”) if:
 - (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of such information by this method;

- (ii) both the Agent and the Borrower are aware of the address of and any relevant password specifications for the Designated Website; and
- (iii) such information is in a format previously agreed between the Borrower and the Agent.
- (b) If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically then the Agent shall notify the Borrower accordingly and the Borrower shall, at its own cost, supply information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event the Borrower shall, at its own cost, supply the Agent with at least one copy in paper form any information required to be provided by it under this Agreement.
- (c) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by the Borrower and the Agent.
- (d) The Borrower shall promptly upon becoming aware of its occurrence notify the Agent if:
 - (i) the Designated Website cannot be accessed due to technical failure;
 - (ii) the password specifications for the Designated Website change;
 - (iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;
 - (iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or
 - (v) it becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.
- (e) If the Borrower notifies the Agent under paragraph (d)(i) or (d)(v) above, all information to be provided by the Borrower under this Agreement after the date of that notice shall be supplied in paper form unless and until the Agent and each Website Lender is satisfied that the circumstances giving rise to such notification are no longer continuing.
- (f) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Borrower shall at its own cost comply with any such request within ten Business Days.

18.7 **“Know your customer” checks**

- (a) The Borrower shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender (including for any Lender on behalf of any prospective new Lender)) in order for the Agent, such Lender or any prospective new Lender to conduct any “know your customer” or other similar procedures under applicable laws and regulations.
- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to conduct any “know your customer” or other similar procedures under applicable laws and regulations.

19. **FINANCIAL COVENANTS**

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under any of the Finance Documents or any Commitment in respect of any Facility (or any commitment represented thereby) is in force.

19.1 **Financial definitions**

In this Agreement:

“Borrowings” means, at any time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption) of any indebtedness of Group Members for or in respect of Financial Indebtedness (except any Financial Indebtedness falling within (x) paragraph (i) of the definition of “Financial Indebtedness” and (y) paragraph (k) of the definition of “Financial Indebtedness” (to the extent relating to any Financial Indebtedness falling within paragraph (i) of the definition of “Financial Indebtedness”)).

“Cash and Equivalents” means:

- (a) the amount(s) which appear under the line item “Cash and cash equivalents” set out in the consolidated financial statements of the Borrower most recently supplied to the Agent; and
- (b) the amount of any Qualified Investments which appear under the line item “Short-term investments” set out in the consolidated financial statements of the Borrower most recently supplied to the Agent, but excluding the amount of any investment or deposit which is a direct equity investment or which will remain outstanding for a period of more than 6 months from the date of the relevant consolidated financial statements.

“Comparable Terms” means, in relation to a Relevant Loan, terms which are comparable to those of the relevant Corresponding Loan.

“Consolidated Adjusted Total Borrowings” means, in respect of the Group, at any time, Consolidated Total Borrowings at that time adjusted by deducting Cash and Equivalents.

“**Consolidated EBITDA**” means, for any period, consolidated operating profit of the Group after adding back (to the extent deducted) any amount attributable to any depreciation or amortisation, taking no account of any impairment charge of intangible assets resulting from business combinations or any reversal of any such previous impairment charge made in such period, and taking no account of any share-based compensation expenses of employees.

“**Consolidated Net Finance Charges**” means, for any period, the aggregate amount of interest, commission, fees, discounts, prepayment fees, premiums or charges, and other finance payments in respect of Borrowings whether accrued, paid or payable and whether or not capitalised by Group Members (calculated on a consolidated basis) in respect of that period (and in each case excluding, for the avoidance of doubt, any such amount paid or payable by a Group Member to another Group Member):

- (a) **excluding** any non-recurring upfront fees or costs but including the effect of amortisation of such upfront fees or costs;
- (b) **excluding** any interest or premium payable on the iQIYI Convertible Notes;
- (c) **including** the interest (but not the capital) element of leasing and hire purchase payments;
- (d) **including** any commission fees, discounts and other finance payments paid, payable or accrued by any Group Member to any counterparty (that is not a Group Member) under any interest rate hedging instrument during such period;
- (e) **deducting** any commission fees, discounts and other finance payments paid, payable or accrued by any counterparty (that is not a Group Member) to any Group Member under any interest rate hedging instrument during such period;
- (f) **taking no account of** any unrealised gains or losses on any derivative instrument (other than any such instrument that is accounted for on a hedge accounting basis); and
- (g) **deducting** any interest paid or payable to or accrued to the benefit of any Group Member (from any person that is not a Group Member) during such period on any cash deposits, cash equivalents or short term investments held by any Group Member,

and so that no amount shall be included or excluded more than once.

“**Consolidated Total Borrowings**” means, in respect of the Group, at any time, the aggregate of the liabilities of Group Members (on a consolidated basis) for or in respect of Borrowings excluding:

- (a) the Excluded Redeemable Preference Shares;
- (b) the iQIYI Convertible Notes;
- (c) the aggregate outstanding principal amount of Borrowings collateralised by cash and cash equivalents (including deposits and certificates of deposits) or SBLC Loans, but only to the extent of, in respect of any SBLC Loan, the lower of (i) face value of the relevant Onshore SBLC or Offshore SBLC (as applicable) supporting that SBLC Loan; and (ii) the outstanding principal amount of that SBLC Loan; and

- (d) any loan incurred by a Group Member (a “**Relevant Loan Borrower**”) on market terms or Comparable Terms (a “**Relevant Loan**”) from any third party (a “**Relevant Loan Lender**”), to the extent that such Relevant Loan Borrower (or an Affiliate of such Relevant Loan Borrower) has a corresponding loan receivable (the loan in relation to such loan receivable, a “**Corresponding Loan**”) from such Relevant Loan Lender (or an Affiliate of such Relevant Loan Lender) in a principal amount that is not less than that of such Relevant Loan (save for any discrepancy arising solely as a result of any currency fluctuation) and which has a maturity that is not longer than that of such Relevant Loan; **provided that** the liability of a Group Member with respect to a Relevant Loan shall not be excluded from “Consolidated Total Borrowings” pursuant to this paragraph (d) if the borrower of the relevant Corresponding Loan is in default of one or more of its debt obligations (taking into account applicable cure periods),

calculated at the nominal, principal or other amount at which such liabilities would be carried in a consolidated balance sheet of the Group drawn up at that time (or, in the case of any guarantee or indemnity or similar assurance against financial loss referred to in paragraph (k) in the definition of “Financial Indebtedness”, the maximum liability under such guarantee or indemnity or similar assurance), in each case, for the avoidance of doubt, excluding any such liabilities owing by a Group Member to another Group Member.

“**Corresponding Loan**” has the meaning given to it in the definition of “Consolidated Total Borrowings”.

“**Exceptional Item**” means any exceptional, one-off, non-recurring or extraordinary items.

“**Interest Cover**” means, in respect of any period, the ratio of Consolidated EBITDA to Consolidated Net Finance Charges for that period.

“**Leverage**” means, in respect of any period, the ratio of Consolidated Adjusted Total Borrowings on the last day of that period to Consolidated EBITDA in respect of that period.

“**Qualified Investments**” means any investments or deposits:

- (a) which are principal protected; or
- (b) issued or offered by a bank or a financial institution rated not less than A3 by Moody’s (or equivalent) or any wholly owned Subsidiary of any such bank or financial institution.

“**Relevant Loan**” has the meaning given to it in the definition of “Consolidated Total Borrowings”.

“**Relevant Loan Borrower**” has the meaning given to it in the definition of “Consolidated Total Borrowings”.

“**Relevant Loan Lender**” has the meaning given to it in the definition of “Consolidated Total Borrowings”.

“**Relevant Periods**” means:

- (a) each period of twelve months ending on the last day of each Financial Year; and
- (b) each period of twelve months ending on the last day of the first Financial Half-Year of each Financial Year, (each a “**Relevant Period**”).

19.2 **Financial condition**

The Borrower shall ensure that:

- (a) *Leverage*

Leverage in respect of each Relevant Period shall not exceed 3.50:1.00.

- (b) *Interest Cover*

Interest Cover in respect of each Relevant Period shall not be less than 4.00:1.00.

19.3 **Financial testing**

The financial covenants set out in Clause 19.2 (*Financial condition*) shall be calculated in accordance with GAAP (as applied to the audited Original Financial Statements) and tested semi-annually in respect of each Relevant Period by reference to each of the financial statements delivered under Clause 18.1 (*Financial statements*) and/or the Compliance Certificate relating thereto delivered pursuant to Clause 18.2 (*Compliance Certificate*).

20. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under any of the Finance Documents or any Commitment in respect of any Facility (or any commitment represented thereby) is in force.

20.1 **Authorisations**

The Borrower shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Agent of,

any Authorisation required to enable it to perform its obligations under the Finance Documents and/or to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

20.2 **Compliance with laws**

The Borrower shall, and shall procure that each Group Member will, comply in all respects with all laws to which it may be subject, if failure so to comply would, or could reasonably be expected to, have a Material Adverse Effect.

20.3 **Pari passu ranking**

The Borrower shall ensure that its payment obligations under the Finance Documents rank and continue to rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

20.4 **Negative pledge**

In this Clause 20.4, “**Quasi-Security**” means any arrangement or transaction described in paragraph (b) below.

- (a) Without prejudice to paragraph (d), the Borrower shall not, and the Borrower shall procure that no Material Subsidiary (other than any iQIYI Group Member) will, create or permit to subsist any Security over any of its assets.
- (b) Without prejudice to paragraph (d), the Borrower shall not, and the Borrower shall procure that no Material Subsidiary (other than any iQIYI Group Member) will:
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Borrower or any Material Subsidiary (other than any iQIYI Group Member);
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into or permit to subsist any title retention arrangement;
 - (iv) enter into or permit to subsist any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (v) enter into or permit to subsist any other preferential arrangement having a similar effect,

in circumstances where such arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of any asset.

- (c) Subject to paragraph (d), paragraphs (a) and (b) above do not apply to:
- (i) any netting or set-off or cash-pooling arrangement entered into by the Borrower or any Material Subsidiary in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of itself and/or of itself and of any other Group Member (other than any iQIYI Group Member);
 - (ii) any payment or close out netting or set-off arrangement pursuant to any hedging transaction entered into by the Borrower or any Material Subsidiary for the purpose of:
 - (A) hedging any risk to which it is exposed in its ordinary course of trading; or
 - (B) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only,excluding, in each case, any Security or Quasi-Security under a credit support arrangement in relation to any hedging transaction;
 - (iii) any Security or Quasi-Security over documents of title to goods and/or goods as part of letter of credit transactions (relating to the sale or purchase of such goods) entered into its ordinary course of trading;
 - (iv) any lien arising by operation of law and in the ordinary course of trading, **provided that** any indebtedness which is secured thereby is paid when due or contested in good faith by appropriate proceedings and properly provisioned;
 - (v) any Security or Quasi-Security over or affecting any asset acquired by the Borrower or any Material Subsidiary after the date of this Agreement if:
 - (A) that Security or Quasi-Security was not created in contemplation of the acquisition of that asset by the Borrower or, as the case may be, such Material Subsidiary;
 - (B) the principal amount secured by that Security or to which such Quasi-Security relates has not been increased in contemplation of, or since, the acquisition of that asset by the Borrower or, as the case may be, such Material Subsidiary; and
 - (C) that Security or Quasi-Security is removed or discharged within 135 days of the date of acquisition of such asset by the Borrower or, as the case may be, such Material Subsidiary;
 - (vi) any Security or Quasi-Security over or affecting any asset of any person which becomes a Group Member after the date of this Agreement, where that Security or Quasi-Security is created prior to the date on which that person becomes a Group Member, if:
 - (A) that Security or Quasi-Security was not created in contemplation of the acquisition of any interest in that person by any Group Member;

- (B) the principal amount secured by that Security or to which that Quasi-Security relates has not increased in contemplation of or since the acquisition of any interest in that person by any Group Member; and
 - (C) that Security or Quasi-Security is removed or discharged within 135 days of that person becoming a Group Member;
 - (vii) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Borrower or any Material Subsidiary in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any Group Member;
 - (viii) any Security or Quasi-Security over accounts receivable generated by the Group's financial services business only (excluding, for the avoidance of doubt, any accounts receivable generated by the Group's core search services) to secure any notes or other indebtedness issued or incurred pursuant to any securitisation scheme or transaction;
 - (ix) any Security or Quasi Security over cash and cash equivalents (including deposits and certificates of deposits) to secure any loans to the Borrower or any Material Subsidiary;
 - (x) any Security or Quasi Security over cash and cash equivalents (including deposits and certificates of deposits) securing any Onshore SBLC or any Offshore SBLC in respect of any SBLC Loan;
 - (xi) any Security or Quasi-Security granted with the prior written consent of the Agent (acting on the instructions of the Majority Lenders); or
 - (xii) any Security securing indebtedness the principal amount of which (when aggregated with the aggregate principal amount of any and all other indebtedness which has the benefit of Security given by any one or more Group Members other than any permitted under paragraphs (c)(i) to (c)(xi) above) does not exceed US\$500,000,000 (or its equivalent in another currency or currencies).
- (d) The Borrower shall procure that, save with the prior written consent of the Agent (acting on the instructions of the Majority Lenders), no Security or Quasi-Security shall be created by the Borrower or any other Group Member (other than any iQIYI Group Member) in respect of, or shall subsist over or affect, any Equity Interest in any Material Subsidiary (other than any iQIYI Group Member) (or any interest therein).

20.5 Disposals

- (a) The Borrower shall not, and the Borrower shall procure that no Material Subsidiary (other than any iQIYI Group Member) will, enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.

- (b) Subject to paragraph (c), paragraph (a) above does not apply to any sale, lease, transfer or other disposal:
- (i) made in the ordinary course of trading of the disposing entity;
 - (ii) of assets in exchange for other assets comparable or superior as to type, value and quality;
 - (iii) of obsolete or redundant vehicles, plant and equipment for cash;
 - (iv) made to another Group Member;
 - (v) of any asset which is a financial asset that has been classified in the latest audited consolidated financial statements of the Borrower as being available for sale;
 - (vi) of any asset where:
 - (A) such asset is being disposed as part of the Group's business strategy;
 - (B) such disposal is for good and valuable consideration; and
 - (C) no Default is continuing or would result from such disposal;
 - (vii) of Equity Interests in iQIYI;
 - (viii) which has been publicly announced prior to the date of this Agreement;
 - (ix) with the prior written consent of the Agent (acting on the instructions of the Majority Lenders); or
 - (x) of any asset in any financial year of the Borrower, where the higher of the market value or consideration receivable in respect of such asset (when aggregated with the higher (in each case) of the market value or consideration receivable in respect of each other asset the subject of any other sale, lease, transfer or other disposal by any or all of the Borrower and the Material Subsidiaries during such financial year, other than any permitted under paragraphs (b)(i) to (b)(ix) above) does not exceed US\$200,000,000 (or its equivalent in another currency or currencies).
- (c) The Borrower shall not, and the Borrower shall procure that no Group Member (other than any iQIYI Group Member) will, enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of:

- (i) any Equity Interest in any Restricted Material Subsidiary (or, in each case, any interest therein); or
- (ii) more than 10% of the aggregate shares of or equity interests in (or, in each case, any interest in more than 10% of the aggregate shares of or equity interests in) any Material Subsidiary (that is not iQIYI or a Restricted Material Subsidiary),

in each case, save with the prior written consent of the Agent (acting on the instructions of the Majority Lenders) or pursuant to any sale, lease, transfer or other disposal made by a Group Member to another Group Member (which sale, lease, transfer or other disposal does not reduce or have the effect of reducing the Borrower's ownership (whether direct or indirect) of the aggregate shares of or equity interests in any Restricted Material Subsidiary or any Material Subsidiary).

20.6 Merger

- (a) The Borrower shall not, and the Borrower shall procure that no Material Subsidiary (other than any iQIYI Group Member) will, enter into any amalgamation, demerger, merger or corporate reconstruction.
- (b) Paragraph (a) above does not apply to any amalgamation, merger or corporate reconstruction:
 - (i) entered into by the Borrower, **provided that**:
 - (A) the Borrower is the surviving entity of such amalgamation, merger or corporate reconstruction;
 - (B) all of the obligations expressed to be assumed by the Borrower under the Finance Documents shall be and continue to be legal, valid, binding and enforceable as against the Borrower (as the surviving entity of such amalgamation, merger or corporate reconstruction); and
 - (C) the Borrower shall have, at its own cost, procured the delivery to the Agent of a legal opinion (in form and substance reasonably satisfactory to the Agent (acting on the instructions of the Majority Lenders)) issued by legal counsel acceptable to the Agent confirming satisfaction of the requirements under paragraphs (A) and (B) above; or
 - (ii) entered into by a Material Subsidiary (other than the Borrower) **provided that** such Material Subsidiary (or, in the case of any amalgamation, merger or corporate reconstruction entered into by such Material Subsidiary with another Material Subsidiary, either one of such Material Subsidiaries) is the surviving entity of such amalgamation, merger or corporate reconstruction; or

- (iii) entered into with the prior written consent of the Agent (acting on the instructions of the Majority Lenders, such instructions not to be unreasonably withheld or delayed),

provided further that, in each case under paragraphs (i) and (ii), (1) such amalgamation, merger or corporate reconstruction does not and could not be reasonably expected to have a Material Adverse Effect and (2) no Default is continuing or would occur as a result of such amalgamation, merger or corporate reconstruction.

