

COUNTER INDEMNITY

擔保承諾函

To: HSBC Bank (Taiwan) Limited

致：滙豐（台灣）商業銀行股份有限公司

Date 日期：_____

Dear Sirs,
敬啟者：

1. IN CONSIDERATION OF your giving or agreeing to give, or arranging or agreeing to arrange for issuance upon my/our request now or at any time hereafter the Guarantee/Indemnity/Bond/Standby Letter of Credit or other undertaking or liability (actual or contingent, present or future) (each a “Guarantee”, which expression shall include any extension or modification thereto, whether or not any such extension or modification is made at the request or with the consent of the undersigned) to third party in respect of my/our present or future obligations or undertakings of any nature whatsoever,

I / We,

HEREBY UNCONDITIONALLY

AND IRREVOCABLY AGREE TO INDEMNIFY you (which expression shall include your successors and assigns) against all actions, claims, demands, liabilities, losses, damages, cost, charges and expenses of whatever nature which may result or which you may sustain, suffer or incur in connection with or arising in any way whatsoever out of the Guarantee, and TO PAY to you forthwith (or at your sole election to provide you with cash collateral forthwith to secure) all moneys and liabilities whatsoever which may from time to time be claimed or demanded from you, or which you shall pay or become liable to pay or sustain, suffer or incur under or by reason of or in connection with the Guarantee.

考量 貴行依本公司現在或將來之請求，為本公司之義務或承諾（已發生或可能發生及現在或將來）而為任何第三人利益所開立、承擔、安排或同意安排開立之銀行保函/擔保/保證金/擔保信用狀或其他承諾（下稱「本保函」，且應包括任何其延展或修正，不論該延展或修正之任何部份是否係經本公司請求或同意所作成），本公司（即[申請人名稱]）茲此不附條件且不可撤回地同意補償 貴行（包括 貴行的繼受人及受讓人）因本保函所導致、承受、遭受或招致或與本保函相關之所有訴訟、請求、要求、責任、損失、損害、成本、支出及費用，不論其性質為何，並立即向 貴行支付（或依 貴行全權選擇，立即向 貴行提供現金擔保品作為擔保）所有基於本保函、因本保函或與本保函相關而可能隨時向 貴行請求或要求，或 貴行應給付或有責任給付或承受、遭受或招致之金額及責任額。

2. YOU shall be paid for a commission in full in advance on the date of issue of the Guarantee and where the Guarantee is automatically renewed or extended, on each automatic renewal date or extension date (where applicable). Commission charged is based on the rate identified on the relevant facility letter, and calculated on the face value of the Guarantee and the member of months or part thereof from the date of issuance or effective date, whichever is earlier to the expiry date of the guarantee or claim period, whichever is later.

本公司同意於本保函簽發時、或本保函自動更新或延展日（如有適用）事先支付足額之手續費，手續費費率依相關額度信所載，並按本保函之面額且自簽發日或生效日（取其先者）至到期日或請求日（取其後者）之月份計算。

3. YOU are hereby irrevocably authorized and empowered by the undersigned, without making prior demand, to debit the accounts of the undersigned with any moneys from time to time payable under the Counter-Indemnity and, in the event of a debit balance resulting therefrom, to charge interest on such moneys to the date of repayment (notwithstanding any demand or any judgment obtained by you or any other matter whatsoever). In respect of the Guarantee denominated in New Taiwan Dollars, the interest payable hereunder shall be calculated at the rate determined by you at your sole discretion subject to the applicable limitation on the interest rate range as may be from time to time posted by the Central Bank of China or its duly authorized agency. In respect of the Guarantee denominated in any currency other than New Taiwan Dollars, the interest payable hereunder shall be calculated at the rate equal to your cost of funds plus a spread determined by you at your discretion subject to the maximum interest rate allowed under the laws. The interest payable hereunder shall be compounded in the event that the interest is not being paid punctually, and your rights to demand payment of interest hereunder shall in no event be impaired or affected.

