

Letter of Guarantee 擔保書

Name of Customer: _____ (the "Customer")
客戶姓名: _____ ("客戶")
Account No. 帳戶號碼: _____

Name of Guarantor: _____ (the "Guarantor")
擔保人名稱: _____ ("擔保人")

To: Convoy Investment Services Limited

17/F, Cityplaza 3,
14 Taikoo Wan Road, Taikoo Shing, HK

致: 康宏証券投資服務有限公司

香港太古城太古灣道 14 號
太古城中心三座 17 樓

From: (Name of Guarantor) _____ (the "Guarantor"), which is
由: (擔保人名稱) _____ ("擔保人"), 為

(Please complete either (A) or (B) below) (請填寫下列(A)或(B)部份)

(A) a company established in accordance with the laws of _____
一間公司根據右述之法律成立
with a registered address of _____

其註冊地址為 _____

and a principal place of business of _____

及其主要業務地點為 _____

and a telephone no. of _____ and fax no. of _____
電話號碼 及傳真號碼

(B) an individual residing at _____
一名個人現居於 _____

with a Hong Kong I.D. Card No/ Passport No. of _____
香港身分證號碼/ 護照號碼

and a telephone no. of _____ and fax no. of _____
電話號碼 及傳真號碼

Re: Agreement made between Convoy Investment Services Limited ("Convoy) and the Customer (the "Agreement") comprising the Customer Information Form and the Cash Account Agreement attached thereto (as may be amended or supplemented by Convoy from time to time)

關於: 康宏証券投資服務有限公司("康宏")與客戶訂立而由客戶資料表及附於該表格的現金帳戶協議(可不時由康宏作出修訂或增補)所組成的協議("協議")

Dear Sir,

In consideration of Convoy agreeing to provide or continue to provide to the Customer securities trading, whether on margin or otherwise, margin facilities and other financial accommodation and related services pursuant to or under the Agreement (receipt of a copy whereof is hereby acknowledged), the undersigned Guarantor hereby agrees as follows:

Guarantee and Indemnity

- 1 Guarantee: The Guarantor unconditionally and irrevocably guarantees to Convoy that, if for any reason the Customer does not pay any sum payable by it under the Agreement, including without limitation all expenses, cost and losses payable thereunder, by the time, on the date and otherwise in the manner specified by Convoy, the Guarantor as primary obligor will pay to Convoy that sum on demand by Convoy provided Convoy shall not be under any obligation, whether to the Guarantor, the Customer or otherwise, to make any such demand or to make such demand at any particular time.
- 2 Guarantor as Principal Debtor: As between the Guarantor and Convoy but without affecting the Customer's obligation, the Guarantor shall be liable under this Guarantee as if were the sole principal debtor and not merely a surety. The Guarantor agrees to pay Convoy such sum as may be demanded by Convoy whether or not Convoy has given the Customer the first opportunity to pay and discharge such obligations. Accordingly, the Guarantor shall not be discharged, nor shall its liability be affected, by anything which would not discharge it or affect its liability if it were the sole principle debtor including without limitation:
 - 2.1 any time, indulgence, concession, waiver or consent at any time given to the Customer or any other person;
 - 2.2 any amendment or supplement to any clause or provision of the Agreement;
 - 2.3 the making or absence of any demand on the Customer or any other person for payment;
 - 2.4 the enforcement or absence of enforcement of the Agreement or this Guarantee;