20.7 **Change of business**

The Borrower shall procure that no change is made to the general nature or scope of the business of the Group (taken as a whole) from that carried on by the Group at the date of this Agreement, to the extent that such change would, or could reasonably be expected to, give rise to a material adverse effect on the business or financial condition of the Group (taken as a whole).

20.8 **Anti-corruption law**

- (a) The Borrower shall not (and the Borrower shall ensure that no Group Member will) directly or indirectly use any of the proceeds of the Facilities (or any part thereof) for any purpose which would breach, or would cause any Group Member or any Finance Party to be in breach of, any Anti-Bribery and Corruption Laws.
- (b) The Borrower shall (and the Borrower shall ensure that each Group Member will) comply in all respects, and conduct its businesses in compliance, with all applicable Anti-Bribery and Corruption Laws.
- (c) The Borrower shall (and the Borrower shall ensure that each Group Member will) institute and maintain systems, controls and other arrangements designed to promote and ensure ongoing compliance by Group Members and by persons associated with any Group Member with all applicable Anti-Bribery and Corruption Laws.

20.9 **Sanctions, Anti-Terrorism Laws and Anti-Money Laundering Laws**

- (a) The Borrower shall (and the Borrower shall procure that each Group Member will) comply with, and conduct its business in compliance with, all applicable Sanctions, Anti-Money Laundering Laws and Anti-Terrorism Laws. Without prejudice to the foregoing, the Borrower shall not, and the Borrower shall procure that no Group Member will, knowingly engage in any transaction that violates or would violate, or would cause any Group Member or any Finance Party to be in violation of, any of the applicable prohibitions set forth in any Sanctions, Anti-Money Laundering Laws or Anti-Terrorism Laws.
- (b) The Borrower shall ensure that none of the funds or assets of any Group Member that are used to repay the Facilities (or any part thereof) shall constitute property of, or shall be beneficially owned directly or indirectly by, any Restricted Party.

- (c) The Borrower shall not, and the Borrower shall procure that no Group Member will, fund all or part of any payment under any Finance Document out of proceeds derived from transactions that violates or would violate, or would cause any Group Member or any Finance Party to be in violation of, any of the applicable prohibitions set forth in any Sanctions, Anti-Money Laundering Laws or Anti-Terrorism Laws.
- (d) The Borrower shall not (and the Borrower shall procure that no Group Member will):
- (i) directly or, to the Borrower's best knowledge (after having made all reasonable investigations), indirectly use or allow to be used the proceeds of the Facilities (or any part thereof) or other transaction(s) contemplated by any Finance Document for any purpose which would violate, or cause any Group Member or any Finance Party to be in violation of, any applicable Sanctions, Anti-Money Laundering Laws or Anti-Terrorism Laws;
 - (ii) directly or, to the Borrower's best knowledge (after having made all reasonable investigations), indirectly lend, invest, contribute or otherwise make available the proceeds of the Facilities (or any part thereof) to, or for the benefit of, or for financing the activities of, any Restricted Party in any manner which would violate, or cause any Group Member or any Finance Party to be in violation of, any applicable Sanctions; or
 - (iii) directly or, to the Borrower's best knowledge (after having made all reasonable investigations), indirectly use or allow to be used the proceeds of the Facilities (or any part thereof):
 - (A) in any other manner that would or might result in any Group Member or any Finance Party being in breach of any applicable Sanctions, Anti-Money Laundering Laws or Anti-Terrorism Laws or becoming a Restricted Party;
 - (B) for business activities relating to any Sanctioned Jurisdiction, including any business activities involving persons or entities named on any Sanctions List in any manner which would violate, or cause any Group Member or any Finance Party to be in violation of, any applicable Sanctions.
- (e) The Borrower shall (and shall procure that each Group Member shall) continue to institute and maintain systems, controls and other arrangements designed to promote and ensure ongoing compliance by the Group with all applicable Sanctions, Anti-Money Laundering Laws and Anti-Terrorism Laws.
- (f) Any provision of this Clause 20.9 shall not apply to or in favour of any person if and to the extent that it would result in a breach, by or in respect of that person, of any applicable Blocking Law.

20.10 No delisting or suspension of the Borrower's shares

The Borrower shall ensure that:

- (a) its shares are at all times listed on any one or more of the following stock exchanges:
 - (i) the NASDAQ Global Select Market;
 - (ii) the New York Stock Exchange;
 - (iii) the Hong Kong Stock Exchange;
 - (iv) the Shenzhen Stock Exchange; and/or
 - (v) the Shanghai Stock Exchange,(each of the stock exchange(s) above on which the shares of the Borrower are listed from time to time being a “**Relevant Stock Exchange**”); and
- (b) trading of shares in the Borrower on any Relevant Stock Exchange will not be suspended for more than 20 consecutive Trading Days (or such longer period as may be agreed between the Borrower and the Agent (acting on the instructions of the Majority Lenders)), unless such suspension is solely caused by administrative or technical reasons in the system of such Relevant Stock Exchange (and for such purposes, “**Trading Day**” means a day (other than a Saturday or Sunday) on which a Relevant Stock Exchange is open for trading).

20.11 NDRC

The Borrower shall, promptly after the date of this Agreement (and in any event within any applicable time limit prescribed thereunder from time to time), comply with all filing requirements (including any post-drawdown reporting requirements from time to time) with the National Development and Reform Commission of the PRC 中华人民共和国国家发展和改革委员会 (“**NDRC**”) in respect of the Facilities as foreign debt under the Circular on Promoting the Reform of the Filing and Registration Regime for Issuance of Foreign Debt by Enterprise (国家发展改革委关于推进企业发行外债备案登记制管理改革的通知 (发改外资[2015] 2044 号) issued by the NDRC on 14 September 2015 and its implementation rules and interpretations (“**NDRC Circular 2044**”) and any other applicable regulation, circular, guideline or notice issued by NDRC from time to time. The Borrower shall promptly provide the Agent with the documentary evidence (i.e. the information reporting table for borrowings of foreign debt by enterprises (企业发行外债信息报送表) submitted to the NDRC within 10 working days in the PRC after each Utilisation Date) in form and substance reasonably satisfactory to the Agent, evidencing that any post-drawdown reporting requirements under the NDRC Circular 2044 and any other applicable regulation, circular, guideline or notice issued by the NDRC from time to time, have been duly made within any time limit prescribed thereunder.

21. **EVENTS OF DEFAULT**

Each of the events or circumstances set out in Clause 21.1 (*Non-payment*) to Clause 21.12 (*Material adverse change*) is an Event of Default.

21.1 **Non-payment**

The Borrower does not pay on the due date any amount pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (a) its failure to pay is caused by administrative or technical error; and
- (b) payment of such amount is made within five Business Days of its due date.

21.2 **Financial covenants**

Any requirement of Clause 19 (*Financial Covenants*) is not satisfied.

21.3 **Other obligations**

- (a) The Borrower does not comply with any provision of Clause 20.10 (*No delisting or suspension of the Borrower's shares*); and/or
- (b) the Borrower does not comply with any provision of the Finance Documents (other than those referred to in paragraph (a) above, Clause 21.1 (*Non-payment*) and Clause 21.2 (*Financial covenants*)),

provided that, in respect of any failure to comply falling under paragraph (b) above, no Event of Default will occur in respect of such failure to comply if such failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of (A) the Agent giving written notice to the Borrower or (B) the Borrower becoming aware of such failure to comply.

21.4 **Misrepresentation**

Any representation or statement made or deemed to be made by the Borrower in any or all of the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made unless the underlying circumstances (if capable of remedy) are remedied within 20 Business Days of the earlier to occur of (A) the Agent giving written notice to the Borrower or (B) the Borrower becoming aware of such underlying circumstances (it being understood that the subsequent provision of accurate information shall not in itself be deemed to cure any misrepresentation in respect of the accuracy of previous information provided).

21.5 **Cross default**

Any:

- (a) Financial Indebtedness of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) is not paid when due nor within any originally applicable grace period;

- (b) Financial Indebtedness of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described);
- (c) commitment for any Financial Indebtedness of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) is cancelled or suspended by a creditor of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) as a result of an event of default (however described); or
- (d) creditor of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) becomes entitled to declare any Financial Indebtedness of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) due and payable prior to its specified maturity as a result of an event of default (however described),

provided that (i) paragraphs (a) to (d) above shall not apply to any Financial Indebtedness that is owing to a Group Member and (ii) no Event of Default will occur under this Clause 21.5 if the aggregate amount of Financial Indebtedness and/or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above (for any and all of the Borrower and/or Material Subsidiaries) is less than US\$250,000,000 (or its equivalent in any other currency or currencies).

21.6 **Insolvency**

- (a) The Borrower or any Material Subsidiary is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (b) the value of the assets of the Borrower or any Material Subsidiary is less than its liabilities (taking into account contingent and prospective liabilities); or
- (c) a moratorium is declared in respect of any indebtedness of the Borrower or any Material Subsidiary.

21.7 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken or occurs in relation to:
 - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, striking-off, administration, provisional supervision or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) (other than any solvent reorganisation constituted by any amalgamation, merger or corporate reconstruction entered into by the Borrower or any Material Subsidiary, in each case, to the extent permitted under Clause 20.6 (*Merger*));

- (ii) a composition or arrangement with any creditor of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member), or an assignment for the benefit of creditors generally of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) or a class of such creditors;
 - (iii) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) or any of its assets (other than any solvent liquidation of any Material Subsidiary (other than the Borrower) constituted by any amalgamation, merger or corporate reconstruction entered into by such Material Subsidiary, in each case, to the extent permitted under Clause 20.6 (*Merger*)); or
 - (iv) enforcement of any Security over any assets of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member) where the aggregate value of any and all of the assets of the Borrower and/or Material Subsidiaries that are subject to any or all such enforcement is not less than US\$200,000,000 (or its equivalent in any other currency or currencies),
or any analogous procedure or step is taken or occurs in any jurisdiction; or
- (b) any proceeding or case is commenced, with consent of the Borrower (or without the consent of the Borrower which (A) results in the entry of any order of relief or any order, judgment, decree, adjudication or appointment approving, ordering or giving effecting to any of (i) to (iii) below or (B) remains undismissed or undischarged for a period of 60 days of commencement), seeking:
- (i) the Borrower's reorganisation, liquidation, dissolution, arrangement or winding-up or the composition or re-adjustment of the Borrower's debts under the US Bankruptcy Code or other debtor relief laws of the United States;
 - (ii) the appointment of a receiver, custodian, trustee, examiner or liquidator of the Borrower or similar official having similar powers over the Borrower or the appointment of any such person in respect of all or any substantial part of the Borrower's property; or
 - (iii) similar relief in respect of the Borrower under any law relating to the bankruptcy, insolvency, reorganisation, receivership or similar debtor relief law.

Paragraph (a)(i) shall not apply to any corporate action, legal proceedings or other procedure or step (brought by any person that is not a Group Member) in relation to the winding-up, administration or dissolution of the Borrower or any Material Subsidiary which is being contested in good faith and with due diligence and is discharged or struck out within 30 days of commencement.

21.8 Creditors' process

Any expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affects any asset or assets of the Borrower or any Material Subsidiary (excluding any iQIYI Group Member), **provided that** it shall not be an Event of Default under this Clause 21.8 if the aggregate value of any and all assets of any or all of the Borrower and Material Subsidiaries that are subject to any or all events and/or circumstances of expropriation, attachment, sequestration, distress, execution and/or analogous process does not exceed US\$200,000,000 (or its equivalent in any other currency or currencies).

21.9 Unlawfulness and invalidity

- (a) It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents;
- (b) any obligation or obligations of the Borrower under any Finance Document are not or cease to be legal, valid, binding or enforceable and such illegality, invalidity, non-binding nature or unenforceability individually or cumulatively materially and adversely affects the interests of the Finance Parties under the Finance Documents; or
- (c) any Finance Document is not or ceases to be in full force and effect.

21.10 Repudiation

The Borrower rescinds or purports to rescind or repudiates or purports to repudiate any Finance Document or evidences an intention to rescind or repudiate any Finance Document.

21.11 Cessation of business

The Borrower suspends or ceases to carry on all or substantially all of its business or of the business of the Group (taken as a whole).

21.12 Material adverse change

Any event or circumstance occurs which the Majority Lenders reasonably believe would (whether individually or together with other events or circumstances) have a Material Adverse Effect.

21.13 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing the Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

- (a) without prejudice to the participations of any or all of the Lenders in any Loans then outstanding:
 - (i) cancel the Available Commitments of the Lenders (in respect of any or all of the Facilities) and reduce them to zero whereupon they shall immediately be cancelled and reduced to zero (and the Commitments of the Lenders (in respect of such Facility or Facilities) shall be reduced by the same amount accordingly), **provided that** such reduction of the Commitments of the Lenders under any Facility shall be applied towards the Commitments of the Lenders under that Facility rateably; or

- (ii) cancel any part of the Available Commitments of the Lenders (in respect of any or all of the Facilities) and reduce them accordingly, whereupon the applicable part of the Available Commitments of the Lenders (in respect of such Facility or Facilities) shall be cancelled (and the Commitments of the Lenders (in respect of such Facility or Facilities) shall be reduced by the same amount accordingly), **provided that** such reduction of the Available Commitments and the Commitments of the Lenders under any Facility shall be applied towards the Available Commitments and the Commitments of the Lenders under that Facility rateably;
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable;
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or
- (d) declare that no Rollover Loan shall be made,

provided that, if an Event of Default under Clause 21.6 (*Insolvency*) or Clause 21.7 (*Insolvency proceedings*) shall occur in respect of the Borrower in a US court of competent jurisdiction, then without notice to the Borrower or any other person or any other act by the Agent or any other person, the Commitments of the Lenders (in respect of any or all of the Facilities) shall be automatically cancelled and reduced to zero, and all of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents shall automatically become immediately due and payable without presentment, demand, protest or notice of any kind, all of which are expressly waived.

**SECTION 8
CHANGES TO PARTIES**

22. CHANGES TO THE PARTIES

22.1 Assignments and transfers by the Lenders

Subject to this Clause 22, a Lender (the “**Existing Lender**”) may:

- (a) assign any of its rights under this Agreement; or
- (b) transfer by novation any of its rights and/or obligations under this Agreement,

to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the “**New Lender**”).

22.2 Conditions of assignment or transfer

- (a) The consent of the Borrower shall be required in respect of any assignment or transfer made in accordance with Clause 22.1 (*Assignments and transfers by the Lenders*), except for:
 - (i) any assignment or transfer made in favour of a Lender or an Affiliate of a Lender;
 - (ii) any assignment or transfer made at a time when an Event of Default is continuing.
- (b) The consent of the Borrower to any transfer or assignment by a Lender must not be unreasonably withheld or delayed, and shall be deemed to have been given 10 Business Days after such Lender has requested it unless such consent is expressly refused by the Borrower within that time.
- (c) The Existing Lender shall, simultaneously with the assignment or transfer by it of rights and/or obligations under this Agreement to the New Lender, assign to the New Lender a proportionate share of the rights held by it (in its capacity as Lender) under or in connection with the other Finance Documents.
- (d) A transfer by the Existing Lender to the New Lender will be effective only if the procedure set out in Clause 22.5 (*Procedure for transfer*) is complied with in respect of such transfer.
- (e) An assignment by the Existing Lender to the New Lender will be effective only if the procedure and conditions set out in Clause 22.6 (*Procedure for assignment*) are complied with in respect of such assignment (subject to paragraph (c) of Clause 22.6 (*Procedure for assignment*)).
- (f) Each New Lender, by executing the applicable Transfer Certificate or Assignment Agreement to which it is a party, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver relating to any Finance Document that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the applicable transfer or assignment from the applicable Existing Lender to such New Lender becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as such Existing Lender would have been had it remained a Lender.

- (g) If:
- (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
 - (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 12.2 (*Tax gross-up*) or Clause 13 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred **provided that** this paragraph (g) shall not apply in respect of any assignment or transfer made at a time when an Event of Default is continuing.

22.3 Assignment or transfer fee

The New Lender shall, on the date upon which the relevant assignment or transfer by the Existing Lender to the New Lender takes effect, pay to the Agent (for its own account) a fee of US\$3,500.00.

22.4 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
- (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
 - (ii) the financial condition of any Group Member or any Affiliate of any Group Member;
 - (iii) the performance and observance by the Borrower of its obligations under any of the Finance Documents or any other documents; or
 - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender (which makes any assignment or transfer to such New Lender) and the other Finance Parties that it:
 - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower, Group Members and their related entities in connection with its participation in this Agreement and/or the other Finance Documents and has not relied exclusively on any information provided to it by such Existing Lender in connection with any Finance Document; and
 - (ii) will continue to make its own independent appraisal of the creditworthiness of the Borrower, Group Members and their related entities whilst any amount is or may be outstanding under any of the Finance Documents or any commitment represented by any Commitment in respect of any Facility is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
 - (i) accept a re-assignment or re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 22; or
 - (ii) support any losses directly or indirectly incurred by a New Lender by reason of the non-performance by the Borrower of its obligations under any of the Finance Documents or otherwise.