本公司茲此不可撤回地授權 貴行，不需事前請求，得自本公司帳戶中隨時扣取依本擔保承諾函應給付之任何金額，且如本公司帳戶餘額不足時，得就前述金額收取至還款日為止之利息（不論 貴行有無為任何請求或取得任何判決等其他情事者亦同）。如本保函以新台幣計價時，貴行得全權決定前述利息應適用之利率，惟應受中央銀行或其合法授權機構隨時發布之利率範圍之限制。如本保函以新台幣以外之貨幣計價時，本公司應給付之利息應按 貴行的資金成本加上 貴行全權決定之利差且在法律許可之最高利率範圍內之利率計算。於利息未按時給付時，依前述應給付之利息應複利計算，且 貴行請求給付前述利息之權利於任何情況下皆不受到影響。

4. YOU are hereby further irrevocably authorized and empowered by the undersigned to pay immediately any amounts demanded on you or which you from time to time become liable to pay under or by reason of the Guarantee without any reference to or further authority from the undersigned and without being under any duty to enquire whether any claims or demands on you have been properly made, notwithstanding that the validity of any such claim or demand or the amount thereof shall be in dispute.

本公司茲此不可撤回地授權 貴行，立即給付任何向 貴行求償之金額或 貴行隨時依本保函或因本保函而負付款責任之金額，且 貴行無義務通知本公司或取得本公司授權，亦無義務諮詢本公司該等請求或要求是否適當，不論任何前述之請求的有效性或金額有無爭議者均同。

5. THE undersigned hereby agrees to accept any claim or demand on you as conclusive evidence that you were liable to pay and any payment made pursuant to such demand which purports to be in accordance with the Guarantee as binding upon the undersigned. Without prejudice to the forgoing, the undersigned agrees that you shall not be liable to verify any statements contained in any of the notices or other documents which may be served on the presented to you under the terms of the Guarantee and shall be entitled to accept the statements therein as conclusive evidence of the facts stated.

本公司茲同意接受任何向 貴行提出之求償為 貴行給付責任之終局證據，且同意依任何符合本保函規定之請求所為之給付對本公司有拘束力。在不影響前述規定之前提下，如 貴行收受任何依本保函提示之通知或文件，貴行並無查證該等通知或文件所載聲明之義務， 貴行有權接受該等聲明作為終局證據。