- 2.5 the taking, existence or release of any security interest or other guarantee;
 - 2.6 the winding-up, dissolution or bankruptcy of the Customer or any other person, or any step being taken for any such winding-up, dissolution or bankruptcy; or
 - 2.7 the illegality, invalidity or unenforceability of, or any defect in, any provision of this Guarantee or the Agreement or any of the obligations of any of the parties under or in connection with this Guarantee or the Agreement.
- 3 Guarantor's Obligations Continuing: The Guarantor's obligations under this Guarantee are and will remain in full force and effect by way of continuing security until no sum remains to be paid under the Agreement and Convoy has irrevocably received or recovered all sums payable under the Agreement. Furthermore, those obligations of the Guarantor are additional to any other right which Convoy may possess and may be enforced without first having recourse to the Customer, any other person or other security interest. The Guarantor irrevocably waives all notices and (except as required by the above Clause 1) demands of any kind.
- 4 Avoidance of Payments: The Guarantor shall on demand indemnify Convoy against any funding or other cost, loss expense or liability sustained or incurred by Convoy as a result of it being required for any reason (including any bankruptcy, insolvency, winding-up or similar law of any jurisdiction) to refund all or part of any amount received or recovered by it in respect of any sum payable by the Customer under the Agreement and shall in any event pay to Convoy on demand the amount so refunded by it.
- 5 Indemnity: As separate, independent and alternative stipulations, the Guarantor unconditionally and irrevocably agrees that any sum which although expressed to be payable by the Customer under the Agreement, is for any reason (whether or not now existing and whether or not now known or becoming known to any party to the Agreement) not recoverable from the Guarantor on the basis of a guarantee shall nevertheless be recoverable from it as if it were the sole principle debtor and shall be paid by it to Convoy on demand.

Representations and Warranties

- 6 The Guarantor represents and warrants to and for the benefit of Convoy as follows:
- 6.1 Powers: It has the power to enter into, exercise its rights and perform and comply with its obligations under this Guarantee.
 - 6.2 Authorization and Consents: All actions, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order:
 - 6.2.1 to enable the Guarantor lawfully to enter into, exercise its rights and perform and comply with its obligations under this Guarantee;
 - 6.2.2 to ensure that those obligations are valid, legally binding and enforceable; and
 - 6.2.3 to ensure that those obligations rank and will at all times rank at least equally and rateably in all respects with all its other unsecured indebtedness except for such unsecured indebtedness as would, by virtue only of the operation of law, be preferred in the event of its winding-up, dissolution or bankruptcy, have been taken, fulfilled and done.
- 7 Non-Violation etc.: Its entry into and/or performance of or compliance with its obligations under this Guarantee does not and will not violate or exceed any borrowing or other power or restriction granted or imposed by any law to which it is subject or its constitutional documents, or result in the existence of, or oblige it to create, any security over its assets.
- 8 Repetition: Each of the representations and warranties in the Clause 6 and 7 will be correct and complied with in all respects so long any sum remains payable under the Agreement as if repeated then by reference to the then existing circumstance.

Interest

- 9 Payment of Interest: The Guarantor agrees to pay interest to Convoy, at the rate of interest applicable under the Agreement to overdue sums, on all sums demanded under this Guarantee from the date of Convoy demand or, if earlier, the date on which the relevant damaged, losses, costs, liabilities or expenses arose in respect of which such demand has been made until the date of receipt of such sums by Convoy (both before and after judgment) at such rate of interest applicable under the Agreement to overdue sums.

Payments

- 10 Payments to be free and clear. All sums payable by the Guarantor under this Guarantee shall be paid free of any restriction or condition and free and clear of and (except to the extent required by law) without any deduction or withholding, whether for or on account of tax, by way of set-off or otherwise and any payment made shall be grossed up as necessary to achieve the same.
- 11 Manner of payments: On each date on which any sum is due from the Guarantor it shall make that sum available to Convoy, by payment in HK\$ or, at Convoy's election, in the currency in which the relevant sum would otherwise be payable under the Agreement. Payment shall be made in immediately available funds to such account as Convoy may specify.

Set-off

- 12 The Guarantor authorizes Convoy and its affiliates to apply (without prior notice) any credit balance (whether or not then due) to which the Guarantor is at any time beneficially entitled on any account at, any sum held to its order by and/or any liability to it of, any office of Convoy and its affiliates in or towards satisfaction of any sum then due from it to Convoy under this Guarantee and unpaid and, for that purpose, to convert one currency into another. In relation to Convoy, an affiliate means an entity directly or indirectly controlling, controlled by or under common control with Convoy. For this purpose, "control" of any entity of Convoy means ownership of a majority of the voting power of the entity or Convoy as the case may be.

