



Chinese translation of this document is available at the end of the form for reference
本文件的最後部份附有中文譯本供參考

To : Director-General of Trade and Industry,
Government of the Hong Kong Special Administrative Region ^(Note 1)

Small and Medium Enterprises (SME) Loan Guarantee Scheme
Acceptance of Conditions for the Issue of A Guarantee for Working Capital Loan

Application No. (“the Application”) : _____
Applicant/Borrower : _____
Business Registration No. : _____

UNDERTAKING & INDEMNITY

In consideration of the Government of the Hong Kong Special Administrative Region (HKSARG) agreeing to issue a Guarantee in favour of _____ (Lender) at the Borrower's request, I/we for and on behalf of the Borrower agree to be bound by the following terms and conditions :

1. The Borrower shall use the facility (“the Facility”) for the sole purpose of meeting working capital needs of general business uses.
2. The Borrower shall allow HKSARG or HKSARG's appointed agents upon HKSARG's request to inspect the books, records, accounts and any other information relating to the Borrower's business, whether in the paper, electronic or any other form or medium.
3. The Borrower shall irrevocably and unconditionally indemnify and hold HKSARG harmless, on demand, from and against all actual or alleged liabilities, claims, demands, losses, damages, taxes, costs, charges and expenses of any kind (including, without limitation, legal fees on a full indemnity basis) which may be incurred or suffered by HKSARG and all actions and proceedings which may be brought by or against HKSARG in connection with or arising out of the Guarantee.
4. The Borrower shall not use the Scheme for repaying, restructuring or repackaging any loans, credit facilities or payment obligations (including loans that are referred to as classified loans by the Hong Kong Monetary Authority), whether in whole or in part, and whether those liabilities have existed before the date on which the application for the Facility is received by the Lender, or exist at the time of each drawdown of the Facility or otherwise.
5. Any request or demand made upon HKSARG by or on behalf of the Lender in favour of whom the Guarantee has been or will be issued for payment of any sum under the Guarantee shall be conclusive evidence as between the Borrower and HKSARG that HKSARG's liability under the Guarantee has accrued and shall constitute conclusive authority for HKSARG to make such payment to the Lender and the Borrower shall be liable to HKSARG for such payment. HKSARG shall be entitled to make such payment to the Lender or any person as the Lender may direct without inquiring into the validity or justification of the request or demand irrespective of notice or knowledge of any dispute between the Borrower and the

Lender and the Borrower shall not challenge HKSARG's propriety or authority in making such payment to the Lender.

6. A demand accompanied by a certificate of balance signed by any of HKSARG's duly authorised officers shall be conclusive evidence against the Borrower of the Borrower's obligations to pay under this agreement or the Guarantee and of the amount payable.
7. Payments by the Borrower shall be made to HKSARG without any set-off, counterclaim or condition and shall be free and clear of all present and future taxes, withholdings or deductions of any nature except that, if the Borrower is compelled by law to make such withholding, the sum payable by the Borrower shall be increased so that the amount actually received by HKSARG is the amount HKSARG would have received if there had been no withholding.
8. No payment to HKSARG under this agreement or the Guarantee pursuant to any judgement, court order or otherwise shall discharge the Borrower's obligation in respect of which it was made unless and until payment in full has been received by HKSARG in the currency in which it is payable and, to the extent that the amount of any such payment shall, on actual conversion into such currency, fall short of the amount of the Borrower's obligation expressed in that currency, the Borrower shall be liable for the shortfall.
9. If any moneys paid to HKSARG pursuant to this agreement or the Guarantee are required to be repaid by virtue of any law relating to insolvency, bankruptcy or liquidation or for any other reason, HKSARG shall be entitled to enforce the indemnity as if such moneys had not been paid.
10. The indemnity given herein is a continuing indemnity and will remain in full force and effect until HKSARG shall have confirmed in writing that the Borrower has been absolutely released and discharged from the Borrower's liabilities in connection to such indemnity.
11. The Borrower's liability to indemnify hereunder shall not be discharged or otherwise affected by any of the following reasons :
 - (i) that HKSARG waives a condition under or in connection with the Guarantee or any other documents relating to it;
 - (ii) that HKSARG waives any compliance by the Lender of any of its obligations under or in connection with the Guarantee;
 - (iii) that HKSARG varies the Guarantee or enters into any agreement or arrangement with the Lender or any other person or by reason of any legal limitation, disability or incapacity or any other act, omission or circumstance which, but for this provision, would discharge the Borrower to any extent; or
 - (iv) that time or indulgence shall have been granted to the Borrower by the Lender or HKSARG in connection with any of the Borrower's obligations to the Lender or HKSARG.
12. The indemnity hereunder shall be in addition to and not in substitution for and shall not be prejudiced or affected by any other indemnities or securities given by the Borrower or any other person which HKSARG may now or hereafter hold in respect of the Guarantee. Any release, variation, exchange or abstain from perfecting of any other indemnities or securities now held or hereafter may be held by HKSARG in respect of the Guarantee shall not affect such indemnity. Any restriction on the right of consolidating securities shall not apply to such indemnity.