6. ANY step taken by you in good faith under or in connection with the Guarantee shall be binding on the undersigned and shall not place you under any liability to the undersigned.
任何 貴行按誠信原則依本保函所為之行為或與本保函相關之行為對本公司有拘束力，且 貴行不因此對本公司負有任何責任。
7. YOU may at any time without prior reference to the undersigned determine the Guarantee or reduce your liability thereunder.
毋須事前通知本公司， 貴行得隨時決定於本保函之責任或降低依本保函所負之責任。
8. (A) ALL sums payable under this Counter-Indemnity shall be paid to you in the Republic of China (“Taiwan”), or otherwise as you may from time to time direct, without any deduction or withholding for or on account of any present or future taxes, levies, imposts, duties or other charges, fees, withholdings, restrictions, or conditions, and without set-off or counterclaim or any deduction whatsoever.
(B) If the undersigned shall be required by law to make any such withholding or deduction or you shall be required by law to pay any such tax or charges, (i) the sum payable shall be increased as may be necessary so that after making all required withholdings or deductions for taxes or charges you will receive an amount equal to the sum you should have received had no such withholdings or deductions were made and (ii) the undersigned shall make such withholdings or deductions and pay the full amount withheld or deducted to the relevant government authorities in accordance with the applicable law. The undersigned agrees to hold you harmless from any and all liabilities with respect to or resulting from any delay in paying or failure to pay and/or reimburse such taxes or fees.
(C) IF the effect of any, or a change in any, law or regulation is to increase the cost to you of advancing, maintain or funding the facility or to reduce the effective return to you, the undersigned hereby agrees to make payment on demand of such amount as you consider necessary as compensation therefor.
(A) 所有依本擔保承諾函應給付之金額應於中華民國（下稱「台灣」）或於 貴行隨時指示之地點給付之，且不得扣減或扣繳任何現有或將來之稅負、徵收、稅捐、稅賦或其他收費、費用、扣繳、限制或條件，亦不得為抵銷、反請求或為其他任何形式之扣減。
(B) 如依法令要求，本公司應為前述任何扣繳或扣減，或依法律規定 貴行應給付任何前述稅負或費用，(i)必要時應增加應給付之總額，以使所有需扣繳或扣減之稅負或收費已給付完畢後，所收受之金額與 貴行在無需該扣繳或扣減情形下應收受之總額相等；且(ii)本公司應辦理前述扣繳或扣減並向相關政府機關依適用法規給付扣繳或扣繳之金額。本公司同意補償 貴行因任何遲延給付或未能給付及/或補償前述稅負或費用或與其相關之責任所受之損害。
(C) 如因法令變更導致 貴行因預付、維持或提供額度致成本提高或減少利益，本公司同意依 貴行之請求支付經 貴行合理認定之金額做為補償。
9. ALL payments hereunder shall be made, at your option, either in the currency in which payments made or liabilities incurred by you under the Guarantee are denominated, or in the currency commonly in use in any of the principal places of business of the undersigned, or in New Taiwan Dollars. The undersigned further agrees to obtain, or cause to be obtained the governmental approval required in the Republic of China (Taiwan), if any, for the performance under this Counter-Indemnity.
所有依本擔保承諾函所為之給付， 貴行得自本保函下 貴行應為之付款或所負責任的計價貨幣，或以本公司主要營業地使用之通用貨幣，或新台幣中選擇之。本公司並同意取得或促使取得於中華民國（台灣）履行本擔保承諾函所需之政府核准（如有）。
10. YOU shall have a lien on and be entitled to retain as security for the liabilities of the undersigned hereunder any cheques, drafts, bills, notes or negotiable or non-negotiable instruments and any stocks, shares or marketable or other securities and property of all kinds of the undersigned from time to time held by you, whether for safe custody or otherwise. The sum paid to you by the undersigned as a marginal deposit is a prepayment of the undersigned's liability to you under this Counter-Indemnity. Hence, the undersigned authorizes you to apply the sum of prepayment to discharge in whole or in part of the undersigned's liability to you under this Counter-Indemnity.
