

To: The HSBC Bank (China) Company Limited  
China  
\_\_\_\_\_ Branch

## TRADE FINANCING GENERAL AGREEMENT

### 1. Definitions

“**Authorised Person(s)**” means the person(s) authorized by the Customer to give instructions to the Bank in connection with a Facility or Facilities as notified to the Bank from time to time in such manner as the Bank requires;

“**Bank**” means HSBC Bank (China) Company Limited at its office specified in the Schedule and its successors and assigns and, where the context permits, includes any person appointed by the Bank under Clause 9(a);

“**Customer**” means the person whose name and address are specified in the Schedule;

“**Documentary Credit**” means a documentary credit issued or confirmed by the Bank at the request or for the account of the Customer and any commitment by the Bank to issue such credit and also includes any such credit or commitment as extended or amended at the request of the Customer;

“**Documents**” means all bills, documents of title, transportation documents, insurance policies and other documents relating to goods and/or produce which goods and/or documents are in the name, possession or control of the Bank or held by or to the order of the Bank, whether for custody or any other reason and whether or not in the ordinary course of banking business;

“**Exchange Rate**” means the rate for converting one currency into another currency which the Bank determines to be prevailing in the relevant foreign exchange market at the relevant time, such determination to be conclusive and binding on the Customer;

“**Facility**” and “**Facilities**” mean such facility or facilities as the Bank may make or continue to make available to the Customer or to any other person at the request of the Customer by way of advances, the issue of a Documentary Credit, the issue of a shipping guarantee or otherwise in relation to Goods; The specific terms of any such Facilities shall be set out in relevant financing and /or facility Documents between the Customer and the Bank;

“**Goods**” means the goods and/or produce to which Documents relate;

“**Person**” includes an individual, firm, company, corporation and an unincorporated body of persons; and

“**Secured Moneys**” means (i) all moneys in any currency owing by the Customer to the Bank at any time, actually or contingently, in any capacity, alone or jointly with any other person, including without limitation any indebtedness owing by the Customer under any Facility, (ii) interest on such moneys (both before and after any demand or judgment) to the date on which the Bank receives payment, at the rates payable by the Customer or which would have been payable but for any circumstance which restricts payment; (iii) any expense of the Bank in making payment under this Agreement on behalf of the Customer (but without the Bank being under any obligation to do so) as a result of failure by the Customer to make such payment when due and (iv) all expenses of the Bank in perfecting or enforcing its rights under this Agreement.

### 2. Application

**2.01** This Agreement shall apply to any Facility which the Bank, at its discretion, may agree to make available to such extent and in such manner as the Bank thinks fit.

- 2.02** The terms and conditions in this Agreement shall be subject to such other terms and conditions which may be specified by the Bank in relation to any individual Documentary Credit and any particular Facility.
- 2.03** Each Documentary Credit shall be subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce as are in effect from time to time.
- 2.04** In the event of any conflict between this Agreement and the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce as are in effect from time to time and/or the International Chamber of Commerce Rules for Collections as are in effect from time to time, this Agreement shall prevail.

### **3. Documentary Credit for Imports**

- 3.01** The Bank is authorised to honour a complying presentation under each Documentary Credit in accordance with its terms.
- 3.02** The Bank may restrict negotiations under any Documentary Credit to its own offices or to any correspondent or agent of its choice and, in such a case, the Bank is authorized to accept and pay all documents drawn or purporting to be drawn on any such office, correspondent or agent.
- 3.03** The Customer will pay the Bank not later than the due date an amount equal to the amount due under any Documentary Credit.

### **4. Export Documents**

- 4.01** If the Bank has confirmed the Documentary Credit, the Bank will have full recourse to the customer in the case of non-payment by reason of any, or alleged, fraud (on the part of any person) or other illegality affecting the Documentary Credit.
- 4.02** Unless, subject to clause 4.01, the Bank has confirmed the Documentary Credit, the Customer will pay the Bank not later than the due date an amount equal to the amount due under bills negotiated or endorsed by the Bank, whether or not drawn under a Documentary Credit, which are dishonoured or not paid on their due date. Non-payment shall be deemed to have occurred if the Bank has not received unconditionally the whole sum due.
- 4.03** The Bank is authorized, at its discretion and on such conditions as it thinks fit, in relation to any bill, whether or not drawn under a Documentary Credit:
- (a) to take conditional acceptances and/or acceptances for honour and/or to extend the due date for payment;
  - (b) to accept payment from the drawees or acceptors before maturity under rebate or discount;
  - (c) to accept part payment before maturity and to deliver a proportionate part of the Goods to the drawees or acceptors of the bills or the consignees of the Goods;
  - (d) at the request of the drawees to delay presentation of any bill for payment or acceptance without affecting the liability of the Customer to the Bank in respect of such bill;
  - (e) to institute proceedings and to take steps for the recovery from the acceptors or endorsers of any bill of any amount due in respect of such bill, despite the Bank having debited the account of the Customer with the amount of such bill.
- 4.04** The Customer will also reimburse the Bank on demand for advances made against any documents which have not been duly taken up on presentation or in respect of which payment has not been duly made to the Bank.