13. The indemnity hereunder shall be binding on the Borrower's heirs, legal representatives, successors and assigns.
14. Each of the provisions in this agreement is severable and distinct from the other 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.
15. The Borrower shall pay to HKSARG, upon demand, interest on all amounts payable by the Borrower to HKSARG under this agreement. For the purpose of this agreement or the Guarantee, interest shall accrue on a day to day basis and be calculated on each amount due to HKSARG at the interest rate certified by HKSARG to be HKSARG's cost of funds in relation to that amount and shall be payable from the day on which such amount becomes due until (and including) the day it is received by HKSARG.
16. At HKSARG's request, the Borrower shall execute such documents and take such action which HKSARG may consider necessary or convenient to give effect to HKSARG's rights and in connection with the exercise of HKSARG's powers under this agreement, in each case within a reasonable time after HKSARG's request.
17. No act or omission by HKSARG pursuant to this agreement, the Guarantee or any other document relating to them shall affect HKSARG's rights, powers and remedies in connection with them or any further or other exercise of such rights, powers and remedies.
18. The Borrower shall not assign any of the Borrower's rights and obligations, in whole or in part, under this agreement, the Guarantee, the Facility or any documents relating to any of them without HKSARG's prior written consent. HKSARG may assign any of HKSARG's rights under this document to any person without the Borrower's prior written consent.
19. This agreement and the rights and obligations of the parties hereunder is governed by and shall be construed in accordance with the laws of Hong Kong Special Administrative Region. The Borrower shall submit to the non-exclusive jurisdiction of the Courts of the Hong Kong Special Administrative Region but this agreement may be enforced in the Courts of any competent jurisdiction.
20. The Borrower shall not do or permit to be done anything which would prejudice or jeopardise the rights of the Lender or HKSARG, in respect of the Facility.
21. The Borrower shall not create, or permit to be created, any subsequent charges or encumbrances ranking in priority to or pari passu with any security that may be given to or held by the Lender for the Facility.
22. In any occurrence of an event referred to in 20 or 21 above, the Borrower shall pay all the proceeds and sums realised or generated as a result direct to the Lender for payment towards the Indebtedness.
23. The Borrower acknowledges that HKSARG's approval to grant a guarantee shall automatically lapse and cease to be binding and enforceable if the Starting Date of the Facility cannot be effected within 60 days from the date of HKSARG's Notification of Result of Application for any reasons and that the Borrower has no recourse of whatever kind against HKSARG therefor.
24. The Borrower shall inform HKSARG and the Lender if any of the information the Borrower supplied in connection with this Application is no longer valid. The Borrower shall repay in full all the outstanding amounts under the Facility, with interest, prior to the expiry of the guarantee, with such time specified upon notification by HKSARG or the Lender, if any information the Borrower supplied in connection with this Application is no longer valid or

found to be false/no longer valid. The Borrower acknowledges that HKSARG and the Lender reserve the right to take any legal action against the Borrower for any breach of the terms and conditions of the Facility or this agreement. The Borrower further acknowledges that HKSARG may set off any of the outstanding amounts owed by the Borrower under the Facility or this agreement from any sums that may be due from HKSARG to the Borrower or any of the Borrower's associates.

25. Without prejudice to any rights and remedies that the Lender or HKSARG may have, the Borrower acknowledges that HKSARG may forthwith request the Lender to suspend the Facility, and the Lender shall act accordingly, in the event that HKSARG is in the opinion that the Borrower is :
- (a) in breach of any of the undertakings given in the “Application for Working Capital Loan Guarantee”;
 - (b) in breach of any of the terms and conditions mentioned herein; or
 - (c) no longer compliant, or has not complied, with the Declaration given in the “Application for Working Capital Loan Guarantee”.

Signed for the Borrower by,

(Signature)^(Note 2)

(Name)^(Note 2) (Print)

(Position)

(Company Chop)

(Date)(dd/mm/yy)

Original : To be sent to the Director-General of Trade and Industry
Copy : To be retained by Borrower

Note 1: Completed form should be sent to the Director-General of Trade and Industry –

By post/in person : SME Loan Guarantee Scheme Unit
6/F, Trade and Industry Department Tower,
700 Nathan Road, Kowloon, Hong Kong

Mondays – Fridays : 8:45 a.m. – 12:30 p.m.
1:30 p.m. – 6:00 p.m.