有關本公司於本擔保承諾函之責任， 貴行得就因保管或其他原因而隨時持有本公司所有之任何支票、匯票、票券、票據或可轉讓或不可轉讓票據及任何股票、股份或可流通證券或其他有價證券及各類之財產有留置權，並得以此之作為擔保品而繼續持有。本公司給付 貴行之保證金係本公司依本擔保承諾函所負之責任的預付。因此，本公司授權 貴行得將預付金額用以清償本公司依本擔保承諾函對 貴行所負之責任的全部或一部。
11. THE Counter-Indemnity shall not be in any way discharged or diminished, nor shall the liability of the undersigned be affected by reason of you from time to time, without knowledge or consent of the undersigned, varying, realizing or releasing any of the same, or granting any time, indulgence or concession or compounding with any person, or concurring in accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment, or determining, varying, reducing or extending the terms of the Guarantee, or by anything done or omitted which, but for this provision, might operate to exonerate the undersigned. Without prejudice to the generality of the foregoing, this Counter-Indemnity is and shall continue to remain valid and legally binding upon the undersigned notwithstanding that any Guarantee has, for whatever reason, become wholly or in part invalid or unenforceable against you.
本擔保承諾函不應以任何方式被免除或減少，本公司之責任亦不因 貴行未告知本公司或取得本公司同意而就本保函之變更、實現或解除責任，或給予寬限期、容忍或與任何人讓步或和解，或同意接受或變更任何承諾、安排或和解，或未為求償或執行付款，或決定、變更、減少或延展本保函之任何期限，或完成或未為任何如無本條規定可能減免本公司責任事項，而受到影響。在不影響前述規定之前提下，不論本保函是否一部或全部無效或無法執行，本擔保承諾函均應持續有效並對本公司有拘束力。
12. THE undersigned hereby waives all rights of subrogation and agrees not to claim any set off or counterclaim against any other person liable, or to claim or prove in competition with you in the event of the bankruptcy, liquidation, winding up or insolvency of any such person, or to have the benefit of or share in any guarantee, indemnity, or security now or hereafter held by you, until you have been fully indemnified against all matters referred to in paragraphs 1 and 2 hereof.
於 貴行依本擔保承諾函第 1 條及第 2 條獲全額補償前，本公司茲此拋棄所有代位權，並同意不向任何其他應負責任之人為抵銷或反請求，亦不於其破產、清算、清理或無清償能力時對為請求或與爭取優先受償，或取得或分享任何現在或嗣後 貴行持有之保證、擔保或擔保品之利益。
13. THIS Counter-Indemnity is in addition to any other guarantee, indemnity, assurance, pledge, lien, bill, note, mortgage, charge, debenture, or other security, right, power or remedy now or hereafter held by or available to you.
本擔保承諾函係附加於任何現在或嗣後由 貴行持有或可取得之其他保證、擔保、確保、質權、留置權、票券、票據、抵押權、擔保物權、發行債券或擔保品、權利、權力或救濟。
14. A demand shall, without prejudice to any other effective mode of making the same, be deemed to have been sufficiently made hereunder on the undersigned if served on the undersigned or its personal representatives personally (or, in the case of a limited company, on any one of the Directors or on the Secretary thereof personally), or left or sent by post to the undersigned, or its personal representative at its or his/her usual or last known place of abode or business (or, in the case of a limited company, at its registered office), and shall be assumed to have reached the addressee within 24 hours of posting, and in proving such service it shall be sufficient to prove that the demand was properly addressed and posted.
在不損害任何其他有效請求形式之前提下，若請求係當面送達予本公司或本公司之代表人（或於本公司為有限公司時，當面送達本公司之任何一名董事或公司秘書）或留置或以郵件寄送予本公司人或本公司代表人之通常或最後所知居所或營業場所（或於其為有限公司時，其登記辦公室），則該請求應被視為向本公司有效為之，且應推定為於投郵後 24 小時已送達收件人，如該請求係適切載明地址並投郵，應視為已證明為前述送達。