### **5. Collections**

- 5.01** If the Bank is requested to make a collection, the Bank is authorized to treat the service as subject to and conditional upon collection and receipt by the Bank of full payment of the relevant bill, draft or document.
- 5.02** In the absence of such collection and receipt by the Bank, the Customer will reimburse the Bank, on demand, for any amount due in respect of such service.
- 5.03** Each collection shall be subject to the International Chamber of Commerce Rules for Collections as are in effect from time to time.

## **6. Security**

- 6.01** In consideration of the Facilities, the Bank shall have a pledge and lien, by way of security, on the Documents and the Goods until all the Secured Moneys have been paid or discharged.
- 6.02** The pledge shall be a continuing security, in addition to, not affected by and enforceable despite the existence of any other security held by the Bank. Any restriction on the right of consolidating securities shall not apply to the pledge.
- 6.03** If (i) there is a default in acceptance or payment of any Document or (ii) the Customer has failed to pay any of the Secured Moneys when due or is in default under any of the terms of this Agreement or a trust receipt relating to Goods or (iii) the Customer or any drawee or acceptor of a Document is unable or admits to being unable to pay its debts as they become due or is subject to any proceedings in or analogous to insolvency, bankruptcy, liquidation or if legal process is levied or enforced against any of its assets or (iv) any action is threatened or taken which might prejudice the Bank's interest in and rights against the Documents and/or the Goods or (v) the Bank considers it desirable to sell the Goods, the Bank shall be entitled to enforce its pledge and may, without demand, notice, legal process or any other action with respect to the Customer or any other person, realize, sell, negotiate or otherwise dispose of all or some of the Documents and the Goods, at any time and in any way which it deems expedient, free from any restrictions and claims and the Bank shall not be liable for any loss arising out of such realization, sale, negotiation or disposal.
- 6.04** The Customer hereby assigns to the Bank any rights which the Customer may have as the unpaid seller of Goods.
- 6.05** The underlying debt for which any and all pledge/lien/mortgage is created under this Agreement is all of the Secured Moneys until all the Secured Moneys have been paid or discharged.

## **7. Release of Documents or Goods under Pledge or Lien**

- 7.01** If Documents or Goods are released to the Customer or to its order, they shall be held by the Customer exclusively for the purpose of their sale or other disposition approved by the Bank on normal trade terms at market value and, in such event (whether or not a trust receipt is signed on delivery), the Documents, Goods and the proceeds shall be held on trust for the Bank and solely to its order. All such proceeds shall be kept separate, shall be paid to the Bank immediately upon receipt and the Bank is authorized to demand and/or receive such proceeds from any person.
- 7.02** The Customer agrees that the pledge and/or lien created by or available to the Bank under this Agreement or by operation of law shall, if permitted by laws and regulations, be deemed to continue to subsist on the Documents and/or the goods under such Documents delivered to the Customer upon a trust receipt after the Bank has, according to a trust receipt signed by the Customer, delivered to the Customer the Documents or the Goods under such Documents which has been secured in favor of the bank to repay the Secured Moneys.
- 7.03** The Customer agrees that in order to ensure that the security rights of the Bank continue to subsist on the Documents and or the Goods under such Documents delivered to the Customer upon a trust receipt, the relevant Goods shall be separately mortgaged to the Bank upon being delivered to the Customer if the Bank so requires, and the relevant mortgage registration procedures shall also be handled upon request by the Bank, or where applicable laws and regulations permit, the Customer agrees to mortgage its existing and future manufacturing equipment, raw materials, semi-products, products to the Bank provided that they are related to the Documents or the Goods under the Documents and handle relevant mortgage registration procedures upon request by the Bank.