22.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 22.2 (*Conditions of assignment or transfer*) a transfer by an Existing Lender of any or all of its rights and obligations under this Agreement to a New Lender is effected on the Transfer Date in accordance with paragraph (c) below. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate, **provided that** the Agent shall have no obligation to execute any Transfer Certificate at any time earlier than the date that is 5 Business Days after its receipt of such Transfer Certificate.
- (b) The Agent shall not be obliged to execute a Transfer Certificate delivered to it by an Existing Lender and a New Lender unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (including in accordance with internal policies) (or deems desirable) to conduct in relation to the transfer from such Existing Lender to such New Lender (the subject of such Transfer Certificate).
- (c) On the Transfer Date in respect of a transfer by an Existing Lender to a New Lender:
 - (i) to the extent that in the Transfer Certificate (relating to such transfer) such Existing Lender seeks to transfer by novation its rights and obligations under this Agreement each of the Borrower and such Existing Lender shall be released from further obligations towards one another under this Agreement and their respective rights against one another under this Agreement shall be cancelled (being the “**Discharged Rights and Obligations**”);

- (ii) each of the Borrower and such New Lender shall assume obligations towards one another and/or acquire rights against one another under this Agreement which differ from the Discharged Rights and Obligations only insofar as the Borrower and such New Lender have assumed and/or acquired the same in place of the Borrower and such Existing Lender;
- (iii) the Agent, the Arrangers, such New Lender and the other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had such New Lender been originally party hereto as a Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer (the subject of such Transfer Certificate) and to that extent the Agent, the Arrangers and such other Lenders (on one hand) and such Existing Lender (on the other hand) shall each be released from further obligations to each other under this Agreement; and
- (iv) such New Lender shall become a Party as a “Lender”.

22.6 Procedure for assignment

- (a) Subject to the conditions set out in paragraph (d) below and Clause 22.2 (*Conditions of assignment or transfer*), an assignment by an Existing Lender of any or all of its rights under this Agreement to a New Lender may be effected on the Transfer Date in accordance with paragraph (b) below. The Agent shall, subject to paragraph (d)(ii), as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement, **provided that** the Agent shall have no obligation to execute any Assignment Agreement at any time earlier than the date that is 5 Business Days after its receipt of such Assignment Agreement.
- (b) On the Transfer Date relating to an assignment by an Existing Lender to a New Lender:
 - (i) such Existing Lender will assign absolutely to such New Lender the rights under the Finance Documents expressed to be the subject of assignment in such Assignment Agreement;
 - (ii) such Existing Lender will be released by the Borrower and the other Finance Parties from the obligations owed by it (the “**Relevant Obligations**”) and expressed to be the subject of release in such Assignment Agreement; and
 - (iii) the New Lender shall become a Party as a “Lender” and shall be bound by obligations equivalent to the Relevant Obligations.

- (c) An Existing Lender may utilise procedures other than those set out in this Clause 22.6 to assign its rights under the Finance Documents (but not, without the consent of the Borrower or unless in accordance with Clause 22.5 (*Procedure for transfer*), to obtain a release by the Borrower from the obligations owed to the Borrower by that Existing Lender nor the assumption of equivalent obligations by the applicable New Lender) **provided that** the conditions set out in paragraph (d) below are complied with.
- (d) An assignment by an Existing Lender to a New Lender (whether pursuant to an Assignment Agreement or paragraph (c) above) will only be effective on:
 - (i) receipt by the Agent (whether in an Assignment Agreement or otherwise) of written confirmation from such New Lender (in form and substance satisfactory to the Agent) that such New Lender will assume the same obligations to the other Finance Parties as it would have been under if it were an Original Lender; and
 - (ii) performance by the Agent of all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to such assignment to such New Lender. The Agent shall promptly notify such Existing Lender and such New Lender of the completion of such checks. The Agent shall not be obliged to execute an Assignment Agreement delivered to it by an Existing Lender and a New Lender or any document delivered to it pursuant to paragraph (c) above unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to such assignment to such New Lender.
- (e) The procedure set out in this Clause 22.6 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of assignment of such right or release or assumption of obligation or prohibit or restrict any assignment of such right or release or assumption of such obligation, unless such prohibition or restriction shall not be applicable to the applicable assignment, release and assumption or each condition of any applicable assignment, release and assumption shall have been satisfied.

22.7 **Copy of Transfer Certificate or Assignment Agreement to Borrower**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Assignment Agreement, send to the Borrower a copy of that Transfer Certificate or Assignment Agreement.

22.8 **Existing consents and waivers**

Each New Lender shall be bound by any consent, waiver, election or decision given or made by the applicable Existing Lender under or pursuant to any Finance Document prior to the coming into effect of the applicable assignment or transfer from such Existing Lender to such New Lender.

22.9 **Exclusion of the Agent's liabilities**

In relation to any assignment or transfer pursuant to this Clause 22, each Party acknowledges and agrees that the Agent shall not be obliged to:

- (a) enquire as to the accuracy of any representation or warranty made by, or the status of, any person in respect of its eligibility as a Lender;
- (b) attend to any registration or perfection requirements required in connection with such assignment or transfer or to ensure that such registration or perfection requirements are completed; and/or
- (c) provide any New Lender with any information regarding any previous amendments or waivers in relation to any Finance Document.

22.10 **Sub-participation**

For the avoidance of doubt, each Lender may grant sub-participations in respect of any or all of its rights and/or obligations under any Finance Document to any person **provided that** the consent of the Borrower shall be required in respect of any such sub-participation except for:

- (a) any sub-participation where such Lender retains its voting rights under the Finance Documents (and is not required to exercise such voting rights at the discretion of any other person) (or retains such voting rights (and is not required to exercise such voting rights at the discretion of any other person) except for voting rights in relation to items that would require all Lenders' consent, approval or instructions pursuant to the terms of the Finance Documents);
- (b) any sub-participation in favour of a Lender or an Affiliate of a Lender;
- (c) any sub-participation made at a time when an Event of Default is continuing.

The consent of the Borrower under this Clause 22.10 must not be unreasonably withheld or delayed and the Borrower will be deemed to have given its consent ten (10) Business Days after a Lender has requested it unless such consent is expressly refused by the Borrower in writing within that time.

22.11 **Assignments and transfers to Group Members**

A Lender may not assign or transfer any of its rights and/or obligations under any Finance Document to any Group Member or any Affiliate of any Group Member, except with the prior written consent of the Agent (acting on the instructions of the Majority Lenders), **provided that** in no event shall any Lender assign or transfer any of its rights and/or obligations under any Finance Document to the Borrower.

22.12 **Security over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 22, each Lender may without consulting with or obtaining consent from the Borrower, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

- (a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

- (b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

- (i) release such Lender from any of its obligations under the Finance Documents, or substitute the beneficiary of the relevant charge, assignment or other Security for such Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by the Borrower or grant to any person any rights that are more extensive than those required to be made or granted to such Lender under the Finance Documents.

22.13 No assignments or transfers by the Borrower

The Borrower may not assign or transfer any or all of its rights or obligations under any or all of the Finance Documents.

23. DISCLOSURE OF INFORMATION

23.1 Confidentiality

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 23.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

23.2 Disclosure of Confidential Information

Any Finance Party may deliver copies of the Finance Documents and/or disclose any information (including Confidential Information) received by it under or pursuant to any Finance Document or any other information about the Borrower, the Group, and/or the Finance Documents as that Finance Party shall consider appropriate (if, in relation to any of paragraphs (1)(i), (1)(ii) and (1)(iii) below, the person to whom any Confidential Information is to be disclosed has entered into a Confidentiality Undertaking, except that there shall be no requirement for any Confidentiality Undertaking if such recipient is subject to professional obligations to maintain the confidentiality of such Confidential Information) to:

- (a) any of its Affiliates and/or Related Funds;
- (b) any of its head office, branches and/or representative offices;

- (c) any other Finance Party;
- (d) any of the professional advisers of it or any person referred to in paragraphs (a) to (c) and/or any other person providing services to or agent or contractor of or any person referred to in paragraphs (a) to (c), **(provided that** such professional adviser, person providing services or agent or contractor is under a duty of confidentiality, contractual or otherwise, to such Finance Party or such person referred to in paragraphs (a) to (c));
- (e) the Borrower;
- (f) any person permitted (in writing) by the Borrower;
- (g) any person to the extent required for the purpose of any litigation, arbitration or regulatory proceedings or procedure or in connection with any preservation or enforcement of any right or remedy under any Finance Document;
- (h) any person to whom, and to the extent that, information is requested or required to be disclosed by any applicable law or regulation or the rules or requirements of any applicable court, tribunal, securities exchange or supervisory, governmental, quasi-governmental, regulatory or self-regulatory body or authority;
- (i) any employee or officer of any Finance Party or any person falling within any of paragraphs (a) to (d) (where such disclosure is reasonably required for the performance of the duties or functions of such employee or officer);
- (j) any rating agency, insurer or insurance broker of, or any direct or indirect provider of credit protection to, such Finance Party (or any of its Affiliates, head office or other branch), **provided that** such person is informed of the confidential nature of such Confidential Information;
- (k) any person to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) in or over all or any of its rights under any Finance Document pursuant to Clause 22.12 (*Security over Lenders' rights*); or
- (l) any other person:
 - (i) to (or through) whom that Finance Party assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under any Finance Document and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom that Finance Party enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Facility, any Finance Document, the Borrower or any Group Member, or who invests directly or indirectly in any such sub-participation or other transaction and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers; or

- (iii) who acquires or is proposing to acquire any interest in, or enters into or is proposing to enter into any merger, amalgamation or other similar arrangement with, that Finance Party and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers.

The Borrower further acknowledges and agrees that some services, operational and processing procedures relating to the transactions or services contemplated under the Finance Document may from time to time be outsourced by any Finance Party to its regional or global processing centres, branches, Subsidiaries, representative offices, Affiliates, agents of any Finance Party and third parties selected by any Finance Party, wherever situated, and these service providers may from time to time be given access to information and data relating to the transactions or services contemplated under the Finance Documents for the purpose of or in relation to the services and procedures they perform. This Clause 23 is not, and shall not be deemed to constitute, an express or implied agreement by a Finance Party for a higher degree of confidentiality than that prescribed under any applicable law or regulation.

Notwithstanding any other provision in this Agreement or any other document, the Borrower acknowledges and agrees that each Finance Party (and each employee, representative or other agent of each Finance Party) may each disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of the transactions contemplated under the Finance Documents and all materials of any kind (including opinions or other tax analyses) that are provided to any of them relating to such U.S. tax treatment and U.S. tax structure, other than any information for which non-disclosure is necessary in order to comply with applicable securities laws.

This Clause 23 supersedes any previous agreement between any of the Parties relation to the confidentiality of any such information or of any Finance Document.

SECTION 9
THE FINANCE PARTIES

24. ROLE OF THE AGENT AND THE ARRANGERS

24.1 Appointment of the Agent

- (a) Each Finance Party (other than the Agent) appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each Finance Party (other than the Agent) authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

24.2 Duties of the Agent

- (a) Subject to paragraph (b) below, the Agent shall promptly forward to a party to any Finance Document the original or a copy of any document which is delivered to the Agent for that party by any other party to any Finance Document.
- (b) Without prejudice to Clause 22.7 (*Copy of Transfer Certificate or Assignment Agreement to Borrower*), paragraph (a) above shall not apply to any Assignment Agreement or any Transfer Certificate or any notice or confirmation under paragraph (d)(i) of Clause 22.6 (*Procedure for assignment*).
- (c) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to any party to any Finance Document.
- (d) If the Agent receives notice from any party to any Finance Document referring to a Finance Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (e) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than any Administrative Party) under a Finance Document it shall promptly notify the other Finance Parties.
- (f) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature. The Agent shall have no other duties, obligations and responsibilities save as expressly provided for in the Finance Documents to which it is a party (and no others shall be implied).

24.3 Role of the Arrangers

Except as specifically provided in the Finance Documents to which it is a party, none of the Arrangers shall have any obligations of any kind to any other Party under or in connection with any Finance Document.

24.4 **No fiduciary duties**

- (a) Nothing in this Agreement constitutes any Administrative Party as a trustee or fiduciary of any other person.
- (b) No Administrative Party shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

24.5 **Business with the Group**

- (a) Each Administrative Party may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower, any Group Member or any Affiliate of any of the foregoing.
- (b) Each of the Finance Parties hereby irrevocably waives, in favour of the Agent, any conflict of interest which may arise by virtue of the Agent acting in various capacities under the Finance Documents or for other customers of the Agent. Each of the Finance Parties acknowledges that the Agent and its affiliates (together, the “**Agent Parties**”) may have interests in, or may be providing or may in the future provide financial or other services to other parties with interests which a Finance Party may regard as conflicting with its interests and may possess information (whether or not material to the Finance Parties), other than as a result of the Agent acting as agent under the Finance Documents, that the Agent may not be entitled to share with any Finance Party.
- (c) The Agent will not disclose Confidential Information obtained from any Finance Party (without its consent) to any of the Agent’s other customers nor will it use on a Finance Party’s behalf any Confidential Information obtained from any other customer. Without prejudice to the foregoing, each of the Finance Parties agrees that each of the Agent Parties may deal (whether for its own or its customers’ account) in, or advise on, securities of any party and that such dealing or giving of advice, will not constitute a conflict of interest for the purposes of the Finance Documents.

24.6 **Rights and discretions of the Agent**

- (a) The Agent may rely on:
 - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised and shall have no duty to verify any signature on any document; and
 - (ii) any statement purportedly made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
- (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Finance Parties) that:
 - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 21.1 (*Non-payment*)); and

- (ii) any right, power, authority or discretion vested in any party to any Finance Document, the Majority Lenders or the applicable Lenders has not been exercised.
- (c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
- (d) The Agent may act in relation to the Finance Documents through its personnel, agents and affiliates. The Agent shall not be liable for the acts or omissions of any such agents **provided that** it has acted in good faith in the selection of such agents.
- (e) The Agent may disclose to any other party to any Finance Document any information it reasonably believes it has received as agent under any Finance Document.
- (f) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor any Finance Party is obliged to (i) do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality or (ii) disclose any information that is stated to be confidential.
- (g) The Agent is not obliged to disclose to any Finance Party any details of any rate notified to the Agent by any Lender for the purpose of paragraph (a)(ii) of Clause 10.2 (*Market disruption*) or the identity of any such Lender.

24.7 **Majority Lenders' instructions**

- (a) Unless a contrary indication appears in a Finance Document, the Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with such an instruction of the Majority Lenders.
- (b) Unless a contrary indication appears in a Finance Document, any such instructions so given by the Majority Lenders will be binding on all of the Finance Parties.
- (c) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the applicable Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated Indirect Tax) which it may incur in complying with such instructions.
- (d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the applicable Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders, **provided that** (for the avoidance of doubt) the Agent shall not be under any duty to take any action in the absence of such instructions.

- (e) The Agent is not authorised to act on behalf of and in the name of a Finance Party (without first obtaining that Finance Party's prior written consent) in any legal or arbitration proceedings relating to any Finance Document, **provided that** nothing herein shall prejudice the ability of the Agent to bring, defend or conduct any proceedings in its capacity as Agent (in the name of the Agent).
- (f) For the purposes of determining:
 - (i) Majority Lenders, Majority Facility A Lenders or Majority Facility B Lenders; or
 - (ii) whether the consent, instruction or vote of (A) Lenders holding any applicable percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments, the Commitments in respect of any or all of the Facilities and/or participations in respect of any or all of the Loans or (B) any group of Lenders has been obtained in respect of any matter (including any amendment or waiver relating to any Finance Document),

a Lender may split its votes (as attributable to its Commitment(s) in respect of any or all of the Facilities and/or its participations in respect of any or all of the Loans) in whatever percentages it may specify, and may exercise such votes in different ways (and shall for such purpose be construed as different Lenders holding such percentages of such Commitments in respect of such Facilities and/or such percentages of such participations in respect of such Loans as so specified by such Lender respectively, **provided that** the aggregate of such percentages shall be equal to 100%).