15. WHERE this Counter-Indemnity is signed by more than one person the expression "the undersigned" shall be construed as referring to each such person individually and to any one or more of such persons collectively, and the agreements, undertaking, obligations and liabilities of the undersigned herein contained are joint and several and shall be construed accordingly, and none of the undersigned shall be entitled to any rights or remedies, legal or equitable, of a surety as regards the indebtedness, obligations or liabilities of any others of the undersigned. 如本擔保承諾函係由超過一家公司以上簽署時，「簽署公司」應解釋為指稱個別簽署之公司及對任一或所有簽署公司之合稱，且本擔保承諾函所包含之簽署公司之同意、承諾、義務及責任係為連帶，且簽署公司皆無權就任何其他簽署公司之債務、義務或責任之擔保取得任何法律上或衡平法下之權利或救濟。
16. EACH of the undersigned agrees and consents to be bound by this Counter-Indemnity, notwithstanding that any others who were intended to sign or to be bound by these presents may not do so or be effectually bound hereby, and notwithstanding that this Counter-Indemnity may be invalid or unenforceable against any one or more of the undersigned, whether or not the deficiency is known to you. 縱任何其他有意簽署或有意受拘束之人未為簽署或不受其有效之拘束，或本擔保承諾函發生無效或不具執行力之情形而無法向其中一家或數家簽署公司執行，不論貴行是否知悉前述瑕疵，本公司均同意本擔保承諾函對其有拘束力。
17. YOU shall be at liberty to release any one or more of the undersigned from this Counter-Indemnity, to compound with or otherwise vary or agree to vary the liability of, or to grant time or other indulgence to, or make other arrangements with, any one or more of the undersigned, without prejudicing or affecting your rights, powers and remedies against any others of the undersigned. 貴行有權隨時解除、結合或變更或同意變更其中一家或數家簽署公司之責任，或給予其中一家或數家簽署公司時間或其他寬限或與其為其他安排，該等行為將不損及或影響貴行對任何其他簽署公司所享有之權利、權力及救濟。
18. THE undersigned agrees that its liability to you shall remain outstanding until the later of (i) the expiry of one calendar month after the return to you for cancellation by the beneficiary of the Guarantee, or in the event that the Guarantee has been destroyed or lost or if otherwise not available for return to you, until the expiry of one calendar month after the receipt of written notice from the beneficiary of the Guarantee that you are released from all liability thereunder, or (ii) until the expiry of one calendar month after the expiration of the statutes of limitation for the claims made under the Guarantee pursuant to the applicable laws. This paragraph shall not prejudice any liability of the undersigned arising hereunder prior to the date of cancellation of the Guarantee or the date of receipt of the said written notice (as the case may be). 本公司同意，本公司對貴行所負之責任，於下述日期前(孰後)應視為持續存在：於(i)受益人因本保函屆期失效而退還貴行本保函後的一個月內，或本保函因滅失、遺失或因其他事由未能退還予貴行且貴行收到受益人書面通知解除貴行就本保函所負所有責任後一個月內，或(ii)受益人依應適用法律得向貴行依本保函規定主張之權利其時效消滅後的一個月內。本條不影響本公司依本擔保承諾函於本保函解除日之前或收到前述書面通知之日前(視情況而定)所負之責任。
19. This Counter-Indemnity shall remain valid and binding for all purposes notwithstanding any change by amalgamation, consolidation or otherwise which may be made in the constitution of you by which the business of you may from time to time be carried on and shall be available to you carrying on that business for the time being. 縱有任何併購或合併或其他的組織變更導致貴行的業務性質及當時得進行之業務有所變動，本擔保承諾函應持續全面有效並有拘束力。
20. WHERE this Counter-Indemnity is signed on behalf of a firm, all agreements, undertakings, obligations and liabilities shall be binding both on the present partners and on the persons from time to time carrying on business in the name of such firm or under the name in which the business of such firm may from time to time be continued. 於本擔保承諾函係以事務所名義簽署時，所有同意、承諾、義務及責任應對其目前之合夥人及其他隱名或顯名為該事務業務執行業務之人有拘束力。
21. THIS Counter-Indemnity shall be governed by and construed in all respects in accordance with the laws of Republic of China. (Taiwan). 本擔保承諾函以中華民國(台灣)法律為準據法。
22. THE undersigned hereby irrevocably submits to the non-exclusive jurisdiction of the Taipei District Court of Taiwan as the court of first instance, but it shall be open to you to enforce this Counter-Indemnity in the courts of any other competent jurisdiction. 本公司茲此不可撤回地接受台灣台北地方法院為非專屬之第一審管轄法院，惟貴行得於任何其他適當之法院執行本擔保承諾函。
23. IF any one or more provisions of this Counter-Indemnity, or any part thereof, shall be declared or adjudged to be illegal, invalid or unenforceable under any applicable law, such illegality, invalidity or unenforceability shall not vitiate any other provisions of this Counter-Indemnity, which shall remain in full force, validity and effect. 若本擔保承諾函之任何條款或其任何部份依任何適用法律應被宣告為或判為不合法、無效或不可執行時，該不合法、無效或不可執行不損及本擔保承諾函之任何其他條款，且其他條款仍應有完整效力。
24. ANYTHING not provided herein shall be subject to the terms and conditions of the General Loan, Export/Import Financing, Overdraft Facilities and Securities Agreement and the relevant facility letter between the Bank and the undersigned Applicant dated 任何未於本擔保承諾函規定之事項，應依貴行與本公司簽訂之綜合貸款、進出口融資、透支款項與擔保約定書及相關額度信之條款及條件規範。
25. If the undersigned fails to repay the loan facility in connection with the Guarantee to you when due, the undersigned agrees to pay a penalty equal to TWD300 or such other lower amount on a daily basis. 若本公司未能於到期時向貴行返還與本保函相關之貸款，本公司同意每日支付新臺幣 300 元或其他較低金額之懲罰性違約金。
26. Sanction 制裁
The undersigned makes the following representations:
(a) neither the undersigned nor any of its subsidiaries, directors, officers, employees, agents, or affiliates is an individual or entity ("Person") that is, or is owned or controlled by Persons that are: (i) the subject of any sanctions issued, administered or enforced by the US Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the US Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury, the Hong Kong Monetary Authority or the Ministry of Justice of Republic of China (collectively, "Sanctions"), or (ii) located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions; and, (b) any required import or export licenses applicable to each Guarantee/ Indemnity/Bond/Standby Letter of Credit have been obtained and certifies its compliance in all material respects with foreign and domestic laws and regulations pertaining to each jurisdiction in which it operates and to each Guarantee/Indemnity/Bond/Standby Letter of Credit the undersigned instructs you to issue and the subject matter of such Guarantee/Indemnity/Bond/Standby Letter of Credit including, if applicable, the shipment and financing of the goods described in the Guarantee/Indemnity/Standby Letter of Credit. The undersigned acknowledges and agrees that:
(a) you, HSBC Holdings plc, its affiliates and subsidiaries (together "HSBC Group"), and HSBC Group's service providers are required to act in accordance with the laws and regulations of various jurisdictions, including those which relate to Sanctions and the prevention of money laundering, terrorist financing, bribery, corruption and tax evasion; (b) you may take, and may instruct other members of the HSBC Group to take, to the extent you or such member is legally permitted to do so under the laws of the relevant jurisdiction, any action (a "Compliance Action") that you or any other member, in its sole discretion, considers appropriate to act in accordance with Sanctions or