## **8. Undertakings**

- 8.01** The Customer undertakes that:

- (a) the Documents and the Goods shall be in the sole beneficial ownership of the Customer, free from encumbrances and claims, except for the pledge in favour of the Bank;
- (b) It will insure the Goods for their full value against all insurable risks in such manner as the Bank may require and, if so requested by the Bank, will arrange for the Bank' interest in the Goods to be endorsed on the relevant policy and direct the insurer to make payment direct to the Bank in respect of any damage or loss;
- (c) it will make payment to the Bank of all insurance proceeds received by it in respect of Goods and, pending payment, will hold such proceeds on trust for the Bank;
- (d) it will endorse the Documents in favour of the Bank, deposit the Documents with the Bank or to its order and note in its records the interest of the Bank in the Documents and the Goods;
- (e) it will pay all costs of and incidental to the transportation and storage of the Goods;
- (f) it will inform the Bank of any event of which it becomes aware which can adversely affect the ability of a buyer to complete the purchase of Goods;
- (g) it will procure the prompt release of the Bank from any guarantee, indemnity or other commitment which the Bank may have provided in respect of Documents and/or Goods;
- (h) it will not nor attempt to encumber, transfer, sell, dispose of or otherwise deal with the Documents and/or the Goods except as directed by or with the prior written consent of the Bank;
- (i) it will keep the Goods separate from any other property of the Customer or other persons;
- (j) it will not permit Goods to be processed or altered without the prior written consent of the Bank; and
- (k) it will not take any action which might prejudice the value of the Goods and/or the effectiveness of the pledge and this Agreement.

**8.02** The Customer undertakes that, at the request of the Bank, it will:

- (a) provide the Bank with such information concerning the Documents and the Goods and any proposed sale of Goods as the Bank may require;
- (b) keep the Bank informed of the whereabouts of the Goods and of any change in the condition, quality or quantity of the Goods; and
- (c) execute such documents and perform such acts as the Bank may consider expedient in connection with the exercise of its powers and rights under this Agreement .

## **9. Authorisations**

The Customer authorizes the Bank:

- (a) to appoint any other person as its correspondent, nominee or agent in connection with the Facilities and the Bank may delegate any of its powers under this Agreement to such person;
- (b) to take such steps and to make such payments as it considers necessary, at the cost of the Customer, to remedy any default by the Customer in compliance with any of its obligations under this Agreement;
- (c) to land and store Goods and to arrange for their shipment and to inspect the Goods at any time;
- (d) to notify any other person of its interest in the Documents and the Goods; and
- (e) to make payment immediately when due or on demand under any Documentary Credit, guarantee, indemnity or other commitment which the Bank may have provided in respect of Documents and/or Goods without reference to or further authority from the Customer or any other person, without enquiry as to the validity or otherwise of any document, claim or demand (irrespective of any dispute by the Customer) and payment by the Bank shall be binding on the Customer.

## **10. Limitation on Liability and Indemnity**

**10.01** The Bank shall not be liable to the Customer or any other person for any act, delay or failure to act, on the part of the Bank or any other person, in respect of the Documents or the Goods or

otherwise for the condition, quantity or value of the Goods unless due to the negligence or wilful default of the Bank, its officers or employees.

- 10.02** The Customer shall indemnify the Bank, its officers and employees against all liabilities, claims costs and damages of any kind which may be incurred by any of them and all actions or proceedings which may be brought by or against them in connection with the Documents and/or the Goods and the exercise of the powers and rights of the Bank under this Agreement, unless due to the negligence or wilful default of the Bank, its officers or employees.

## **11. Customer' Instructions**

- 11.01** The Bank is authorized to act on the instructions of the Authorised Person(s) concerning the Facilities, the Documents and the Goods.
- 11.02** The Bank may, at its discretion, accept instructions believed by it to have emanated from the Authorised Person(s) and if it acts in good faith on such instructions, such instructions shall be binding on the Customer and the Bank shall not be liable for doing so, whether or not the instructions were given by the Authorised Person(s) and the Bank shall not be under any duty to verify the identity of the person(s) giving those instructions.

## **12. Payments**

- 12.01** The Bank may debit to any account of the Customer with the Bank, the whole or any part of the Secured Moneys.
- 12.02** Payments by the Customer shall be made to the Bank as specified by the Bank without any setoff, counterclaim, withholding or condition of any kind except that, if the Customer is compelled by law to make such withholding, the sum payable by the Customer shall be increased so that the amount actually received by the Bank is the amount it would have received if there had been no withholding.
- 12.03** Payment by the Customer to the Bank shall be in the currency of the relevant liability or, if the Bank so agrees in writing, in a different currency, in which case the conversion to that different currency shall be made at the Exchange Rate.
- 12.04** No payment to the Bank under this Agreement pursuant to any judgment, court order or otherwise shall discharge the obligation of the Customer in respect of which it was made unless and until payment in full has been received in the currency in which it is payable under this Agreement and, to the extent that the amount of any such payment shall, on actual conversion into such currency, at the Exchange Rate, fall short of the amount of the obligation, expressed in that currency, the Customer shall be liable for the shortfall.
- 12.05** Any moneys paid to the Bank in respect of the Secured Moneys may be applied in or towards satisfaction of the same or placed to the credit of such account as the Bank may determine with a view to preserving its rights to prove for the whole of the Secured Moneys.
- 12.06** If any moneys paid to the Bank in respect of the Secured Moneys are required to be repaid by virtue of any law relating to insolvency, bankruptcy or liquidation or for any other reason, the Bank shall be entitled to enforce this Agreement as if such moneys had not been paid.