24.8 **Responsibility for documentation**

No Administrative Party:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, the Borrower or any other person given in or in connection with any Finance Document, the Information Memorandum or the transactions contemplated under any Finance Document;
- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document; or
- (c) is responsible for any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

24.9 **Exclusion of liability**

- (a) Without limiting paragraph (b) below, the Agent will not be liable (including, without limitation, for negligence or any other category of liability whatsoever) for any cost, loss or liability incurred by any Party as a consequence of:
- (i) the Agent having taken or having omitted to take any action under or in connection with any Finance Document, unless directly caused by the Agent's gross negligence or wilful misconduct (as determined in a final non-appealable judgment of a court of competent jurisdiction); or
 - (ii) any delay (or any related consequences) in crediting an account with an amount required under any of the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document, and any officer, employee or agent of the Agent may rely on this Clause 24.9 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Agent shall not be responsible for making, and shall not have any duty to make, any investigation in respect of or in any way be liable whatsoever for:
- (i) the nature, status, creditworthiness or solvency of the Borrower, any Group Member or any other person;
 - (ii) the execution, legality, validity, adequacy (including without limitation adequacy of security, if any, relating to), admissibility in evidence or enforceability of any Finance Document or any other document entered into in connection therewith;
 - (iii) the scope, adequacy, accuracy or completeness of any representations, warranties or statements made by or on behalf of, or any information (whether oral or written) supplied by or on behalf of, the Borrower, any Group Member, or any other person under or in connection with any Finance Document or any document entered into in connection therewith;
 - (iv) the performance or observance by the Borrower or any other person with any provisions of any Finance Document or in any document entered into in connection therewith or the fulfilment or satisfaction of any conditions contained therein or relating thereto or as to the existence or occurrence at any time of any default, event of default or similar event contained therein or any waiver or consent which has at any time been granted in relation to any of the foregoing;

- (v) the existence, accuracy or sufficiency of any legal or other opinions, searches, reports, certificates, valuations or investigations delivered or obtained or required to be delivered or obtained at any time in connection with any Finance Document;
 - (vi) the compliance of the provisions and contents of and the manner and formalities applicable to the execution of any Finance Document and any documents connected therewith, and/or compliance of any such provisions, contents, manner and/or formalities with any applicable laws or regulations;
 - (vii) the failure to call for delivery of documents of title to or require any transfers, legal mortgages, charges or other further assurances in relation to any of the assets the subject matter of any of the Finance Documents or any other document; or
 - (viii) any other matter or thing relating to or in any way connected with any document entered into in connection therewith whether or not similar to the foregoing.
- (d) The Agent shall not be responsible for any loss or damage, or any failure or delay in the performance of its obligations under any Finance Document if it is prevented from so performing its obligations by any reason which is beyond the control of the Agent, including, but not limited to, any existing or future law or regulation, any existing or future act of governmental authority, Act of God, flood, war whether declared or undeclared, terrorism, riot, rebellion, civil commotion, strike, lockout, other industrial action, general failure of electricity or other supply, aircraft collision, or technical failure of, accidental or mechanical or electrical breakdown of, or computer failure or other failure of, any money transmission system, or any event where, in the reasonable opinion of the Agent, performance of any duty or obligation under or pursuant to any Finance Document would or may be illegal or would result in the Agent being in breach of any law, rule, regulation, or any decree, order or judgment of any court, or practice, request, direction, notice, announcement or similar action (whether or not having the force of law) of any relevant government, government agency, regulatory authority, stock exchange or self-regulatory organisation to which the Agent is subject.
- (e) Notwithstanding any other term or provision of this Agreement to the contrary, the Agent shall not be liable under any circumstances for special, punitive, indirect or consequential loss or damage of any kind whatsoever, whether or not foreseeable, or for any loss of business, goodwill, opportunity or profit, whether arising directly or indirectly and whether or not foreseeable, even if the Agent is actually aware of or has been advised of the likelihood of such loss or damage and regardless of whether the claim for such loss or damage is made in negligence, for breach of contract, breach of trust, breach of fiduciary obligation or otherwise. For the avoidance of doubt, the provisions of this Clause 24.9 shall survive any termination or expiry of this Agreement or any resignation or removal of the Agent.

- (f) Nothing in this Agreement shall oblige any Administrative Party to carry out any “know your customer”, anti-money laundering or other checks in relation to any person on behalf of any Lender and each of the Lenders confirms to each Administrative Party that it is solely responsible for any such checks it is required to carry out and that it may not rely on any such checks made by, or any statement in relation to such checks made by, any Administrative Party.

24.10 Lenders' indemnity to the Agent

- (a) Each Lender shall (in the proportion determined in accordance with paragraph (b) below) indemnify the Agent, within three Business Days of demand, against any cost, loss or liability (including, without limitation, for negligence or any other category of liability whatsoever) incurred by the Agent (otherwise than by reason of the Agent's gross negligence or wilful misconduct (as determined in a final non-appealable judgment of a court of competent jurisdiction)) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Borrower pursuant to a Finance Document in respect of the same cost, loss or liability).
- (b) Each Lender's proportion of such cost, loss or liability shall be:
- (i) if there is any Loan then outstanding, the proportion borne by (A) such Lender's aggregate participations in the Loan(s) then outstanding to (B) the aggregate amount of the Loans then outstanding;
 - (ii) if no Loan is then outstanding and the Available Facility (in respect of any Facility) is then greater than zero, the proportion borne by (A) the aggregate of such Lender's Available Commitments (for any or all Facilities) to (B) the aggregate of the Available Facility (in respect of each Facility); or
 - (iii) if no Loan is then outstanding and the Available Facility (in respect of each Facility) is then zero:
 - (A) if the time when the Available Facility (in respect of each Facility) became zero falls after the time when each Loan ceased to be outstanding, the proportion borne by (A) the aggregate of such Lender's Available Commitments (for any or all Facilities) immediately before the Available Facility (in respect of each Facility) became zero to (B) the aggregate of the Available Facility (in respect of each Facility) immediately before the Available Facility (in respect of each Facility) became zero, or
 - (B) if the time when each Loan ceased to be outstanding falls upon or after the time when the Available Facility (in respect of each Facility) became zero, the proportion borne by (A) the aggregate of such Lender's participations in the Loan(s) outstanding (immediately before the time when each Loan ceased to be outstanding) to (B) the aggregate amount of the Loans outstanding (immediately before the time when each Loan ceased to be outstanding).

24.11 **Resignation of the Agent**

- (a) The Agent may resign and appoint one of its Affiliates as successor by giving notice to the Lenders and the Borrower.
- (b) Alternatively the Agent may resign by giving notice to the Lenders and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days after the applicable notice of resignation was given, the retiring Agent (after consultation with the Borrower) may appoint a successor Agent.
- (d) The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (e) The Agent's resignation notice shall only take effect upon the appointment of a successor to the Agent.
- (f) Upon the appointment of a successor Agent, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (d) above) but shall remain entitled to the benefit of this Clause 24 (and any agency fees for the account of such retiring Agent shall cease to accrue from such date and shall instead accrue in favour of such successor Agent).
- (g) The Majority Lenders may, by giving not less than 30 days' notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above but the cost of complying with paragraph (d) above shall be for the account of the Borrower.
- (h) In the event of any gross negligence or wilful misconduct on the part of the Agent in acting as Agent under the Finance Documents, the Borrower may request the Majority Lenders to consider in good faith to require the Agent to resign pursuant to paragraph (g) above.
- (i) Any successor Agent and each of the other Parties shall have the same rights and obligations among themselves as they would have had had such successor Agent been originally party hereto as the Agent.
- (j) Clauses 15 (*Other Indemnities*) and 16 (*Costs and Expenses*) shall survive and remain in full force and effect in favour of any Agent that has resigned or been replaced.

24.12 Confidentiality

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
- (c) The Agent shall not be obliged to disclose to any Finance Party any information supplied to it by the Borrower or any Affiliate of the Borrower on a confidential basis and for the purpose of evaluating whether any waiver or amendment is or may be required or desirable in relation to any Finance Document.

24.13 Relationship with the Lenders

- (a) Subject to Clause 26.2 (*Distributions by the Agent*), the Agent may treat each person shown in the records of the Agent as a Lender at the opening of business (in the place of the Agent's principal office as notified to the Finance Parties from time to time) as a Lender acting through its Facility Office:
 - (i) entitled to or liable for an payment due under any Finance Document on that day as a Lender; and
 - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered as a Lender on that day,unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Each Finance Party shall provide the Agent with such information that the Agent may reasonably specify as being necessary or desirable to enable the Agent to perform its functions as the Agent.
- (c) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 28.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of Clause 28.2 (*Addresses*) and paragraph (a)(iii) of Clause 28.5 (*Electronic communication*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

24.14 Credit appraisal by the Lenders

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document, each of the Lenders confirms to each Administrative Party that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of the Borrower, Group Members and their respective Affiliates;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and/or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Lender has recourse, and the nature and extent of that recourse, against any party to any Finance Document or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (d) the adequacy, accuracy and/or completeness of the Information Memorandum and/or any other information provided by the Agent, any party to any Finance Document or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

24.15 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under any of the Finance Documents, the Agent may, after giving notice to such Party, deduct an amount not exceeding that amount from any payment to such Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of that amount owed by such Party to the Agent. For the purposes of the Finance Documents such Party shall be regarded as having received any amount so deducted.

24.16 Agent's management time

Any amount payable to the Agent under Clause 15.3 (*Indemnity to the Agent*), Clause 16 (*Costs and Expenses*) and/or Clause 24.10 (*Lenders' indemnity to the Agent*) shall include the cost of utilising the Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Borrower and the Lenders, and shall be in addition to any fee paid or payable to the Agent under Clause 11 (*Fees*).

24.17 Money laundering

Unless mandatorily required by applicable laws or regulations to which the Agent is subject, the Agent shall not be responsible to any Party for providing any certification or documents with respect to any information (except for any information in respect of itself) required for any anti-money laundering due diligence purpose. Such certificates and related documents shall be provided directly by the Borrower **provided that** the request for such information may be made through the Agent.

24.18 Liability

None of the Finance Parties or their respective Affiliates, officers, directors or agents shall have any liability to the Borrower or any of its Subsidiaries or be responsible to the Borrower or any of its Subsidiaries for (whether under contract, tort, any other theory of liability or otherwise) any special, indirect, consequential or punitive losses or damages incurred or suffered by the Borrower or any of its Subsidiaries under or in connection with any Finance Document or any transaction contemplated thereby, whether or not such Finance Party shall have been advised of the likelihood of such loss or damage, unless such loss or damage has been finally judicially determined to have primarily resulted from the wilful default or gross negligence of such Finance Party or, as the case may be, such Affiliate, officer, director or agent; and the Borrower hereby waives, releases and agrees not to sue upon (for itself and on behalf of each of its Subsidiaries) any claim for any such loss or damage, whether or not accrued and whether or not known or suspected to exist in its favour unless such loss or damage has been finally judicially determined to have primarily resulted from the wilful default or gross negligence of such Finance Party or, as the case may be, such Affiliate, officer, director or agent. Such Affiliates, officers, directors and agents may rely on this Clause 24.18 subject to Clause 1.4 (*Third party rights*) and the provisions of the Third Parties Act.

25. SHARING AMONG THE FINANCE PARTIES

25.1 Payments to Finance Parties

If a Finance Party (a “**Recovering Finance Party**”) receives or recovers (whether by set-off or otherwise) any amount from or in respect of the Borrower, other than through the Agent and in accordance with Clause 26 (*Payment Mechanics*), (such amount being a “**Recovered Amount**”) and applies that amount to a payment due under any of the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of such receipt or recovery, to the Agent;
- (b) the Agent shall determine whether such receipt or recovery is in excess of the amount that the Recovering Finance Party would have been paid had such receipt or recovery been received or made by the Agent and distributed in accordance with Clause 26 (*Payment Mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to such receipt, recovery or distribution; and

- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the “**Sharing Payment**”) equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made (by reference to such receipt or recovery) in accordance with Clause 26.5 (*Partial payments*).

25.2 **Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the “**Sharing Finance Parties**”) in accordance with Clause 26.5 (*Partial payments*) towards the obligations owing to such Sharing Finance Parties.

25.3 **Recovering Finance Party’s rights**

On a distribution by the Agent under Clause 25.2 (*Redistribution of payments*), as between the Borrower and the Recovering Finance Party, an amount of such Recovered Amount equal to such Sharing Payment shall be treated as not having been paid by the Borrower (and the Borrower shall be liable to the Recovering Finance Party for a debt equal to such Sharing Payment, which debt is immediately due and payable).

25.4 **Reversal of redistribution**

To the extent that any part of such Recovered Amount received or recovered by a Recovering Finance Party (which Recovered Amount gives rise to any Sharing Payment) becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to (i) the appropriate part of its share of such Sharing Payment (that is attributable to such Recovered Amount so repayable and repaid by such Recovering Finance Party) together with (ii) an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on such part of such Sharing Payment (or on such part of such Recovered Amount to which such Sharing Payment is attributable) which that Recovering Finance Party is required to pay ((i) and (ii) being collectively the “**Redistributed Amount**”); and
- (b) as between the Borrower and each Sharing Finance Party, an amount equal to such Redistributed Amount shall be treated as not having been paid by the Borrower (and the Borrower shall be liable to such Sharing Finance Party for a debt equal to such Redistributed Amount, which debt is immediately due and payable).

25.5 **Exceptions**

- (a) This Clause 25 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Borrower.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which that Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
 - (i) it notified that other Finance Party of those legal or arbitration proceedings; and
 - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

**SECTION 10
ADMINISTRATION**

26. PAYMENT MECHANICS

26.1 Payments to the Agent

- (a) On each date on which the Borrower or a Lender is required to make a payment under a Finance Document, the Borrower or that Lender (as the case may be) shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement (in place of settlement) of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of the currency of such payment with such bank as the Agent specifies.
- (c) The Agent shall not be liable to account for interest on money paid to it by or recovered from the Borrower. Monies held by the Agent need not be segregated except as required by law.
- (d) Each payment of any amount made by the Borrower to the Agent in accordance with any Finance Document (including without limitation paragraph (a) above) is made to the Agent for and on behalf of each Finance Party to whom such amount is owing. The payment of any such amount to the Agent shall not in any way affect or prejudice the separate and independent nature of the debt owing to each such Finance Party, which may be enforced individually by each such Finance Party in the event that all or part of such debt remains unpaid when due.

26.2 Distributions by the Agent

- (a) Each payment received or recovered by the Agent under any Finance Documents for another Party shall, subject to Clause 26.3 (*Distributions to the Borrower*), Clause 26.4 (*Clawback*), Clause 26.5 (*Partial payments*) and Clause 24.15 (*Deduction from amounts payable by the Agent*), be made available by the Agent as soon as practicable after receipt or recovery to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office as set out in the Standing Payment Instructions for such Lender), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of the currency of such payment.
- (b) The Agent shall distribute payments received or recovered by it in relation to all or any part of a Loan to the applicable Lender(s) indicated in the records of the Agent as being so entitled on the applicable date, **provided that** the Agent is authorised to distribute payments to be made on the date on which any assignment or transfer becomes effective pursuant to Clause 22 (*Changes to the Parties*) to the applicable Lender(s) so entitled immediately before such assignment or transfer took place regardless of the period to which such payments relate.

- (c) The Agent is not under any obligation to make payment to any Finance Party on account of any amount owing by the Borrower to such Finance Party in the same currency as that in which such latter-mentioned amount is denominated.

26.3 Distributions to the Borrower

The Agent may (with the consent of the Borrower or in accordance with Clause 27 (*Set-off*)) apply any amount received by it for the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under any or all of the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

26.4 Clawback

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Agent or its Affiliate or Representative on its behalf or direction (the Agent and its applicable Affiliate or Representative, an “**Agent Entity**”) pays an amount to another Party (unless paragraph (c) below applies) or, at the direction of such Party, that Party’s Affiliate, Related Fund or Representative (such Party and its applicable Affiliate, Related Fund or Representative, an “**Other Party Entity**”) and it proves to be the case (in the sole determination of the Agent) that (i) neither the Agent nor the applicable Agent Entity actually received that amount or (ii) such amount was otherwise paid in error (whether such error was known or ought to have been known to such other Party or applicable Other Party Entity), then the Party to whom that amount (or the proceeds of any related exchange contract) was paid (or on whose direction its applicable Other Party Entity was paid) by the applicable Agent Entity shall hold such amount on trust or, to the extent not possible as a matter of law, for the account (or will procure that its applicable Other Party Entity holds on trust or for the account) of the Agent Entity and on demand (or will procure that its applicable Other Party Entity shall) refund the same to the Agent Entity together with interest on that amount from the date of payment to the date of receipt by the Agent Entity, calculated by the Agent to reflect its cost of funds.
- (c) If the Agent has notified the Lenders that it is willing to make available amounts for the account of the Borrower before receiving funds from the Lenders then if and to the extent that the Agent does so but it proves (in the sole determination of the Agent) to be the case that it does not then receive funds from a Lender in respect of a sum which it paid to the Borrower:
 - (i) the Agent shall notify the Borrower of that Lender’s identity and the Borrower to whom that sum was made available shall hold such amount on trust or, to the extent not possible as a matter of law, for the account, of the Agent and on demand refund it to the Agent; and

- (ii) the Lender by whom those funds should have been made available shall on demand pay to the Agent the amount (as certified by the Agent) which will indemnify the Agent against any funding cost incurred by it as a result of paying out that sum before receiving those funds from that Lender.

26.5 Partial payments

- (a) If the Agent receives or recovers an amount from or in respect of the Borrower under or in connection with any Finance Document which amount is insufficient to, or is not applied to, discharge all the amounts then due and payable by the Borrower under the Finance Documents, such amount shall be applied towards the obligations of the Borrower under the Finance Documents in the following order:
 - (i) *first*, in or towards payment *pro rata* of any unpaid fees, costs and expenses of, and other amounts owing to, any Administrative Party (in each case for its own account) under the Finance Documents;
 - (ii) *secondly*, in or towards payment *pro rata* of any accrued interest, fee (other than as provided in paragraph (a)(i) above) or commission due to any or all of the Finance Parties but unpaid under the Finance Documents;
 - (iii) *thirdly*, in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and
 - (iv) *fourthly*, in or towards payment *pro rata* of any other sum due to any or all of the Finance Parties but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Borrower.