By Fax : (852) 2396 5067

By Online Submission : www.smefund.tid.gov.hk

Note 2: The person(s) signing this document and the signature(s) should be the same as those in the Application for Guarantee.



致：香港特別行政區政府
工業貿易署署長^(註一)

中小企業信貸保證計劃
接受營運資金信貸保證條件書

申請編號（“申請書”）： _____
申請者 / 借款企業： _____
商業登記號碼： _____

承諾及彌償

鑑於香港特別行政區政府（“香港特區政府”）在借款企業要求下，同意向 _____（貸款機構名稱）提供信貸保證，我 / 我們現代表借款企業同意受下述條款及條件約束：

1. 借款企業只會將貸款（“該貸款”）用作該企業一般業務用途的營運資金。
2. 在接獲香港特區政府的要求時，借款企業得讓香港特區政府或香港特區政府委派的代理人查閱簿冊、記錄、帳目，以及任何其他與借款企業業務有關的資料，不論其屬紙張、電子或任何其他形式或媒介。
3. 倘香港特區政府因提供該信貸保證而招致或蒙受任何實際或指稱的債務、申索、索求、損失、索償、稅項、費用、收費和各種開支（包括但不限於按十足彌償基準計算的法律費用），以及因該信貸保證而採取或引致他人對香港特區政府採取任何行動和程序，則借款企業得應要求不可撤回及無條件地作出彌償，使香港特區政府無須負責。
4. 申請企業不會利用中小企業信貸保證計劃，償還、重組或重新包裝任何借款、信貸安排或付款責任（包括香港金融管理局指為特定分類貸款的貸款），不論是全部或其中部分，亦不論該等債務在向貸款機構提交本申請書日期前或在根據該貸款所提取每筆款項時是否已經存在。
5. 若已得到或將得到信貸保證的貸款機構或其代表請求或要求香港特區政府按該信貸保證支付任何款項，則這類請求或要求即成為借款企業與香港特區政府之間的确證，證明香港特區政府因作出該信貸保證而承擔的債務已經產生，並構成香港特區政府向貸款機構支付這筆款項的確切權力依據，而借款企業亦須為該筆付款向香港特區政府負責。即使香港特區政府獲知會或獲悉借款企業與貸款機構之間出現任何爭議，香港特區政府仍有權向貸款機構或其指定的任何人士支付該筆款項，而無須查究該項請求或要求是否有效或有理；借款企業亦不得質疑香港特區政府付款予貸款機構的做法是否適當或是否有權力依據。
6. 付款要求附以獲香港特區政府正式授權的人員簽署的結欠證明書，即成為確證，證明借款企業有責任按本協議或該信貸保證支付應付的款項。
7. 借款企業付給香港特區政府的款項，不得有任何抵銷、反索償或條件，並且在現時及日後均無須繳稅，也不得作任何性質的保留或扣減；除非借款企業必須依法扣起部分款項，則借款企業應付的款項得予增補，使香港特區政府實際收到的數額相等於扣款前香港特區政府本應收到的款額。

8. 就本協議或該信貸保證而言，依據任何判決、法庭命令或在其他情況下向香港特區政府付款，並不能解除借款企業該項付款責任，除非並直至香港特區政府已全數收到該筆以應付貨幣支付給香港特區政府的款項；倘該等款項的款額在實際兌換成該種貨幣時少於以該種貨幣計算借款企業應付之數，則借款企業得補回該不足之數。
9. 就本協議或該信貸保證而言，若基於任何有關無力償債、破產或清盤的法例或任何其他原因，已支付給香港特區政府的款項須予退回，則香港特區政府有權強制執行此彌償，猶如該等款項從未支付給香港特區政府一樣。
10. 此彌償乃持續性質的彌償，將維持十足效力及作用，直至香港特區政府以書面確認借款企業已獲完全免除和解除與此彌償有關的法律責任為止。
11. 借款企業據此須負的彌償責任不得基於下列任何原因而解除或受到影響：
 - (i) 香港特區政府免除該信貸保證上訂明的，或與該信貸保證有關的，或任何其他與該信貸保證有關的文件上的條件；
 - (ii) 香港特區政府免除貸款機構遵守該信貸保證所訂或與該信貸保證有關的任何責任；
 - (iii) 香港特區政府更改該信貸保證；或與貸款機構或任何其他人士訂立任何協議或安排；或基於任何法律上的限制或無行為能力或任何其他作為、不作為或情況，若非因本條文，便會在某程度上解除借款企業的責任；或
 - (iv) 貸款機構或香港特區政府已就借款企業須對貸款機構或香港特區政府履行的任何責任，給予借款企業期限或延期安排。
12. 此彌償得附加於而非取代香港特區政府現時或以後可能就該信貸保證持有，由借款企業或任何其他人士作出的任何其他彌償或抵押，也不受這些彌償或抵押妨害或影響。香港特區政府現時就該信貸保證所持有或以後可能持有的任何其他彌償或抵押，如有任何免除、更改、更換或不予落實的情況，也不得影響上述彌償。對合併抵押權利所作的任何限制，均不適用於上述彌償。
13. 此彌償對借款企業的繼承人、法律代表、繼任人及受讓人均具約束力。
14. 本協議內每項條文均可與其他條文劃分成獨立的條文；假如其中一條或更多條文乃屬或變成違法、無效或不能強制執行，餘下的條文不受任何影響。
15. 借款企業在接獲香港特區政府的要求時，得支付借款企業根據本協議須支付的所有款項的利息。就本協議或該信貸保證而言，每筆到期應向香港特區政府繳付的款項均須繳納利息，並逐日累算，而息率以經香港特區政府核實為該筆款項的資金成本為準，利息由款項到期日起計至香港特區政府收訖款項之日(當日包括在內)止。
16. 若香港特區政府認為某些文件及行動是必需或有助香港特區政府行使權利，而且是與香港特區政府行使本協議所賦予的權力有關的，借款企業必須在香港特區政府每次提出要求後的一段合理時間內，簽立該等文件及採取該等行動。
17. 香港特區政府以本協議、該信貸保證或任何與本協議或該信貸保證有關的其他文件作為依據的任何行為或不作為，均不會影響與這些文件有關，屬於香港特區政府的權利、權力及補救，或香港特區政府對這些權利、權力及補救的進一步或其他行使權。
18. 事前未得到香港特區政府的書面同意，借款企業不得轉讓本協議、該信貸保證、該貸款或任何與本協議、該信貸保證或該貸款有關的其他文件所賦予借款企業的全部或部分權利和責任。香港特區政府可把本文件所賦予的任何權利轉給任何人，事前無須得到借款企業的書面同意。