Transfer

- 13 Guarantor: The Guarantor may not assign or transfer all or part of its obligations under this Guarantee.
- 14 Convoy: Convoy may assign or transfer all or part of its rights and obligations under this Guarantee with or without notice to the Guarantor. No consent shall be required from the Guarantor to any such assignment or transfer.
- 15 Disclosure of information: Convoy may disclose to an actual or potential assignee, transferee, sub-participant or to any regulatory authority requesting the same, such information about the Guarantor or any other person as Convoy may think fit.

No Implied Waivers, Remedies Cumulative

- 16 No failure on the part of Convoy to exercise, and no delay on its part in exercising, any right or remedy under this Guarantee will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise of that or any other right or remedy. The rights and remedies provided in this Guarantee are cumulative and not exclusive of any other rights or remedies (whether provided by law or otherwise).

Communications

- 17 Each communication under this Guarantee shall be made by fax, telex or otherwise in writing. The initial contact details of each of the Guarantor and Convoy are as listed above.
- 18 Deemed Delivery: Any communication or notice from the Guarantor shall be irrevocable, and shall not be effective until received by Convoy. Any communication or notice from Convoy to the Guarantor shall be conclusively deemed to be received by the Guarantor.

Partial Invalidity

- 19 The illegality, invalidity or unenforceability of any provision of this Guarantee under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

Language

- 20 The Guarantor hereby confirms that the Guarantor has received and read the English and Chinese versions of this Guarantee and that the Guarantor understands and accepts the terms set out in this Guarantee. In the event of any discrepancy between the Chinese text and the English text of this Guarantee, the English version shall prevail.

Personal Data

- 21 The Guarantor acknowledges and agrees that the Guarantor has read and understood Convoy's Personal Information Collection Statement and that the personal data of the Guarantor held by Convoy may be used for the purposes stated therein and transferred to the persons mentioned therein, and generally that such Statement shall apply to Convoy's treatment of the personal data of the Guarantor.
- 22 The Guarantor understands that as an individual guarantor the Guarantor is entitled, by written request to Convoy's Data Protection Officer, to access the personal information held about the Guarantor and, if applicable, to correct any inaccuracies in that information.
- 23 The Guarantor understands that the Guarantor's personal information may be supplied to credit reference agencies and in the event of default, debt collection agencies. The Guarantor is entitled, upon request, to be informed which items of information are routinely so disclosed, and be provided with further information to enable the making of an access and correction request to the relevant credit reference agencies or debt collection agencies, as the case may be.

Governing Law

- 24 This Guarantee and all rights, obligations and liabilities hereunder shall be governed by and construed and may be enforced in accordance with the laws of the Hong Kong Special Administrative Region of the People's Republic of China. The Guarantor hereby agrees to submit to the non-exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region of The People's Republic of China.

擔保書

敬啟者:

基於康宏同意依據上述協議(謹此聲明擔保人已收妥其副本)向客戶提供或繼續提供無論是保證金與否的證券交易、信貸便利及其他財務通融及有關的服務，於下方簽署的擔保人現同意以下各點:

擔保及彌償

- 擔保: 擔保人無條件及不可撤銷地向康宏擔保，表明如客戶沒有根據協議及時在康宏指定日期或方式支付任何根據協議應支付予康宏的款項，包括但不限於任何開支、成本及損失，則作為主要責任人，擔保人將會向康宏支付康宏所要求支付的款項，但康宏並沒有任何責任(不論是對擔保人、客人或其他人士)作出任何該等要求或任何具體時間作出該等要求。
- 擔保人作為主要債務人: 在擔保人與康宏之間而言(但不影響客戶的責任)，擔保人將會根據本擔保書承擔作為唯一的主要債務人而不是單純作為保證人。擔保人同意向康宏支付任何康宏可能會要求支付的款項(不論康宏有否向客戶給予第一機會支付及解除該項責任)。因此，如擔保人在作為唯一主要債務人的情況下有任何事物不會令其責任得以解除或其責任受到影響，則該等事物亦不會解除擔保人的責任或影響其責任，包括但不限於:
 - 在任何時候向客戶或任何其他人士所給予的任何時間、容忍、讓步、寬免或同意;
 - 任何對協議條款或條文的修訂或補充;
 - 向客戶或任何其他人士作出任何支付款項的要求或未有作出該等要求;
 - 強制執行或未有強制執行上述協議或本擔保書;
 - 任何保證權益或其他擔保的取得、行使或解除;
 - 客戶或任何其他人士的清盤、解散或破產，或正在採取任何行動以進行該等清盤、解散或破產;或
 - 本擔保或上述協議的任何條文或根據或涉及本擔保或上述協議的任何一方的責任的不合法性、不正確性或未能強制執行或任何缺陷。
- 擔保人的持續責任: 除非根據上述協議沒有任何款項繼續需要支付及康宏已不可撤銷地取得或討回所有根據上述協議應支付的款項，否則擔保人根據本項擔保的責任將會以持續保證的方式在現時及將來繼續全面生效。此外，擔保人所承擔的責任是額外於任何康宏可能擁有及強制執行的其他權利，並可在無需首先向客戶、任何其他人士或任何保證權益進行追索的情況下強制執行。擔保人不可撤銷地放棄任何性質的獲取通知及要求的權利(但上述第 1 條所規定除外)。