26.6 No set-off by the Borrower

All payments to be made by the Borrower under any or all of the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

26.7 Business Days

- (a) Any payment which is due to be made under a Finance Document on a day that is not a Business Day shall be made on the next Business Day.

- (b) During any extension of the due date for payment of any principal or Unpaid Sum pursuant to paragraph (a) above, interest is payable on such principal or Unpaid Sum at the rate applicable on the original due date.

26.8 Currency of account

- (a) Subject to paragraphs (b) to (d) below, US dollar is the currency of account and payment for any sum from the Borrower under any Finance Document.
- (b) Each payment of interest shall be made in the currency in which the sum in respect of which such interest is payable was denominated when such interest accrued.
- (c) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which such costs, expenses or Taxes are incurred.
- (d) Any amount expressed to be payable in a currency other than US dollar shall be paid in that other currency.

26.9 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in this Agreement to, and any obligations arising under this Agreement in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (after consultation with the Borrower); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

27. SET-OFF

A Finance Party may set off any matured obligation due from the Borrower under any or all of the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If such obligations are in different currencies, that Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of such set-off.

28. **NOTICES**

28.1 **Communications in writing**

Any communication to be made by a Party to another Party under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter, **provided that** no such communication to be made by a Party to the Borrower shall be made by fax unless the Borrower consents otherwise (and provides its fax number for such purpose).

28.2 **Addresses**

The address and (other than in the case of the Borrower) fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Borrower, that identified with its name below;
- (b) in the case of any Lender, that notified in writing to the Agent on or prior to the date on which it becomes a Party;
- (c) in the case of the Agent, that identified with its name below; and
- (d) in the case of an Arranger, that identified with its name below,

or any substitute address or fax number or department or officer as that Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

28.3 **Delivery**

- (a) Any communication or document made or delivered by one Party to another Party under or in connection with any Finance Documents will be effective:
 - (i) if by way of fax, only when received in legible form; or
 - (ii) if by way of letter, only when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,and, if a particular department or officer is specified as part of its address details provided under Clause 28.2 (*Addresses*), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Agent under or in connection with any Finance Document will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

(c) All notices from or to the Borrower under or in connection with any Finance Document shall be sent through the Agent.

28.4 Notification of address and fax number

Promptly upon changing its own address or fax number, the Agent shall notify the other Parties.

28.5 Electronic communication

- (a) (Save in the case of any payment instruction (which, for the avoidance of doubt, shall not include any Utilisation Request) or notification of or change to any Standing Payment Instruction of any Lender which must be made or notified to the Agent by letter in original) any communication to be made between any two Parties under or in connection with any Finance Document may be made by encrypted or non encrypted electronic mail or other electronic means, if those two Parties:
- (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
 - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (iii) notify (by not less than five Business Days' notice) each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between any two Parties under or in connection with a Finance Document will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.
- (c) Each Party acknowledges and agrees that any electronic communication made by the Agent shall be in non-encrypted form unless, in relation to any such communication to a Lender:
- (i) prior written notice has been given by such Lender to the Agent that electronic communication to be received by it shall be in encrypted form; and
 - (ii) the encryption tool to be used has been agreed between such Lender and the Agent.
- (d) Any electronic communication which becomes effective in accordance with this Clause 28.5 after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.
- (e) Each party acknowledges the risk of receiving non encrypted electronic mails containing confidential information and may also be privileged.

- (f) The Borrower agrees and acknowledges that electronic means of communication may not be secure or virus or error free and could be intercepted, corrupted, lost, destroyed or arrive late, and none of the Finance Parties or their Affiliates will be liable to the Borrower for any of such occurrences. Each Finance Party may monitor, record and retain communications between such Finance Party and any other Party or the Borrower.

28.6 Deal Site

- (a) All notices, requests, consents, approvals, agreements or other communications by the Agent under or in respect of the Finance Documents may be given by publication on the Deal Site. Such communication shall include notices for notification for Lenders' participation in the Loan and for rates of interest.
- (b) Any communication posted on the Deal Site will be effective on the earlier of (i) one Business Day after such communication is posted on the Deal Site and (ii) receipt by the Agent of acknowledgement from the Deal Site that such communication has been posted and (in respect of notices, requests, consents, approvals, agreements or other communications by the Agent to the Borrower) the Borrower has been notified of such posting.
- (c) The Borrower consents to the inclusion of its logo (if applicable) on the Deal Site.
- (d) Subject to Clause 23 (*Disclosure of Information*) and paragraph (e) below, the Agent will promptly on request provide access to the Deal Site to one or more representatives of the other Parties.
- (e) Electronic mail contact details of a Party may be for individuals or "group" addresses of that Party. However in either case, each Party must ensure that all persons to whom it gives access can properly receive the information available on the Deal Site, including under Clause 23 (*Disclosure of Information*).
- (f) If the Deal Site is not available for any reason, promptly following this being brought to its attention, the Agent will provide communications to the Parties by another means of communications contemplated by this Clause 28. A Party shall notify the Agent promptly if it becomes aware that it is unable to access the Deal Site but shall be under no obligation to monitor access to the Deal Site.
- (g) Each of the other Parties agrees that the Agent is not liable for any liability, loss, damage, costs or expenses incurred or suffered by it as a result of its access or use of the Deal Site or inability to access or use the Deal Site, other than in the case of the gross negligence or wilful misconduct of the Agent as determined pursuant to a final non-appealable judgment of a court of competent jurisdiction.

- (h) The Agent may terminate the Deal Site after the earlier of (i) the Final Maturity Date and (ii) prepayment or cancellation in full of each of the Facilities, unless instructed otherwise by the Majority Lenders.

28.7 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

29. **CALCULATIONS AND CERTIFICATES**

29.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

29.2 **Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

29.3 **Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

30. **PARTIAL INVALIDITY**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

31. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver or constitute an election to affirm any Finance Document. No election by a Finance Party to affirm any Finance Document shall be effective unless it is in writing. No single or partial exercise of any right or remedy by any Finance Party shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

32. **AMENDMENTS AND WAIVERS**

32.1 **Required consents**

- (a) Subject to Clause 32.2 (*Exceptions*) any term of any Finance Document may be amended or waived only in writing and with the consent of the Majority Lenders and the Borrower. Any such amendment or waiver so made with such consent will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause.

32.2 **Exceptions**

- (a) Subject to Clause 32.3 (*Replacement of Screen Rate*), an amendment or waiver that has the effect of changing or which relates to:
 - (i) the definition of “Majority Facility A Lenders”, “Majority Facility B Lenders”, “Majority Lenders” or “Super Majority Lenders” in Clause 1.1 (*Definitions*);
 - (ii) an extension to the date of payment of any amount under the Finance Documents;
 - (iii) a reduction in the Margin or a reduction in the amount of, or any change in the currency of, any payment of principal, interest, fees or commission payable;
 - (iv) an increase in, or any change in the currency of, any Commitment in respect of any Facility;
 - (v) an extension of the period of availability for utilisation of any Commitment in respect of any Facility (or any commitment represented thereby);
 - (vi) any provision which expressly requires the consent of all the Lenders;
 - (vii) a change to the Borrower; or
 - (viii) Clause 2.2 (*Finance Parties’ rights and obligations*), Clause 22 (*Changes to the Parties*) and Clause 25 (*Sharing Among the Finance Parties*),

shall not be made without the prior consent of all the Lenders.

- (b) An amendment or waiver that has the effect of changing or which relates to any shorter period as the Majority Facility A Lenders or, as the case may be the Majority Facility B Lenders may agree as contemplated in Clause 7.2 (*Voluntary cancellation*), Clause 7.3 (*Voluntary prepayment of Facility A Loans*) and/or Clause 7.4 (*Voluntary prepayment of Facility B Loans*) shall not be made without the agreement of the Majority Facility A Lenders or, as the case may be, the Majority Facility B Lenders.
- (c) An amendment or waiver which relates to the rights or obligations of an Administrative Party may not be effected without the consent of that Administrative Party.
- (d) In relation to any consent, waiver, amendment or other matter that requires the instructions of the Majority Facility A Lenders, the Majority Facility B Lenders or the Majority Lenders (excluding, in each case, any matter that requires the consent or instructions of all of the Lenders), if a Lender fails to respond to any request for such consent, waiver or amendment or instructions on such other matter within 20 Business Days (unless the Borrower and the Agent shall have agreed to a longer period of time in relation to such request), then the Commitment of such Lender (in respect of each Facility) and participation of such Lender in each Loan shall not be included and shall be deemed to be zero for the purposes of calculating the Commitments of the Lenders (in respect of any Facility), the Loan(s) and the respective participations of the Lenders in the Loan(s) for the purposes (but only for the purposes of) of ascertaining whether the instructions of the Majority Facility A Lenders, the Majority Facility B Lenders or, as the case may be, the Majority Lenders have been obtained in respect of such consent, waiver, amendment or other matter.

32.3 Replacement of Screen Rate

- (a) Subject to paragraph (c) of Clause 32.2 (*Exceptions*), if a Screen Rate Replacement Event has occurred, any amendment or waiver which relates to:
 - (i) providing for the use of a Replacement Benchmark in relation to dollars in place of the Screen Rate; and
 - (ii)
 - (A) aligning any provision of any Finance Document to the use of that Replacement Benchmark;
 - (B) enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);
 - (C) implementing market conventions applicable to that Replacement Benchmark;

- (D) providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
- (E) adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the consent of the Agent (acting on the instructions of the Majority Lenders) and the Borrower.

- (b) If, as at 1 January 2023 this Agreement provides that the rate of interest for a Loan in dollars is to be determined by reference to the Screen Rate for LIBOR:
 - (i) a Screen Rate Replacement Event shall be deemed to have occurred on that date in relation to the Screen Rate for dollars; and
 - (ii) the Agent, (acting on the instructions of the Majority Lenders) and the Borrower shall enter into negotiations in good faith with a view to agreeing the use of a Replacement Benchmark in relation to dollars in place of that Screen Rate from and including a date no later than 31 March 2023.

- (c) In this Clause 32.3:

“Relevant Nominating Body” means any applicable central bank, regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them or the Financial Stability Board.

“Replacement Benchmark” means a benchmark rate which is:

- (a) formally designated, nominated or recommended as the replacement for the Screen Rate by:
 - (i) the administrator of the Screen Rate (provided that the market or economic reality that such benchmark rate measures is the same as that measured by the Screen Rate); or
 - (ii) any Relevant Nominating Body,

and if replacements have, at the relevant time, been formally designated, nominated or recommended under both paragraphs, the “Replacement Benchmark” will be the replacement under paragraph (ii) above;

- (b) in the opinion of the Majority Lenders and the Borrower, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to the Screen Rate; or
- (c) in the opinion of the Majority Lenders and the Borrower, an appropriate successor to the Screen Rate.

“Screen Rate Replacement Event” means:

- (a) the methodology, formula or other means of determining the Screen Rate has, in the opinion of the Majority Lenders and the Borrower, materially changed;
- (b)
 - (i)
 - (A) the administrator of the Screen Rate or its supervisor publicly announces that such administrator is insolvent; or
 - (B) information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of the Screen Rate is insolvent,
provided that, in each case, at that time, there is no successor administrator to continue to provide the Screen Rate;
 - (ii) the administrator of the Screen Rate publicly announces that it has ceased or will cease to provide the Screen Rate permanently or indefinitely and, at that time, there is no successor administrator to continue to provide the Screen Rate;
 - (iii) the supervisor of the administrator of the Screen Rate publicly announces that the Screen Rate has been or will be permanently or indefinitely discontinued;
 - (iv) the administrator of the Screen Rate or its supervisor announces that the Screen Rate may no longer be used; or
 - (v) the supervisor of the administrator of the Screen Rate makes a public announcement or publishes information:
 - (A) stating that the Screen Rate is no longer or, as of a specified future date will no longer be, representative of the underlying market or economic reality that it is intended to measure and that representativeness will not be restored (as determined by such supervisor); and

- (B) with awareness that any such announcement or publication will engage certain triggers for fallback provisions in contracts which may be activated by any such pre-cessation announcement or publication;
- (c) the administrator of the Screen Rate determines that the Screen Rate should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and either:
 - (i) the circumstance(s) or event(s) leading to such determination are not (in the opinion of the Majority Lenders and the Borrower) temporary; or
 - (ii) the Screen Rate is calculated in accordance with any such policy or arrangement for a period no less than 30 days; or
- (d) in the opinion of the Majority Lenders and the Borrower, the Screen Rate is otherwise no longer appropriate for the purposes of calculating interest under this Agreement.

33. RESTRICTIONS ON DEBT PURCHASE TRANSACTIONS

33.1 Prohibition on Debt Purchase Transactions

The Borrower shall not, and the Borrower shall procure that (except with the prior written consent of the Agent (acting on the instructions of the Majority Lenders)) no Group Member or any Affiliate of any Group Member shall, (a) enter into any Debt Purchase Transaction or (b) be or become an Affiliate of (i) a Lender or (ii) a party to a Debt Purchase Transaction of the type referred to in any of paragraphs (b) or (c) of the definition of "Debt Purchase Transaction".

33.2 Notification to other Lenders of Debt Purchase Transactions

Without prejudice to Clause 33.1 (*Prohibition on Debt Purchase Transactions*) and Clause 22.11 (*Assignments and transfers to Group Members*), any Group Member or any Affiliate of any Group Member which is or becomes a Lender or which enters into a Debt Purchase Transaction as a purchaser, an acquirer or a participant (or similar capacity) shall, by 5.00 pm on the Business Day following the day on which it entered into that Debt Purchase Transaction, notify the Agent of the extent of the Commitment(s) (in respect of any or all of the Facilities) (or any commitment represented thereby), any Loan or any amount(s) outstanding to which that Debt Purchase Transaction relates. The Agent shall promptly disclose such information to the Lenders.

34. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on such counterparts were on a single copy of this Agreement.

35. **U.S.A. PATRIOT ACT**

Each Lender hereby notifies the Borrower that pursuant to the requirements of the U.S.A. Patriot Act, such Lender is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the U.S.A. Patriot Act.

SECTION 11
GOVERNING LAW AND ENFORCEMENT

36. GOVERNING LAW

This Agreement and all non-contractual obligations arising from or in connection with this Agreement shall be governed by and construed in accordance with English law.

37. ENFORCEMENT

37.1 Jurisdiction of English Courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a “**Dispute**”).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 37.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

37.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Borrower:

- (a) irrevocably appoints Law Debenture Corporate Services Limited as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Borrower of any process will not invalidate the proceedings concerned.

37.3 Waiver of Immunity

The Borrower irrevocably waives, to the extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from:

- (a) suit;
- (b) jurisdiction of any court;
- (c) relief by way of injunction or order for specific performance or recovery of property;
- (d) attachment of its assets (whether before or after judgment); and

- (e) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction (and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any immunity in any such proceedings).

38. **WAIVER OF JURY TRIAL**

EACH OF THE PARTIES TO THIS AGREEMENT AGREES TO WAIVE IRREVOCABLY ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE FINANCE DOCUMENTS OR ANY TRANSACTION CONTEMPLATED IN THIS AGREEMENT OR ANY FINANCE DOCUMENT. THIS WAIVER IS INTENDED TO APPLY TO ALL DISPUTES. EACH PARTY ACKNOWLEDGES THAT (A) THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO THIS AGREEMENT, (B) IT HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT AND (C) IT WILL CONTINUE TO RELY ON THIS WAIVER IN FUTURE DEALINGS. EACH PARTY REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL ADVISERS AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AFTER CONSULTATION WITH ITS LEGAL ADVISERS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

39. **BAIL-IN**

- (a) Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:
 - (i) any Bail-In Action in relation to any such liability, including (without limitation):
 - (A) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (B) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (C) a cancellation of any such liability; and
 - (ii) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.
- (b) In this Clause 39:

“**Article 55 BRRD**” means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“**Bail-In Action**” means the exercise of any Write-down and Conversion Powers.

“**Bail-In Legislation**” means:

- (i) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (ii) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation; and
- (iii) in relation to the United Kingdom, the UK Bail-In Legislation.

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway.

“**EU Bail-In Legislation Schedule**” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers.