## **13. Set-off**

The Bank may at any time and without notice apply any credit balance to which the customer is entitled on any account whether or not in the Customer's name with the Bank or any other party and/or set-off any other obligation that the Bank may owe to the Customer in or towards satisfaction of the Secured Moneys. For this purpose, the Bank is authorised to purchase, at the Exchange Rate, such other currencies as may be necessary to effect such application with the moneys standing to the credit of such account. Any other obligation of the Bank shall be similarly converted at the Exchange Rate to the relevant currency of the Secured Moneys for the purposes of such set-off.

## **14. Lien**

The Bank is authorised to exercise a lien over all property of the Customer coming into the possession or control of the Bank, for custody or any other reason and whether or not in the ordinary course of banking business, with power for the Bank to sell property to satisfy the Secured Moneys.

## **15. Customer' Accounts**

The Bank may, at any time, continue any existing account and open any new account in the name of the Customer and no subsequent transactions, receipts or payments involving such new accounts shall affect the liability of the Customer hereunder.

## **16. No Waiver**

No act or omission by the Bank pursuant to this Agreement shall affect its rights, powers and remedies hereunder or any further or other exercise of such rights, powers or remedies.

## **17. Assignment**

**17.01** The Customer may not assign or transfer any of its rights or obligations under this Agreement. The Bank may assign any of its rights to a person in whose favour it has made an assignment of all or any of the Facilities.

**17.02** Without prejudice to the foregoing and any right of assignment enjoyed by the Bank under any applicable law or any other documents, the Bank may, without the Customer' consent, assign any and/or all of its rights and obligations hereunder to any HSBC Group member(s) that are/is more than 50% owned or controlled by HSBC Group or to any branch or sub-branch of the Bank.

## **18. Communications**

Any notice, demand or other communication under this Agreement shall be in writing addressed to the Customer at the last address registered with the Bank and addressed to the Bank at its office specified in the Schedule or such other address as the Bank may notify to the Customer for this purpose and may be delivered personally, by leaving it at such address, by post, facsimile transmission or telex and shall be deemed to have been delivered to the Customer at the time of personal delivery or on leaving it at such address or on the second day following the day of posting or on the day of dispatch, if sent by facsimile transmission or telex, and to the Bank on the day of actual receipt.

## **19. Severability**

Each of the provisions of this Agreement is severable and distinct from the others and, if one or more of such provisions is or becomes illegal, invalid or unenforceable, the remaining provisions shall not be affected in any way.

## **20. Governing Law and Jurisdiction**

**20.01** This Agreement is governed by and shall be construed in accordance with the laws of the People' Republic of China.

**20.02** The Customer submits to the non-exclusive jurisdiction of the court at the place of the principal office of the Bank. Nothing in this Clause 20.02 limits the right of the Bank to bring proceedings against the Customer in connection with this Agreement in any other court of any competent jurisdiction.

## **21. Execution**

This Agreement has been entered into by the Customer on \_\_\_\_\_.

## **22. Disclosure of Connected Transactions**

Please note that Section 83 of the Hong Kong Banking Ordinance and the CBRC Administration Rules on Connected Transactions of Commercial Banks with Insiders and Shareholders (the “CBRC Rules on Connected Transactions”) have imposed on the Bank certain limitations on extension of credits to persons related to the Bank’s directors or employees or financing that are of the connected transaction nature. In signing the TFGA, the Customer should advise the Bank whether the Customer is in any way related to any of the Bank’s directors or employees within the meaning of Section 83 or otherwise is a “connected party” defined in the CBRC Rules on Connected Transactions and in the absence of such advice the Bank will assume that the Customer is not so related. The Bank would also ask, should the Customer become so related subsequent to signing of this TFGA, that the Customer immediately advises the Bank in writing.

### Schedule

Bank’ Office \_\_\_\_\_, China

Customer \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature (*with company chop if any*)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Office

\_\_\_\_\_  
Identification

TRADE FINANCING GERNERAL AGREEMENT