- 4 支付款項的退回: 若康宏因任何原因(包括破產、無償債能力、清盤或任何司法區中的類似法律)須退回全部或部份其客戶根據協議所支付的任何款項, 擔保人須在接獲要求後彌償康宏因此而招致的款項支出或其他費用、損失、開支或其他因此而承擔或招致的債務, 並且無論如何須在接獲要求後向康宏支付康宏一如上述所須退回的任何款項。
- 5 彌償: 作為獨立、分開及另外的條款, 擔保人無條件及不可撤銷地同意任何款項(雖然根據上述協議表述為應由客戶所支付)如因為任何原因(不論該原因現時是否存在或是否現時或將會由上述協議的任何一方所知悉)而未能根據擔保的理由向擔保人討回, 則有關款項仍無論如何可從擔保人討回, 猶如擔保人是該等款項的唯一主要債務人, 擔保人並須應康宏的要求向康宏支付該等款項。

陳述及保證

- 6 擔保人向康宏及康宏的利益作出以下陳述及保證:
 - 6.1 權力: 擔保人有權訂立本擔保, 以及有權力行使其有關權利並且執行及遵守其根據本擔保的責任。
 - 6.2 授權及同意: 任何達致以下目的須採取、滿足及完成的所有行動、條件或事物類(包括取得任何所需的同意)已經被採取、滿足及完成:
 - 6.2.1 令擔保人合法地訂立本擔保及行使其根據本擔保之下的權利並且執行及遵守本擔保的責任;
 - 6.2.2 以確保該些責任是有效的、具法律約束力的及可強制執行的; 及
 - 6.2.3 以確保該些責任的級別及在任何時候其級別最少在所有情況下相等於及等同於其所有其他的非擔保債務(但根據法律運作當其清盤、解散或破產時獲優先看待的其他擔保債務則除外)。
- 7 不違反等: 擔保人訂立本擔保及/或履行或遵守擔保之下的責任, 現時不會及將來亦不會違反或超過根據其受約束的法律或其組成文件所授予或施加的任何借貸或其他的權力或限制, 或導致擔保人的資產存在或令擔保人有責任對其資產作出任何保證。
- 8 重複: 只要根據協議仍有任何款項需予支付, 此第 6 條及第 7 條所載的每項陳述及保證在所有方面而言都會是正確和獲得遵守的, 猶如在參照當時的情況下予以重複一樣。

利息

- 9 支付利息: 擔保人同意如擔保人未能如期償還康宏根據本擔保所要求清還的任何款項, 擔保人將為該筆過期的款項支付利息。有關利息將會由康宏作出有關要求的日期起計, 或如較早的話, 由有關要求所涉及的賠償、損失、成本費用、債務或開支產生的當日起計, 直至康宏收回該等款項為止(在取得裁決之前及之後), 並依照上述協議就逾期未付的款項而徵收的利率計算有關利息。

支付

- 10 支付款項必須不附帶限制及清楚: 擔保人根據本擔保支付的所有款項必須不附帶任何限制或條件, 以及不得計及任何扣除或預扣的款項(法律另有規定者除外), 不論有關扣除或預扣是否為著稅務理由, 或由於抵銷或其他原因所作出, 以及擔保所支付的任何款項須作出所需的總計以達至上述要求。
- 11 支付方式: 在每個到期付款的日子, 擔保人須向康宏提供有關的即時可動用款項, 以港幣或由康宏酌情決定根據上述協議所指定的有關款項的貨幣, 將該款項支付入康宏指定的帳戶之內。