“**UK Bail-In Legislation**” means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

“**Write-down and Conversion Powers**” means:

- (i) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (ii) in relation to any other applicable Bail-In Legislation (other than the UK Bail-In Legislation):
 - (A) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

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- (B) any similar or analogous powers under that Bail-In Legislation; and
- (iii) in relation to any UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

**SCHEDULE 1
THE ORIGINAL LENDERS**

<u>Name of Original Lender</u>	<u>Facility A Commitment (US\$)</u>	<u>Facility B Commitment (US\$)</u>
Bank of China (Hong Kong) Limited	56,250,000	56,250,000
Bank of China Limited, Tokyo Branch	56,250,000	56,250,000
Bank of China Limited Hungarian Branch	56,250,000	56,250,000
Bank of China Limited Shanghai Branch JingAn Sub-branch	56,250,000	56,250,000
China Construction Bank (Asia) Corporation Limited	120,000,000	105,000,000
China Minsheng Banking Corp., Ltd., Hong Kong Branch (a joint stock limited company incorporated in the PRC)	25,000,000	200,000,000
Citibank, N.A., Hong Kong Branch (a corporation organized under the laws of US with limited liability)	120,000,000	105,000,000
DBS Bank (Hong Kong) Limited	120,000,000	105,000,000
Agricultural Bank of China Limited Hong Kong Branch (incorporated in the People's Republic of China with limited liability)	36,250,000	36,250,000
Agricultural Bank of China Limited, New York Branch (incorporated in the People's Republic of China with limited liability)	36,250,000	36,250,000
Hang Seng Bank Limited	80,000,000	65,000,000
Industrial and Commercial Bank of China (Asia) Limited	80,000,000	65,000,000
Nanyang Commercial Bank, Limited	80,000,000	65,000,000
China CITIC Bank Corporation Limited, Shanghai Branch	67,500,000	67,500,000
JPMorgan Chase Bank, N.A., acting through its Hong Kong Branch, a national banking association organized under the laws of United States of America with limited liability	62,500,000	62,500,000

<u>Name of Original Lender</u>	<u>Facility A Commitment (US\$)</u>	<u>Facility B Commitment (US\$)</u>
Bank of America, N.A.	55,000,000	55,000,000
Goldman Sachs Bank USA	55,000,000	55,000,000
Banco Bilbao Vizcaya Argentaria, S.A., Hong Kong Branch (incorporated in Spain with limited liability)	42,500,000	42,500,000
Intesa Sanpaolo S.p.A., Hong Kong Branch	85,000,000	0
Bank of Communications (Hong Kong) Limited (a wholly owned subsidiary of Bank of Communications Co., Ltd.)	40,000,000	40,000,000
Crédit Industriel et Commercial, Hong Kong Branch	40,000,000	40,000,000
Oversea-Chinese Banking Corporation Limited (incorporated in Singapore with limited liability)	40,000,000	40,000,000
Standard Chartered Bank (Hong Kong) Limited	40,000,000	40,000,000
Cathay United Bank Company, Limited, Hong Kong Branch (a branch of a company with limited liability incorporated in Taiwan)	25,000,000	25,000,000
Chiyu Banking Corporation Limited	25,000,000	25,000,000
Total:	1,500,000,000	1,500,000,000

SCHEDULE 2
CONDITIONS PRECEDENT

1. The Borrower

- (a) A certified copy of the constitutional documents of the Borrower together with its statutory registers (including its register of directors and its register of mortgages and charges) and an up-to-date certificate of good standing issued by the Registrar of Companies of the Cayman Islands.
- (b) A certified copy of a resolution of the board of directors of the Borrower:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents and resolving that it execute the Finance Documents;
 - (ii) authorising a specified person or persons to execute the Finance Documents on its behalf; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including any Utilisation Request and any Selection Notice) to be signed and/or despatched by it under or in connection with the Finance Documents.
- (c) Specimen signatures of one or more persons authorised by any resolution referred to in paragraph (b) above, **provided that** in the event that the specimen signature of any person so authorised is not provided, such person shall not be an authorised signatory for the purposes of this Agreement.
- (d) A certificate from the Borrower (signed by a director thereof) confirming that borrowing the Total Commitments would not cause any borrowing or similar limit binding on it to be exceeded.
- (e) A certificate of the Borrower (signed by a director thereof) certifying that each copy document specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Legal opinions

- (a) A legal opinion in relation to English law from Clifford Chance, legal advisers to the Original MLABs as to English law.
- (b) A legal opinion in relation to Cayman Islands law from Mourant Ozannes, legal advisers to the Original MLABs as to the laws of the Cayman Islands.

3. Finance Documents

Each of the following Finance Documents duly executed by the parties thereto:

- (a) this Agreement; and
- (b) each Fee Letter.

4. **Other documents and evidence**

- (a) Evidence that any process agent referred to in Clause 37.2 (*Service of process*) has accepted its appointment.
- (b) A copy of any other Authorisation or other document, opinion or assurance which the Agent reasonably considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.
- (c) Filing certificate for borrowings of foreign debt by enterprises (企业借用外债备案登记证明) or other evidence of completion of filing with NDRC in respect of the Facilities as foreign debt in accordance with the NDRC Circular 2044.
- (d) The Original Financial Statements.
- (e) The list of Material Subsidiaries.
- (f) Evidence that the fees, costs and expenses then due from the Borrower pursuant to Clause 11 (*Fees*) and/or Clause 16 (*Costs and Expenses*) have been paid or will be paid by the Initial Utilisation Date.
- (g) All other documents and evidence as reasonably requested by any Finance Party which are required to enable it to conduct any “know your customer” or anti-money laundering or other procedures under applicable laws and regulations.

**SCHEDULE 3
REQUESTS**

**PART I
FORM OF UTILISATION REQUEST**

From: Baidu, Inc.

To: [] as Agent

Dated:

Dear Sirs

Facilities agreement dated [] 2021 between, among others, Baidu, Inc. as borrower, Bank of China Limited, China Construction Bank (Asia) Corporation Limited, China Minsheng Banking Corp., Ltd., Hong Kong Branch (a joint stock limited company incorporated in the PRC), Citigroup Global Markets Asia Limited and DBS Bank Ltd. as original mandated lead arrangers and bookrunners and Citicorp International Limited as agent (as amended from time to time, the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Utilisation Request. Terms defined in or construed for the purposes of the Facilities Agreement shall have the same meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

Facility under which such Loan is to be made: [Facility A][Facility B]

Proposed Utilisation Date: [] (or, if that is not a Business Day, the next Business Day)

Amount of such Loan: US\$[] or, if less, the Available Facility in respect of the above-mentioned Facility

First Interest Period relating to such Loan: (subject to the provisions of the Facilities Agreement) []

3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) of the Facilities Agreement is satisfied on the date of this Utilisation Request.

4. [The proceeds of such Loan should be credited to *[account]*.]

[*or*]

[This Loan is a Rollover Loan and is to be made for the purpose of refinancing in whole or in part the following Facility B Loan(s) maturing on the proposed Utilisation Date: *[insert relevant details]*.]

5. This Utilisation Request is irrevocable.

Yours faithfully

authorised signatory for
Baidu, Inc.

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PART II
FORM OF SELECTION NOTICE

From: Baidu, Inc.

To: [] as Agent

Dated:

Dear Sirs

Facilities agreement dated [] 2021 between, among others, Baidu, Inc. as borrower, Bank of China Limited, China Construction Bank (Asia) Corporation Limited, China Minsheng Banking Corp., Ltd., Hong Kong Branch (a joint stock limited company incorporated in the PRC), Citigroup Global Markets Asia Limited and DBS Bank Ltd. as original mandated lead arrangers and bookrunners and Citicorp International Limited as agent (as amended from time to time, the "Facilities Agreement")

1. We refer to the Facilities Agreement. This is a Selection Notice. Terms defined in or construed for the purposes of the Facilities Agreement shall have the same meaning in this Selection Notice.
2. We refer to the following Facility A Loan[s] with an Interest Period ending on []:
[]*
3. We request that the next Interest Period for the above Facility A Loan[s] be [].
4. This Selection Notice is irrevocable.

Yours faithfully

authorised signatory for
Baidu, Inc.

* Insert details of all Facility A Loans which have an Interest Period ending on the same date.

SCHEDULE 4
FORM OF TRANSFER CERTIFICATE

To: [] as Agent

From: [name of the Existing Lender] (the “Existing Lender”) and [name of the New Lender] (the “New Lender”)

Dated:

Facilities agreement dated [] 2021 between, among others, Baidu, Inc. as borrower, Bank of China Limited, China Construction Bank (Asia) Corporation Limited, China Minsheng Banking Corp., Ltd., Hong Kong Branch (a joint stock limited company incorporated in the PRC), Citigroup Global Markets Asia Limited and DBS Bank Ltd. as original mandated lead arrangers and bookrunners and Citicorp International Limited as agent (as amended from time to time, the “Facilities Agreement”)

1. We refer to the Facilities Agreement. This is a Transfer Certificate. Unless otherwise defined herein, terms defined in or construed for the purposes of the Facilities Agreement shall have the same meaning in this Transfer Certificate.
2. We refer to Clause 22.5 (*Procedure for transfer*) of the Facilities Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, in accordance with Clause 22.5 (*Procedure for transfer*) of the Facilities Agreement, all or part of the Existing Lender’s Commitment(s) in respect of the applicable Facility or Facilities specified in the Schedule hereto and all or part of the Existing Lender’s participation(s) in the applicable Loan(s) specified in the Schedule hereto, in each case together with related rights and obligations under the Facilities Agreement.
 - (b) The Existing Lender hereby assigns to the New Lender, with effect from the Transfer Date, a portion of the rights held by it (in its capacity as Lender) under or in connection with the Finance Documents (other than the Facilities Agreement) which corresponds with the rights and obligations under the Facilities Agreement transferred pursuant hereto.
 - (c) The proposed Transfer Date is [].
 - (d) The Facility Office and address, fax number and attention details for notices of the New Lender for the purposes of Clause 28.2 (*Addresses*) of the Facilities Agreement and the Standing Payment Instructions of the New Lender are set out in the Schedule hereto.
3. The New Lender expressly acknowledges:
 - (a) the limitations on the Existing Lender’s obligations set out in paragraphs (a) and (c) of Clause 22.4 (*Limitation of responsibility of Existing Lenders*) of the Facilities Agreement; and

-
- (b) that it is the responsibility of the New Lender to ascertain whether any document is required or any formality or other condition requires to be satisfied to effect or perfect the transfer contemplated by this Transfer Certificate or otherwise to enable the New Lender to enjoy the full benefit of each Finance Document.
4. The New Lender confirms that it is a “New Lender” within the meaning of Clause 22.1 (*Assignments and transfers by the Lenders*) of the Facilities Agreement.
 5. The New Lender confirms that the New Lender [is]/[is not]* a Group Member or an Affiliate of any Group Member.
 6. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on such counterparts were on a single copy of this Transfer Certificate.
 7. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
 8. This Transfer Certificate has been entered into by the Existing Lender and the New Lender on the date stated at the beginning of this Transfer Certificate.

* Delete as appropriate. Any transfer of by the Existing Lender to the New Lender that is a Group Member or an Affiliate of any Group Member is subject to Clause 33 (*Restrictions on Debt Purchase Transactions*) and Clause 22.11 (*Assignments and transfers to Group Members*).

THE SCHEDULE

Commitment(s)/participation(s) in Loan(s) to be transferred, and other particulars

Commitment(s) in respect of Facility []/participation(s) in Loan(s) under Facility [] transferred

Commitment in respect of such Facility transferred: []

of which the Available Commitment in respect of such Facility transferred: []

Participation(s) in outstanding Loan(s) under such Facility transferred []

Administration particulars:

New Lender's receiving account: []

Address: []

Telephone: []

Facsimile: []

Attn/Ref: []

Standing Payment Instructions: []

[name of Existing Lender] [name of New Lender]

By: _____ By: _____

This Transfer Certificate is accepted by the Agent and the Transfer Date is confirmed as [].

[] as Agent

By: _____

Date:

**SCHEDULE 5
FORM OF COMPLIANCE CERTIFICATE**

To: [] as Agent

From: Baidu, Inc.

Dated:

Dear Sirs

Facilities agreement dated [] 2021 between, among others, Baidu, Inc. as borrower, Bank of China Limited, China Construction Bank (Asia) Corporation Limited, China Minsheng Banking Corp., Ltd., Hong Kong Branch (a joint stock limited company incorporated in the PRC), Citigroup Global Markets Asia Limited and DBS Bank Ltd. as original mandated lead arrangers and bookrunners and Citicorp International Limited as agent (as amended from time to time, the “Facilities Agreement”)

We refer to the Facilities Agreement. This is a Compliance Certificate. Terms used in or construed for the purposes of the Facilities Agreement shall have the same meaning in this Compliance Certificate.

We confirm that:

1. [the financial statements of the Borrower for the Financial Year ending on 31 December [] (the “**Test Date**”) delivered by the Borrower pursuant to the Facilities Agreement give a true and fair view of the consolidated financial condition and operations of the Borrower as at the end of and during such Financial Year;][#]
[the financial statements of the Borrower for the Financial Half-Year ending on 30 June [] (the “**Test Date**”) delivered by the Borrower pursuant to the Facilities Agreement fairly represent the consolidated financial condition and operations of the Borrower as at the end of and during each such Financial Half-Year (to such which financial statements relate);]^{##}
2. as at the last day of the Relevant Period ending on the Test Date, Consolidated Adjusted Total Borrowings was [] and, in respect of such Relevant Period, Consolidated EBITDA was []. Therefore Leverage in respect of such Relevant Period was [];1.00 and the financial covenant set out in paragraph (a) of Clause 19.2 (*Financial condition*) of the Facilities Agreement [has/has not] been complied with;

[#] Use this option for the audited consolidated financial statements of the Borrower in respect of any Financial Year.

^{##} Use this option for the unaudited consolidated financial statements of the Borrower in respect of any Financial Half-Year ending 30 June.

3. in respect of such Relevant Period, Consolidated Net Finance Charges was [_____]. Therefore Interest Cover in respect of such Relevant Period was [_____]:1.00 and the financial covenant set out in paragraph (b) of Clause 19.2 (*Financial condition*) of the Facilities Agreement [has/has not] been complied with; and
4. the following companies constitute Material Subsidiaries for the purposes of the Facilities Agreement: [_____].

Computations in respect of paragraphs 2 and 3 above are attached to this Compliance Certificate.

[We confirm that no Default is continuing.]*

Signed: _____
Authorised signatory
of
Baidu, Inc.

* If this statement cannot be made, the certificate should identify any Default that is continuing and the steps, if any, being taken to remedy it.

**SCHEDULE 6
TIMETABLES**

Delivery of a duly completed Utilisation Request (Clause 5.1 (*Delivery of a Utilisation Request*)) or a Selection Notice (Clause 9.1 (*Selection of Interest Periods*)) U - 3 Business Days

Agent notifies the Lenders of the applicable Loan in accordance with Clause 5.4 (*Lenders' participation*) U - 2 Business Days

LIBOR is fixed Quotation Day as of 11:00 a.m. (London time)

Where:

U = the applicable Utilisation Date or the first day of the applicable Interest Period (as the case may be)

U – X Business Days = the day falling X Business Days prior to U

**SCHEDULE 7
STANDING PAYMENT INSTRUCTIONS**

Bank of China (Hong Kong) Limited

Correspondent Bank Name:	Bank of China Limited, New York Branch
Correspondent Bank SWIFT Address:	*****
Beneficiary Bank Account Name:	*****
Beneficiary Bank Account Number:	*****
Beneficiary Bank SWIFT Address:	*****
Attention:	Loans Division – CFM2 (SYN)
Reference:	Baidu, Inc. 2021

Bank of China Limited, Tokyo Branch

Correspondent Bank Name:	Bank of China Limited, New York Branch
Correspondent Bank SWIFT Address:	*****
Beneficiary Name:	*****
Beneficiary Bank Account Number:	*****
Beneficiary Bank SWIFT Address:	*****
Reference:	LOAN DEPT-BAIDU 2021

Bank of China Limited Hungarian Branch

Correspondent Bank Name:	Bank of China Limited, New York Branch
Correspondent Bank SWIFT Address:	*****
Beneficiary Bank Account Name:	*****
Beneficiary Bank Account Number:	*****
Beneficiary Bank SWIFT Address:	*****
Attention:	Baidu Inc.

Bank of China Limited Shanghai Branch JingAn Sub-branch

Beneficiary Bank Account Name: Bank of China Limited Shanghai Branch JingAn Sub-branch
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: Baidu Syndication Refund / Baidu Syndication Interest / Baidu Syndication Fee

China Construction Bank (Asia) Corporation Limited

Correspondent Bank Name: Bank of America N.A., New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Final Beneficiary Bank Account Name: N/A
Final Beneficiary Bank Account Number: N/A
Attention: Wholesale Loans, principal / interest / fee payment for Baidu, Inc.

China Minsheng Banking Corp., Ltd., Hong Kong Branch (a joint stock limited company incorporated in the PRC)

Correspondent Bank Name: JPMorgan Chase Bank, N.A., New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: Loans Admin of Operations Dept -[Baidu, Inc]

Citibank N.A., Hong Kong Branch

Correspondent Bank Name: Citibank, N.A., New York Branch
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Final Beneficiary Bank Account Name: N/A
Final Beneficiary Bank Account Number: N/A
Attention: Regional Loans Agency

DBS Bank (Hong Kong) Limited

Correspondent Bank Name: Deutsche Bank Trust Company America New York, New York, U.S.A
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Final Beneficiary Bank Account Name: N/A
Final Beneficiary Bank Account Number: N/A
Attention: IBG Ops - HK Corp Loans Ops (Baidu, Inc.)