domestic and foreign laws and regulations. Such Compliance Action may include but is not limited to the interception and investigation of any payment, communication or instruction; the making of further enquiries as to whether a person or entity is subject to any Sanctions; and the refusal to issue, pay, renew, extend or transfer a Letter of Credit or to process any transaction or instruction that does not conform with Sanctions; and (c) neither you nor any member of HSBC Group will be liable for any loss, damage, delay, or a failure of you to perform your duties under the Guarantee/Indemnity/Bond/Standby Letter of Credit arising out of or relating to any Compliance Action taken by you, your service providers, or any HSBC Group member in its sole discretion. (d) the undersigned will indemnify you for all losses, costs, damages, claims, actions, suits, demands and liabilities (together, the "Losses") suffered or incurred by or brought against you arising out of or relating to any Compliance Action, unless such Losses are solely and directly caused by the gross negligence or wilful misconduct of you.

本公司為以下聲明：

(a)本公司、其子公司、及其董事、經理人、受僱人、代理人或關係企業等個人或團體(下稱「關係人」)，(i)均非屬美國財政部海外資產控制辦公室(OFAC)、美國國務院(Department of State)、聯合國安全理事會、歐盟、英國財政部、香港金融管理局或中華民國法務部所發布、監管或執行之經濟制裁的對象或主體(下稱「受經濟制裁之人」)，或為受經濟制裁之人擁有或控制之人士或團體，(ii)亦未座落、組織設立或居住於受經濟制裁，或其政府受經濟制裁之國家或領域，及(b)已取得任一保證/擔保/保證函/擔保信用狀所需的進口/出口相關許可及核准，並遵守所有應適用之境外或境內、其營業所在地、任一保證/擔保/保證函/擔保信用狀開立銀行及保證/擔保/保證函/擔保信用狀相關事項(包含與任一保證/擔保/保證函/擔保信用狀所載貨物之運送或提供融資有關等)應適用之法律及規定。本公司認知並同意：(a)貴行、滙豐控股有限公司、其關係企業及子公司(以下合稱「滙豐集團」)及滙豐集團之服務提供者，應遵守各管轄領域之法律及規定，包括但不限於制裁與防制洗錢、恐怖分子融資、賄賂、貪腐及逃稅等相關法令，(b)貴行得採取且貴行得指示任一滙豐集團成員採取任何依其獨立判斷認為適當且符合其所屬管轄領域法律之行動(以下簡稱「金融犯罪風險管理活動」)，以遵守與制裁相關之境外或境內法律及規定。金融犯罪風險管理活動包括但不限於：截取及調查任何付款、通訊或指示、詢問個人或機構是否受制裁機制拘束、拒絕為其簽發、付款、更新、展延或轉讓信用狀或拒絕執行任何不符制裁機制的交易或指示，及(c)本公司應賠償貴行因金融犯罪風險管理活動所引起或與金融犯罪管理活動有關所致之任何損失、成本、損害、訴求、行動、訴訟、請求及責任(以下合稱「損失」)，惟因貴行之故意或重大過失單獨且直接致生之損失不在此限。

27. This Counter Indemnity is in both English and Chinese languages. In case there is any discrepancy between the English version and Chinese version, the English version should prevail.

本擔保承諾函係同時以中、英文作成，中、英文內容有歧異時，應以英文為準。

Yours faithfully,
誠摯地，

S.V.

(Chop and) Signature of Applicant
申請人簽名(及用印)