抵銷

- 12 擔保人授權康宏及其聯屬人在毋須給予事先通知的情況下, 將擔保人在康宏及康宏任何聯屬人的帳戶中實益擁有的款項結餘(不論當時是否到期)或將康宏及康宏任何聯屬人須按其指示所持有的任何款項或向其負責的債務動用, 藉以支付其根據本擔保所虧欠康宏而仍未付還的款項。為達至該目的, 擔保人並且授權康宏將有關款項由一種貨幣轉換成另一種貨幣。聯屬人就康宏而言, 指康宏直接或間接擁有的任何實體, 任何直接或間接擁有康宏的實體; 或任何與康宏一樣直接或間接地由同一擁有人所擁有的實體。就此而言, "擁有"一個實體或康宏指持有該實體或康宏的過半數表決權。

轉讓

- 13 擔保人: 擔保人不得出讓或轉讓其根據本擔保之下的所有或部份責任。
- 14 康宏: 康宏可於通知或不通知擔保人的情況下出讓或轉讓康宏根據本擔保之下的所有或部份權利及責任。就任何該等出讓或轉讓而言, 康宏毋須取得擔保人的同意。
- 15 資料披露: 康宏可在其認為適當的情況下, 向任何實在的或潛在的承讓人、轉讓人、次級參與者或任何監管機構披露有關擔保人或任何人士的資料。

無隱含的寬免、累積的補救

- 16 即使康宏未有或延遲行使根據本擔保之下的任何權利或補救, 亦不會構成任何有關這方面的寬免, 而任何單獨或部份行使有關權利或補救的方式, 亦不會限制康宏日後行使或進一步行使有關其他的權利或補救。本擔保所述的權利及補救是累積的, 並且不會排除任何其他的權利或補救(不論是否由法律所規定)。

通訊

- 17 根據本擔保所作的通訊須由傳真、電傳或書面方式作出。擔保人及康宏各自最初的聯絡資料列出如上。
- 18 視作交付: 擔保人所作出的通訊或通知將會是不可撤銷的, 並且要直至康宏收到後方才生效。任何由康宏作出的通訊或通知將會不可質疑地視作為已由擔保人收妥。

部份不生效

- 19 本擔保的任何條文如根據任何司法區的法律是不合法、不能生效或無法強制執行的亦不會影響其在任何其他司法區法律之下的合法性、效力或可強制執行性, 亦不會影響其他條文的合法性、有效性及可執行性。

語言文字

- 20 擔保人確認其已收到及閱讀本擔保的中、英文版本並接納本擔保的條款。如本擔保中、英文版本有任何分歧, 概以英文版本為準。

個人資料

- 21 擔保人已看過及明白康宏的個人資料收集聲明，擔保人並同意康宏持有關於擔保人的個人資料將被用作該聲明內所列明的用途及轉交至該聲明內所述及的人士。一般而言，該聲明將適用於康宏處理擔保人的個人資料程序中。
- 22 擔保人明白其作為個人擔保人是有權向康宏的個人資料保護主任提出書面的請求去查閱被持有關於擔保人的個人資料及(若適用者)要求更改該些資料錯誤的地方。
- 23 擔保人明白擔保人的個人資料可被提供予信貸服務機構及於欠賬時給予收數公司。擔保人有權要求被通知那些資料的項目是一般性會被披露，及獲提供進一步資料藉此可向有關機構提出查閱及更正的要求。

適用法律

- 24 本擔保書及所有在其之下的權利、義務及責任將由中華人民共和國香港特別行政區的法律所約束和詮釋，並可依照該等法律被執行。擔保人同意接受中華人民共和國香港特別行政區法院的非獨佔性司法管轄權的約束。