Agricultural Bank of China Limited Hong Kong Branch (incorporated in the People's Republic of China with limited liability)

Correspondent Bank Name: Citibank N.A., New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: Baidu, Inc - USD\$3000M 5-Year Syndicated Facility 2021 (principal / interest / fee payment)

Agricultural Bank of China Limited, New York Branch (incorporated in the People's Republic of China with limited liability)

Beneficiary Bank Account Name: Loan Administration Internal Account
ABA: *****
SWIFT BIC: *****
Account Number: *****
Attention: Agricultural Bank of China Operations Department
Reference: Baidu 2021 Syndicated Facilities

Hang Seng Bank Limited

USD settlement account details via TT

Correspondent Bank Name: HSBC BANK, USA, NEW YORK
Correspondent Bank SWIFT Code: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank SWIFT Code: *****
Beneficiary Bank Account Number: *****
Reference: OPERATIONS - CREDIT SERVICES (GBS) - BAIDU, INC.

USD settlement account details via RTGS/CHATS

Bank Name: HANG SENG BANK LIMITED
Bank Code: *****
Swift Code: *****
Branch Code: *****
Reference: OPERATIONS - CREDIT SERVICES (GBS) - BAIDU, INC.

Industrial and Commercial Bank of China (Asia) Limited

Correspondent Bank Name: JP Morgan Chase Bank, New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Reference: CMF Leasing Syndication 2021
Attention: LAD

Nanyang Commercial Bank, Limited

Correspondent Bank Name: Bank of China, New York, NY
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Reference: Baidu_syn2021

China CITIC Bank Corporation Limited, Shanghai Branch

Correspondent Bank Name: JPMORGAN CHASE BANK N.A. NEW YORK
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: SHANGHAI FTU

JPMorgan Chase Bank, N.A., acting through its Hong Kong Branch, a national banking association organized under the laws of United States of America with limited liability

Correspondent Bank Name: JPMORGAN CHASE BANK N.A, NEW YORK
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Reference: HKGLNO – Asia Loan Operations (Baidu 2021)

Bank of America, N.A.

Correspondent Bank Name: Bank of America NA New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Final Beneficiary Bank Account Name: *****
Final Beneficiary Bank Account Number: *****
Attention: Asia HK Loan Services (Baidu, Inc., Loan No., Payment of P/Int.)

Goldman Sachs Bank USA

Correspondent Bank Name: CITIBANK N.A.
Correspondent Bank SWIFT Address: *****
Final Beneficiary Bank Account Name: *****
Final Beneficiary Bank Account Number: *****
Attention: Tanveer Bellari

Banco Bilbao Vizcaya Argentaria, S.A., Hong Kong Branch (incorporated in Spain with limited liability)

Correspondent Bank Name: CITIBANK N.A., NEW YORK
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: LOAN PARTICIPATION

Intesa Sanpaolo S.p.A., Hong Kong Branch

Correspondent Bank Name: The Bank of New York Mellon, New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: Loans Admin – Baidu, Inc. 2021

Bank of Communications (Hong Kong) Limited (a wholly owned subsidiary of Bank of Communications Co., Ltd.)

Correspondent Bank Name: JPMorgan Chase Bank National Association
Correspondent Bank SWIFT Address: *****
Final Beneficiary Account Name: *****
Final Beneficiary Account Number: *****
Final Beneficiary SWIFT Address: *****
Attention: Services Delivery Centre (Loans)

Crédit Industriel et Commercial, Hong Kong Branch

Correspondent Bank Name: JP Morgan Chase Bank, New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Reference: Baidu Inc. / 2021

Oversea-Chinese Banking Corporation Limited (incorporated in Singapore with limited liability)

Correspondent Bank Name: JP Morgan Chase Bank N.A., New York, USA
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: Loan Agency Ref: Baidu Inc

Standard Chartered Bank (Hong Kong) Limited

Correspondent Bank Name: Standard Chartered Bank, New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: LPU, For Project Beatles 2021

Correspondent Bank Name: Citibank, New York
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: Operations Dept – Loan, Re: Baidu 2021

Chiyu Banking Corporation Limited

Correspondent Bank Name: CITIBANK N.A., NEW YORK
Correspondent Bank SWIFT Address: *****
Beneficiary Bank Account Name: *****
Beneficiary Bank Account Number: *****
Beneficiary Bank SWIFT Address: *****
Attention: Loans Division (CFM2)
Reference: USD3 Billion Senior Term Loan and Revolving Credit Facilities to Baidu, Inc.

SIGNATURES

THE BORROWER

BAIDU, INC.

By: /s/ Authorized Signatory
Authorized Signatory

Address: Baidu Campus, No. 10, Shangdi 10th Street, Haidian District, Beijing 100085, People's Republic of China

Telephone: *****

Email: *****

Attention: Linda Sun, Treasury & Credit Department

With a copy to:

Address: Baidu Campus, No. 10, Shangdi 10th Street, Haidian District, Beijing 100085, People's Republic of China

Telephone: *****

Email: *****

Attention: Amy Tu, International and M&A Legal Affairs Department

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ORIGINAL MLAB

BANK OF CHINA LIMITED

By: /s/ Bian Jidong

Bian Jidong

General Manager of Tokyo Branch

Address: BOC BLDG. 3-4-1 AKASAKA, MINATO-KU, TOKYO, 107-0052 JAPAN

Telephone: *****

Fax: *****

Email: *****

Attention: Zhang Zhu

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ORIGINAL MLAB

CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED

By: /s/ Authorized Signatory
Authorized Signatory

For credit matters

Address: 25/F & 26/F, CCB Tower, 3 Connaught Road Central, Hong Kong
21/F, CCB Centre, 18 Wang Chiu Road, Kowloon Bay, Kowloon, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Steve Chan / Junhua Zhou/ Jessica Lai/ Karen Wong/ Lucy Liu / Ryan Tang/ Jonathan Yuen / Ivan Ma

For operational matters

Address: 19/F, CCB Centre, 18 Wang Chiu Road, Kowloon Bay, Kowloon, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Cindy Hui / Ricky Hui

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ORIGINAL MLAB

CHINA MINSHENG BANKING CORP., LTD., HONG KONG BRANCH (A JOINT STOCK LIMITED COMPANY INCORPORATED IN THE PRC)

By: /s/ Li Ming
Li Ming
Deputy CEO

Address: 40/F, Two International Finance Centre, 8 Finance Street, Central, H.K.

Telephone: *****

Fax: *****

Email: *****

Attention: Iverson Zhang / Che Yan

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ORIGINAL MLAB

CITIGROUP GLOBAL MARKETS ASIA LIMITED

By: /s/ Authorized Signatory
Authorized Signatory

Address: 47/F Champion Tower, Three Garden Road, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Vincent Yeung / Lixuan Su / Leonard Liu / Simone Leung

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ORIGINAL MLAB

DBS BANK LTD.

By: /s/ Simon Hok Wang Leung

Simon Hok Wang Leung

Specimen Signature No. A00010505

For credit matters

Address: 18th Floor, The Center, 99 Queen's Road Central, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Xinxin ZHANG / Noel FUNG

For operational matters

Address: 15/F, One Island East, 18 Westlands Road, Island East, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Julia LAM / Joan CHU / Maggie CHAN / Teddy KWOK

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL MLAB

AGRICULTURAL BANK OF CHINA LIMITED HONG KONG BRANCH (INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA WITH LIMITED LIABILITY)

By: /s/ Doris Pang
Doris Pang
Head of Credit Administration
Credit Department

By: /s/ Ken Leung
Ken Leung
Head of Corporate & Financial Institution Team
Credit Department

For credit matters

Address: 25/F, Agricultural Bank of China Tower, 50 Connaught Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Mr. Ken Leung / Mr. Vincent Tung / Mr. Hao Minyang / Mr. Joe Tong / Ms. Ada Leung / Mr. Andy Leung / Ms. Joy Bai

For operational matters

Address: 25/F, Agricultural Bank of China Tower, 50 Connaught Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Ms. Louisa Lai / Ms. Ivy Chan / Mr. Kenny Wong / Ms. Cannis Wong

ADDITIONAL MLAB

AGRICULTURAL BANK OF CHINA LIMITED, NEW YORK BRANCH (INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA WITH LIMITED LIABILITY)

By: /s/ Authorized Signatory
Authorized Signatory

For credit matters

Address: 277 Park Ave, 30th Floor, New York, NY 10172 USA
Telephone: *****
Fax: *****
Email: *****
Attention: Lynn Chen

For operational matters

Address: 277 Park Avenue, 30th Floor, New York, New York, 10172, USA
Telephone: *****
Fax: *****
Email: *****
Attention: Jessie Situ / Dandan Lian

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL MLAB

HANG SENG BANK LIMITED

By: /s/ HEUNG Hon-wing, Frank

HEUNG Hon-wing, Frank

By: /s/ CHO Mui, Rose

CHO Mui, Rose

For credit matters

Address: 12/F, 83 Des Voeux Road, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Melody Wong / Alvin Ng

For operational matters

Address: 17/F Hang Seng 113, 113 Argyle Street, Mongkok, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Ivy C Y TSOI / Helen C L LAU / David K H NG

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL MLAB

INDUSTRIAL AND COMMERCIAL BANK OF CHINA (ASIA) LIMITED

By: /s/ Carol Cheng
Carol Cheng
Loan Syndication
Global Capital Financing Department

By: /s/ Dennis Ng
Dennis Ng

For credit matters

Address: 34/F, ICBC Tower, 3 Garden Road, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Dennis Ng / Rod Lai

For operational matters

Address: Level 18, Tower 1, Millennium City 1, No.388 Kwun Tong Road, Kwun Tong, Kowloon

Telephone: *****

Fax: *****

Email: *****

Attention: Alex Lau / Mandy Chan / Edmund Law

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL MLAB

NANYANG COMMERCIAL BANK, LIMITED

By: /s/ Jung wa, Daniel

Jung wa, Daniel

Head of Corporate Business Division Two

By: /s/ Lee Tsz Kin, Eddy

Lee Tsz Kin, Eddy

Assistant Chief Executive

For credit matters

Address: 10/F, 151 Des Voeux Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Daniel Jung / Catherine Leung / Kinox Chu

For operational matters

Address: 3/F, Nan Dao Commercial Building, 359-361 Queen's Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Helen Cheng / Lui Yuen Fun / Kiwi Wong

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL MLAB

CHINA CITIC BANK CORPORATION LIMITED, SHANGHAI BRANCH

By: /s/ Authorized Signatory
Authorized Signatory

For credit matters

Address: 12F, Shiboguan Road No. 138, Pudong, Shanghai, China
Telephone: *****
Fax: *****
Email: *****
Attention: Yingyin Zhang / Xiaochen Chen

For operational matters

Address: 12F, Shiboguan Road No. 138, Pudong, Shanghai, China
Telephone: *****
Fax: *****
Email: *****
Attention: Yingyin Zhang / Xiaochen Chen

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL MLA

JPMORGAN CHASE BANK, N.A., ACTING THROUGH ITS HONG KONG BRANCH, A NATIONAL BANKING ASSOCIATION ORGANIZED UNDER THE LAWS OF UNITED STATES OF AMERICA WITH LIMITED LIABILITY

By: /s/ Chul Han
Chul Han
Managing Director

For credit matters

Address: Level 20 Chater House, 8 Connaught Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Ivy Liu / Jing Yuan / Vivek Gupta / Janice Fu / Nancy Cheng / Cindy Guo / Shirley Wong

For operational matters

Address: One @Changi City, 1 Changi Business Park Central 1, Floor 6, Singapore 486036 / Level 20 Chater House, 8 Connaught Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Asia Loan Operations (Fatima Yanga / Grace Tapia) / Kai Shi Lim / Janice Fu / Nancy Cheng / Cindy Guo / Shirley Wong

ADDITIONAL LA

BANK OF AMERICA, N.A.

By: /s/ Adnan Meraj

Adnan Meraj
Managing Director, Co-Head Asia Pacific
Syndicated & Leveraged Finance

For credit matters

Address: 35/F, China World Tower A, No.1 Jianguomenwai Avenue, Beijing, China

Telephone: *****

Fax: *****

Email: *****

Attention: Yuanyuan Liang

For operation matters

Address: 35/F, China World Tower A, No.1 Jianguomenwai Avenue, Beijing, China

Telephone: *****

Fax: *****

Email: *****

Attention: Yuanyuan Liang / Hong Kong Client Services

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

GOLDMAN SACHS BANK USA

By: /s/ Authorized Signatory

Authorized Signatory

For credit matters

Address: Goldman Sachs Services Pvt. Ltd, Helios Business Park, 150 Outer Ring Road Kadubeesanahalli, Bangalore – 560103 / Sun River, Embassy Golf Links Business Park, Intermediate Ring Road, Bengaluru – 560 071 Goldman Sachs Services Pvt. Ltd, Helios Business Park, 150 Outer Ring Road Kadubeesanahalli, Bangalore – 560103

Telephone: *****

Fax: *****

Email: *****

Attention: Rakesh Shetty / Nikita Wadhwa

For operational matters

Address: Goldman Sachs Services Pvt. Ltd, Helios Business Park, 150 Outer Ring Road Kadubeesanahalli, Bangalore – 560103

Telephone: *****

Fax: *****

Email: *****

Attention: Tanveer Bellari / Sanchit Bahri

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., HONG KONG BRANCH (INCORPORATED IN SPAIN WITH LIMITED LIABILITY)

By: /s/ Swaroop Patel

Swaroop Patel
Head of GCC Asia Ex-China

By: /s/ Enric Vanrell

Enric Vanrell
COO, BBVA Asia

For credit matters

Address: Room 4501, Century Avenue No. 88, Jinmao Building, Pudong New Area, Shanghai, China
Telephone: *****
Fax: *****
Email: *****
Attention: Angela Cheng / Jessica Tam / Corporate Monitoring

For operational matters

Address: Unit 9507, Level 95, International Commerce Centre, One Austin Road West, Kowloon
Telephone: *****
Fax: *****
Email: *****
Attention: Maggie Siu / Sally Chan / Loan Participation

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

INTESA SANPAOLO S.P.A., HONG KONG BRANCH

By: /s/ Luca Angelo Italiano

Luca Angelo Italiano

By: /s/ Connie Lam

Connie Lam

For credit matters

Address: Units 8102-05 & 8106A, Level 81, International Commerce Centre, No. 1 Austin Road West, Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Connie Lam / Luca Angelo Italiano

For operational matters

Address: Units 8102-05 & 8106A, Level 81, International Commerce Centre, No. 1 Austin Road West, Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Sam Wong / Gilbert Choy / Connie Lam

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

BANK OF COMMUNICATIONS (HONG KONG) LIMITED (A WHOLLY OWNED SUBSIDIARY OF BANK OF COMMUNICATIONS CO., LTD.)