19. 本協議及協議各方的權利和責任受香港特別行政區（香港特區）的法律管限，並須根據香港特區的法律解釋。借款企業得受香港特區法院的非專屬司法管轄權管轄，但本協議亦可由任何具司法管轄權的法院執行。
20. 借款企業不得作出或准許作出任何事情，損害或危及貸款機構或香港特區政府就該貸款所享有的權利；
21. 借款企業不得訂立或准許訂立任何隨後的押記或產權負擔，而該等押記或產權負擔享有的權益優先於或同等於貸款機構就該貸款獲給予或持有的抵押。
22. 上文第 20 或 21 條款所指的事情若發生，因而引起的所有收益或變現或產生的款項，借款企業必須直接繳交貸款機構，用作支付有關債項。
23. 借款企業明白，不管因任何理由，若貸款沒有在香港特區政府發出申請結果通知書日期起計 60 天內生效，香港特區政府就信貸保證申請所作的批准即自動失效，並且不再具約束力和不再可強制執行，而借款企業亦不得為此對香港特區政府提出任何追索。
24. 借款企業就本申請而提供的任何資料如不再真確，借款企業須通知香港特區政府及貸款機構。借款企業就本申請而提供的任何資料如不再真確或被發現屬虛假 / 不再真確，借款企業須在信貸擔保期屆滿前，在香港特區政府或貸款機構通知的指定時限內，全數償還在該貸款下尚欠的款額連同利息。借款企業明白如違反該貸款或本協議的任何條款及條件，香港特區政府及貸款機構保留權利，向借款企業採取任何法律行動。借款企業亦明白，香港特區政府可從應付予借款企業或借款企業的任何相聯者的款項中，抵銷借款企業在該貸款或本協議下尚未清還的款額。
25. 在不損害貸款機構或香港特區政府的任何權利和補償下，借款企業確認，若香港特區政府認為借款企業：
 - (a) 違反在「營運資金信貸保證申請書」內作出的任何承諾；
 - (b) 違反本書內訂明的任何條款和條件；或
 - (c) 不再符合或不符合在「營運資金信貸保證申請書」內的聲明；香港特區政府可即時要求貸款機構暫停批出該貸款，而貸款機構須據此行事。

代表借款企業簽署：

(簽署)^(註二)

(姓名)^(註二) (請用正楷填寫)

(職位)

(企業印章)

(日期 日/月/年)

正本 : 送交工業貿易署署長
副本 : 由借款企業保存

註一：填妥的表格可以下列方式送交工業貿易署署長

郵遞 / 專人遞交：香港九龍彌敦道 700 號
工業貿易署大樓六樓
中小企業信貸保證計劃組

星期一至星期五：
上午 8 時 45 分至下午 12 時 30 分
下午 1 時 30 分至 6 時正

傳真：(852) 2396 5067

經由網上遞交： www.smefund.tid.gov.hk

註二：本接受信貸保證條件書的企業代表及其簽署必須與申請書上的相同。