Individual Guarantor 個人擔保人

Signed, Sealed and Delivered by the Guarantor: _____
擔保人簽署、蓋印及交付

Signed Date: _____
簽署日期

Corporate Guarantor 公司擔保人**Either**

The Common Seal of _____) Director 董事
(Name of Company)

the Guarantor, was affixed in the presence of _____)
_____) Director/Secretary 董事/秘書

a director and _____)
a director /the secretary) Witness 見證人
公司的法團印章於公司董事及董事/秘書面前蓋上。

Name of Witness: _____
見證人姓名

Signed Date: _____
簽署日期

Or

(if the Corporate Seal is unavailable) (若未能蓋上公司的法團印章) Director 董事

Executed as a Deed by _____)
(Name of Company)

the Guarantor acting by _____) Director/Secretary 董事/秘書

a director and _____)
director /the secretary in the presence of) Witness 見證人
此擔保書由擔保人的董事及董事/秘書代行以契據形式簽立

Name of Witness: _____
見證人姓名

Signed Date: _____
簽署日期

**Extract of Board Resolution
(Corporate Guarantor)**

Name of Customer: _____ (the "Customer")

Account No.: _____

Name of Guarantor: _____ (the "Guarantor")

At a Meeting of the Directors of the Guarantor duly convened and held at the address of:

_____ on the _____ day of _____, at which a quorum was present and acting throughout, the following Resolutions were duly passed by the Board of Directors:

1. That a guarantee be granted in the name of the Guarantor to Convoy Investment Services Limited ("Convoy) in relation to the provision by Convoy to the Customer of securities trading whether on margin or otherwise, margin facilities and other financial accommodation and related services pursuant to an agreement made between Convoy and the Customer (the "Agreement") comprising the Customer Information Form and the Cash Account Agreement attached thereto (as may be amended or supplemented by Convoy from time to time)(copy of which said Agreement is attached hereto); and
2. That the letter of guarantee in such form as completed and produced to this Meeting (the "letter of Guarantee") be and is hereby approved and the common seal of the Guarantor be affixed onto the Letter of Guarantee in the presence of any director and/or the Company Secretary or any authorized person of the Guarantor in accordance with the Memorandum and Articles of Association or other constitutional documents of the Guarantor and the signed original thereof be delivered to Convoy.

I, the undersigned, DO HEREBY CERTIFY that the foregoing is a true copy of the Resolutions which (a) were duly passed in accordance with the Memorandum and Articles of Association or other constitutional documents of the Guarantor, (b) have been duly recorded in the minutes book of the Guarantor, and (c) remain in full force and effect, no action having been taken to rescind or amend the said Resolutions.

Dated this _____ day of _____.

Duly Authorized for and on behalf of the Guarantor

Name: _____

Title: _____

Signed by the Authorized Person

**董事會決議核證摘錄
(公司名義擔保)**

客戶名稱: _____ ("客戶")

帳戶號碼: _____

擔保人名稱: _____ ("擔保人")

於 _____ 年 _____ 月 _____ 日, 擔保人董事局在 _____

召開董事局會議, 期間具備會議所需的合法人數, 並且正式通過以下決議案:

1. 決議通過就康宏証券投資服務有限公司("康宏")根據康宏與客戶所訂立而由客戶資料表及附於該表格的現金帳戶協議(可不時由康宏作出修改或增補)所組成的協議("協議")(現已夾附該協議的副本)向客戶提供的無論是保證金與否的證券交易、信貸便利及其他財務通融及有關的服務, 以擔保人的名義向康宏發出一份擔保書; 及
2. 決議通過在本會議出示的已填妥的擔保書("擔保書"), 及在擔保人的任何的董事及/或公司秘書或任何授權的代表人在場並按照擔保人的公司章程大綱及細則或其他組織文件的情況下, 將擔保人的印章蓋於擔保書上, 及在簽妥後將其正本交予康宏。

下述簽署人現證明前述為(a) 依照擔保人的公司章程大綱及細則或其他組織文件妥善地通過的決議的真實副本; (b) 已妥善地記錄在擔保人的會議記錄冊之上; 及(c) 繼續全面生效及並沒有採取任何行動以撤銷或修訂該等決議案。

日期: _____ 年 _____ 月 _____ 日

獲擔保人正式授權的代表

姓名: _____

職銜: _____

授權代表簽署