By: /s/ Authorized Signatory
Authorized Signatory

By: /s/ Leung Shuk Ting Grace
Leung Shuk Ting Grace

For credit matters

Address: 20 Pedder Street, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Credit Management Department – Rocky Lo/ Emily Yeung
c.c: Cherry Lam / Victor Tam / Chris Ho / William Yao / Henry So / Season Fang / Katy Leung

For operation matters

Address: 20 Pedder Street, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Kenneth Lui / Eric Lau / Henry So / Season Fang / Katy Leung

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

CRÉDIT INDUSTRIEL ET COMMERCIAL, HONG KONG BRANCH

By: /s/ Terrence Yip

Terrence Yip
Head of Risks

By: /s/ William Man

William Man
Director
Structured & Corporate Finance

For credit matters

Address: Suite 2201, 22nd Floor Central Tower, 28 Queen's Road, Central Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Mr Aymeric Michaud / Mr William Man / Ms Charlotte Ng / Mr Terrence Yip / Transaction Management

For operational matters

Address: Suite 2201, 22nd Floor Central Tower, 28 Queen's Road, Central Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Adeline Ng / Diana Tee

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

OVERSEA-CHINESE BANKING CORPORATION LIMITED (INCORPORATED IN SINGAPORE WITH LIMITED LIABILITY)

By: /s/ Rox Lam

Rox Lam
Deputy General Manager and
Head of Corporate and Institutional Banking

For credit matters

Address: 9th Floor, Nine Queen's Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Carol Chow / Stephen Ching

For operational matters

Address: 9/F., Nine Queen's Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Ms. Doreen Fung / Ms. Carol Chan / Mr. Ng Wing Kwong / Mr. Jacky Chan
(Department: Loan Agency / Processing)

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

STANDARD CHARTERED BANK (HONG KONG) LIMITED

By: /s/ Julia Chou

Julia Chou
Managing Director & Regional Head
Loan Syndications, GCNA

For credit matters

Address: 22/F Standard Chartered Bank Building, 4-4A Des Voeux Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Emily Wang, Lisa Tong, Sarah Lin and Crystal Liu

For operational matters

Address: 18th Floor, Standard Chartered Tower, 388 Kwun Tong Road, Kwun Tong, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: ChinaGBS, HK Loan Processing, Sarah Lin and Crystal Liu

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

CATHAY UNITED BANK COMPANY, LIMITED, HONG KONG BRANCH (A BRANCH OF A COMPANY WITH LIMITED LIABILITY INCORPORATED IN TAIWAN)

By: /s/ William Chu

William Chu
Head of Corporate Banking and Deputy Branch
Manager

For credit matters

Address: 10/F, Lee Garden Three, 1 Sunning Road, Causeway Bay, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Chan Fai / Linda Cheung / Rex Tsang

For operational matters

Address: 10/F, Lee Garden Three, 1 Sunning Road, Causeway Bay, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Annie Leung / Zoe Lui

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

ADDITIONAL LA

CHIYU BANKING CORPORATION LIMITED

By: /s/ Chiu Sui Lin Eileen

Chiu Sui Lin Eileen

By: /s/ Wong Siu Fan

Wong Siu Fan

Head of Loans

For credit matters

Address: 4/F., 78 Des Voeux Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Mr. Li Yilin / Mr. Mak Hong Nin / Mr. Tsang Chi Hung

For operational matters

Address: 12/F, Bank of China Centre, 11 Hoi Fai Road, West Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Ms. Wei Liping / Ms. Hung Yung Jacqueline / Ms. Choi Kit Man / Mr. Au Ying Leung / Mr. Lee Wai Kit / Mr. Li Yilun / Mr. Mak Hong Nin / Mr. Tsang Chi Hung

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

BANK OF CHINA (HONG KONG) LIMITED

By: /s/ Fung Yuen Pik, Fiona

Fung Yuen Pik, Fiona

By: /s/ Wong Pik Sin

Wong Pik Sin

For credit matters

Address: 23/F, Bank of China Centre, Olympian City, 11 Hoi Fai Road, West Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Ms. Candy Yip/ Ms. Cindy Yu / Ms. Fiona Fung/ Ms. Feng Menglu / Ms. Daisy Lau

For operational matters

Address: 17/F, Bank of China Centre, Olympian City, 11 Hoi Fai Road, West Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Mr. Arthur Au / Ms. Jenny Choi / Mr. Kit Lee / Ms. Jacqueline Hung/ Ms. Feng Menglu/ Ms. Daisy Lau

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

BANK OF CHINA LIMITED, TOKYO BRANCH

By: /s/ Zhao Haiqing

Zhao Haiqing
Deputy General Manager

Address: BOC BLDG. 3-4-1 AKASAKA, MINATO-KU, TOKYO, 107-0052 JAPAN

Telephone: *****

Fax: *****

Email: *****

Attention: Zhang Zhu

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

BANK OF CHINA LIMITED HUNGARIAN BRANCH

By: /s/ Authorized Signatory

Authorized Signatory

For credit matters

Address: József nádor tér 7. 1051 Budapest, Hungary

Telephone: *****

Fax: *****

Email: *****

Attention: Mr. Weilong Liu/ Ms. Yuchen Liu / Mr. Guanhan Chen

For operational matters

Address: József nádor tér 7. 1051 Budapest, Hungary

Telephone: *****

Fax: *****

Email: *****

Attention: Mr. Jianjian Wei / Ms. Shuxin Sun

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

BANK OF CHINA LIMITED SHANGHAI BRANCH JINGAN SUB-BRANCH

By: /s/ Authorized Signatory
Authorized Signatory

Address: 21th Floor, No.1515, West Nanjing Road, Shanghai, China

Telephone: *****

Fax: *****

Email: *****

Attention: Dai Lu, Huang Wenyu

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

CHINA CONSTRUCTION BANK (ASIA) CORPORATION LIMITED

By: /s/ CHAN, Steve Hung Chi
CHAN, Steve Hung Chi

For credit matters

Address: 25/F & 26/F, CCB Tower, 3 Connaught Road Central, Hong Kong
21/F, CCB Centre, 18 Wang Chiu Road, Kowloon Bay, Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Steve Chan / Junhua Zhou/ Jessica Lai/ Karen Wong/ Lucy Liu / Ryan Tang/ Jonathan Yuen / Ivan Ma

For operational matters

Address: 19/F, CCB Centre, 18 Wang Chiu Road, Kowloon Bay, Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Cindy Hui / Ricky Hui

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

CHINA MINSHENG BANKING CORP., LTD., HONG KONG BRANCH (A JOINT STOCK LIMITED COMPANY INCORPORATED IN THE PRC)

By: /s/ Li Ming
Li Ming
Deputy CEO

Address: 40/F, Two International Finance Centre, 8 Finance Street, Central, H.K.

Telephone: *****

Fax: *****

Email: *****

Attention: Iverson Zhang / Che Yan

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

CITIBANK, N.A., HONG KONG BRANCH (A CORPORATION ORGANIZED UNDER THE LAWS OF US WITH LIMITED LIABILITY)

By: /s/ James Arnold

James Arnold
Director

Address: 49/F Champion Tower, Three Garden Road, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Angela Fuh / Sichen Wang / Kristy Wang / Fiona Ou / Mengmeng Jia

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

DBS BANK (HONG KONG) LIMITED

By: /s/ Xinxin Zhang

Xinxin Zhang
Vice President

For credit matters

Address: 18th Floor, The Center, 99 Queen's Road Central, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Xinxin ZHANG / Noel FUNG

For operational matters

Address: 15/F, One Island East, 18 Westlands Road, Island East, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Julia LAM / Joan CHU / Maggie CHAN / Teddy KWOK

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

AGRICULTURAL BANK OF CHINA LIMITED HONG KONG BRANCH (INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA WITH LIMITED LIABILITY)

By: /s/ Doris Pang
Doris Pang
Head of Credit Administration
Credit Department

By: /s/ Ken Leung
Ken Leung
Head of Corporate & Financial Institution Team
Credit Department

For credit matters

Address: 25/F, Agricultural Bank of China Tower, 50 Connaught Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Mr. Ken Leung / Mr. Vincent Tung / Mr. Hao Minyang / Mr. Joe Tong / Ms. Ada Leung / Mr. Andy Leung / Ms. Joy Bai

For operational matters

Address: 25/F, Agricultural Bank of China Tower, 50 Connaught Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Ms. Louisa Lai / Ms. Ivy Chan / Mr. Kenny Wong / Ms. Cannis Wong

LENDER

AGRICULTURAL BANK OF CHINA LIMITED, NEW YORK BRANCH (INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA WITH LIMITED LIABILITY)

By: /s/ Authorized Signatory
Authorized Signatory

For credit matters

Address: 277 Park Ave, 30th Floor, New York, NY 10172 USA
Telephone: *****
Fax: *****
Email: *****
Attention: Lynn Chen

For operational matters

Address: 277 Park Ave, 30th Floor, New York, New York, 10172, USA
Telephone: *****
Fax: *****
Email: *****
Attention: Jessie Situ / Dandan Lian

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

HANG SENG BANK LIMITED

By: /s/ HEUNG Hon-wing, Frank
HEUNG Hon-wing, Frank

By: /s/ CHO Mui, Rose
CHO Mui, Rose

For credit matters

Address: 12/F, 83 Des Voeux Road, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Melody Wong / Alvin Ng

For operational matters

Address: 17/F Hang Seng 113, 113 Argyll Street, Mongkok, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Ivy C Y TSOI / Helen C L LAU / David K H NG

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

**INDUSTRIAL AND COMMERCIAL BANK OF
CHINA (ASIA) LIMITED**

By: /s/ Carol Cheng _____
Carol Cheng
Loan Syndication
Global Capital Financing Department

By: /s/ Dennis Ng _____
Dennis Ng

For credit matters

Address: 34/F, ICBC Tower, 3 Garden Road, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Dennis Ng / Rod Lai

For operational matters

Address: Level 18, Tower 1, Millennium City 1, No.388 Kwun Tong Road, Kwun Tong, Kowloon

Telephone: *****

Fax: *****

Email: *****

Attention: Alex Lau / Mandy Chan / Edmund Law

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

NANYANG COMMERCIAL BANK, LIMITED

By: /s/ Jung wa, Daniel
Jung wa, Daniel
Head of Corporate Business Division Two

By: /s/ Lee Tsz Kin, Eddy
Lee Tsz Kin, Eddy
Assistant Chief Executive

For credit matters

Address: 10/F, 151 Des Voeux Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Daniel Jung / Catherine Leung / Kinox Chu

For operational matters

Address: 3/F, Nan Dao Commercial Building, 359-361 Queen's Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Helen Cheng / Lui Yuen Fun / Kiwi Wong

LENDER

**CHINA CITIC BANK CORPORATION LIMITED,
SHANGHAI BRANCH**

By: /s/ Authorized Signatory _____
Authorized Signatory

For credit matters

Address: 12F, Shiboguan Road No. 138, Pudong, Shanghai, China

Telephone: *****

Fax: *****

Email: *****

Attention: Yingyin Zhang / Xiaochen Chen

For operational matters

Address: 12F, Shiboguan Road No. 138, Pudong, Shanghai, China

Telephone: *****

Fax: *****

Email: *****

Attention: Yingyin Zhang / Xiaochen Chen

LENDER

**JPMORGAN CHASE BANK, N.A., ACTING
THROUGH ITS HONG KONG BRANCH, A
NATIONAL BANKING ASSOCIATION ORGANIZED
UNDER THE LAWS OF UNITED STATES OF
AMERICA WITH LIMITED LIABILITY**

By: /s/ Chul Han

Chul Han
Managing Director

For credit matters

Address: Level 20 Chater House, 8 Connaught Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Ivy Liu / Jing Yuan / Vivek Gupta / Janice Fu / Nancy Cheng / Cindy Guo / Shirley Wong

For operational matters

Address: One @Changi City, 1 Changi Business Park Central 1, Floor 6, Singapore 486036 / Level 20 Chater House, 8 Connaught Road Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Asia Loan Operations (Fatima Yanga / Grace Tapia) / Kai Shi Lim / Janice Fu / Nancy Cheng / Cindy Guo / Shirley Wong

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

BANK OF AMERICA, N.A.

By: /s/ Adnan Meraj
Adnan Meraj
Managing Director, Co-Head Asia Pacific
Syndicated & Leveraged Finance

For credit matters

Address: 35/F, China World Tower A, No.1 Jianguomenwai Avenue, Beijing, China
Telephone: *****
Fax: *****
Email: *****
Attention: Yuanyuan Liang

For operation matters

Address: 35/F, China World Tower A, No.1 Jianguomenwai Avenue, Beijing, China
Telephone: *****
Fax: *****
Email: *****
Attention: Yuanyuan Liang / Hong Kong Client Services

LENDER

GOLDMAN SACHS BANK USA

By: /s/ Authorized Signatory
Authorized Signatory

For credit matters

Address: Goldman Sachs Services Pvt. Ltd, Helios Business Park, 150 Outer Ring Road Kadubeesanahalli, Bangalore – 560103 / Sun River, Embassy Golf Links Business Park, Intermediate Ring Road, Bengaluru – 560 071 Goldman Sachs Services Pvt. Ltd, Helios Business Park, 150 Outer Ring Road Kadubeesanahalli, Bangalore—560103

Telephone: *****

Fax: *****

Email: *****

Attention: Rakesh Shetty / Nikita Wadhwa

For operational matters

Address: Goldman Sachs Services Pvt. Ltd, Helios Business Park, 150 Outer Ring Road Kadubeesanahalli, Bangalore – 560103

Telephone: *****

Fax: *****

Email: *****

Attention: Tanveer Bellari / Sanchit Bahri

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

**BANCO BILBAO VIZCAYA ARGENTARIA, S.A.,
HONG KONG BRANCH (INCORPORATED IN SPAIN
WITH LIMITED LIABILITY)**

By: /s/ Swaroop Patel
Swaroop Patel
Head of GCC Asia Ex-China

By: /s/ Enric Vanrell
Enric Vanrell
COO, BBVA Asia

For credit matters

Address: Room 4501, Century Avenue No. 88, Jinmao Building, Pudong New Area, Shanghai, China

Telephone: *****

Fax: *****

Email: *****

Attention: Angela Cheng / Jessica Tam / Corporate Monitoring

For operational matters

Address: Unit 9507, Level 95, International Commerce Centre, One Austin Road West, Kowloon

Telephone: *****

Fax: *****

Email: *****

Attention: Maggie Siu / Sally Chan / Loan Participation

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

INTESA SANPAOLO S.P.A., HONG KONG BRANCH

By: /s/ Luca Angelo Italiano
Luca Angelo Italiano

By: /s/ Connie Lam
Connie Lam

For credit matters

Address: Units 8102-05 & 8106A, Level 81, International Commerce Centre, No. 1 Austin Road West, Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Connie Lam / Luca Angelo Italiano

For operational matters

Address: Units 8102-05 & 8106A, Level 81, International Commerce Centre, No. 1 Austin Road West, Kowloon, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Sam Wong / Gilbert Choy / Connie Lam

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

**BANK OF COMMUNICATIONS (HONG KONG)
LIMITED (A WHOLLY OWNED SUBSIDIARY OF
BANK OF COMMUNICATIONS CO., LTD.)**

By: /s/ Authorized Signatory
Authorized Signatory

By: /s/ Leung Shuk Ting Grace
Leung Shuk Ting Grace

For credit matters

Address: 20 Pedder Street, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Credit Management Department – Rocky Lo/ Emily Yeung
c.c: Cherry Lam / Victor Tam / Chris Ho / William Yao / Henry So / Season Fang / Katy Leung

For operation matters

Address: 20 Pedder Street, Central, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Kenneth Lui / Eric Lau / Henry So / Season Fang / Katy Leung

LENDER

CRÉDIT INDUSTRIEL ET COMMERCIAL, HONG KONG BRANCH

By: /s/ Terrence Yip

Terrence Yip
Head of Risks

By: /s/ William Man

William Man
Director
Structured & Corporate Finance

For credit matters:

Address: Suite 2201, 22nd Floor Central Tower, 28 Queen's Road, Central Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Mr Aymeric Michaud / Mr William Man / Ms Charlotte Ng / Mr Terrence Yip / Transaction Management

For operational matters:

Address: Suite 2201, 22nd Floor Central Tower, 28 Queen's Road, Central Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Adeline Ng / Diana Tee

LENDER

**OVERSEA-CHINESE BANKING CORPORATION
LIMITED (INCORPORATED IN SINGAPORE WITH
LIMITED LIABILITY)**

By: /s/ Rox Lam
Rox Lam
Deputy General Manager and
Head of Corporate and Institutional Banking

For credit matters

Address: 9th Floor, Nine Queen's Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Carol Chow / Stephen Ching

For operational matters

Address: 9/F., Nine Queen's Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Ms. Doreen Fung / Ms. Carol Chan / Mr. Ng Wing Kwong / Mr. Jacky Chan (Department: Loan Agency / Processing)

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

**STANDARD CHARTERED BANK (HONG KONG)
LIMITED**

By: /s/ Biswajyoti Upadhyay _____
Biswajyoti Upadhyay
Regional Head of Transaction Banking Sales for Hong
Kong, Taiwa and Japan Corporate, Commercial and
Institutional Banking HK10545

For credit matters

Address: 22/F Standard Chartered Bank Building, 4-4A Des Voeux Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Emily Wang, Lisa Tong, Sarah Lin and Crystal Liu

For operational matters

Address: 18th Floor, Standard Chartered Tower, 388 Kwun Tong Road, Kwun Tong, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: ChinaGBS, HK Loan Processing, Sarah Lin and Crystal Liu

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

**CATHAY UNITED BANK COMPANY, LIMITED,
HONG KONG BRANCH (A BRANCH OF A
COMPANY WITH LIMITED LIABILITY
INCORPORATED IN TAIWAN)**

By: /s/ William Chu

William Chu
Head of Corporate Banking and Deputy Branch
Manager

For credit matters

Address: 10/F, Lee Garden Three, 1 Sunning Road, Causeway Bay, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Chan Fai / Linda Cheung / Rex Tsang

For operational matters

Address: 10/F, Lee Garden Three, 1 Sunning Road, Causeway Bay, Hong Kong

Telephone: *****

Fax: *****

Email: *****

Attention: Annie Leung / Zoe Lui

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

LENDER

CHIYU BANKING CORPORATION LIMITED

By: /s/ Chiu Sui Lin Eileen

Chiu Sui Lin Eileen

By: /s/ Wong Siu Fan

Wong Siu Fan
Head of Loans

For credit matters

Address: 4/F., 78 Des Voeux Road Central, Hong Kong
Telephone: *****
Fax: *****
Email: *****
Attention: Mr. Li Yilin / Mr. Mak Hong Nin / Mr. Tsang Chi Hung

For operational matters

Address: 12/F, Bank of China Centre, 11 Hoi Fai Road, West Kowloon, Hong Kong
Telephone: *****
Fax: *****
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Attention: Ms. Wei Liping / Ms. Hung Yung Jacqueline / Ms. Choi Kit Man / Mr. Au Ying Leung / Mr. Lee Wai Kit / Mr. Li Yilun / Mr. Mak Hong Nin / Mr. Tsang Chi Hung

PROJECT SYMPHONY II – SIGNATURE PAGE TO FACILITIES AGREEMENT

THE AGENT

CITICORP INTERNATIONAL LIMITED

By: /s/ Authorized Signatory
Authorized Signatory

Address: 9F, Citi Tower, One Bay East, 83 Hoi Bun Road, Kwun Tong, Kowloon, Hong Kong

Telephone: *****

Fax: *****

Attention: Client Administration Team/ Transaction Management Team/ Regional Loans Agency

Email: *****

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