

GENERAL FACILITY AGREEMENT

[VNM]
CONFIDENTIAL

This General Facility Agreement (the “**Agreement**”) is made on [] by and between:

(A) [], a [limited liability company/joint stock company] duly organised and existing under the laws of Vietnam with head office at [], Vietnam, enterprise code no. [].

Account No. []

Represented by: []

(the “**Company**”)

AND

(B) **HSBC BANK (VIETNAM) LTD.**, a wholly foreign owned bank duly licensed and operating under the laws of Vietnam, with office at 235 Dong Khoi Street, District 01, Ho Chi Minh City, Vietnam, enterprise code no. 0301232798

Represented by: []

(HSBC Bank (Vietnam) Ltd. and its branches and transaction offices are collectively referred to as the “**Bank**”)

1. FACILITY EXTENSION

Subject to the terms and conditions stipulated in this Agreement, the Bank agrees to make available the following Facility to the Company.

FACILITIES

TOTAL FACILITY LIMIT: []

COMBINED LIMIT

**USD
or in VND equivalent**

Total utilized Facility under all sub-limits shall not at any time exceed the above mentioned combined limit.

[Provision on interest rate

Interest rates applicable on outstanding balance of each drawdown will be [USD/VND/ other currencies Base Lending Rate (of selected tenor as mentioned in the relevant drawdown notice (the “**Drawdown Notice**”))] [USD [3] [6] [12]-month LIBOR] plus a margin of UP TO xxx% p.a (the “**Margin**”) as decided by the Bank and payable in arrears by debiting from the Company’s relevant account with the Bank in accordance with instructions in the Drawdown Notice.

The specific interest rate of a Loan will be confirmed in form of a Loan Drawdown Advice/Loan Customer Advice (or similar document) (the “**Loan Advice**”) to be issued by the Bank to the Company immediately after the disbursement of such loan and after each interest rate review

date if applicable. The interest rate of a Loan of a certain interest rate fixing period will be same with that of the immediately preceding interest rate fixing period if there is no Loan Advice issued for such interest rate fixing period. If there is any inconsistency between the Loan Advice and the Drawdown Notice regarding the applicable interest rate, the Loan Advice shall prevail.

The interest shall be calculated on a daily basis as from and including the day the Bank disburses the drawdown amount and excluding the day the loan is repaid, regardless whether or not such amount is successfully transferred to the beneficiary.]

[Provision on definition of BLR

For the purpose of clause 1, USD/VND/other currencies Base Lending Rate (“BLR”) means the rate per annum determined by the Bank reflecting cost of funding incurred by the Bank in respect of raising funds denominated in USD/VND/other currencies for the purpose of extending credit on the utilization date.

The specific interest rate confirmed in the Loan Advice [and/or OD Statement] by the Bank is calculated on the basis of BLR for a year of three hundred and sixty (360) days. BLR calculated on the basis of a year of three hundred and sixty (360) days and a year of three hundred and sixty five (365) days will be published by the Bank on its public website or other means that the Bank thinks fit.]

2. TERMS AND CONDITIONS

2.1 Purpose

The Facility purpose is as indicated in each Facility mentioned hereunder or the relevant Drawdown Notice.

2.2 Availability

The Bank shall, at its sole discretion, have the right to cancel, terminate or suspend, or determine whether or not to permit drawings in relation to the Facility. The Facility is subject to the Bank’s overriding right to withdraw them from the Company and to require full repayment on demand, and to call for cash cover on demand for prospective and contingent liabilities. For the avoidance of doubt, the Company’s compliance with this Agreement will not in any way prejudice or affect the Bank’s rights prescribed under this paragraph.

The availability of Facility will be subject to the Bank’s review at any time and at the Bank’s sole discretion, but in any event at least once a year.

Upon the Bank’s review, the Facility may either continue to be made available in accordance with terms and conditions of this Agreement, in which case the Bank may or may not give notice to the Company, or be subject to changes, in which case the Bank shall obtain the Company’s written consent on such changes.

2.3 Utilization

2.3.1 The following provisions apply to utilization of short-term loan /trade loan facility and/or trade facility:

(a) The Company may utilise the Facility by delivery to the Bank of the relevant Drawdown Notice or application letter (in the Bank’s prescribed format which may be

--	--

updated from time to time) as the case may be at least 02 Business Day before the utilisation date of the intended utilisation of the Facility.

- (b) The tenor of the utilised loan may be shorter than that prescribed under this Agreement. In such a case, on or before the relevant maturity date, the Company may request the Bank to extend the tenor of the utilised loan to another period for a part or the entire outstanding principal for multiple times provided that:
 - (i) The aggregate tenor of the utilised loan will not exceed the relevant maximum prescribed tenor from the drawdown date and must not exceed one business operation cycle of the Company; and
 - (ii) At the time of Facility granting and the extension request assessment, the Company does not have bad debts at other credit institutions and/or foreign bank branches. The Company agrees to immediately repay the utilised loan upon the Bank's demand if the Company has bad debts at other credit institutions and/or foreign bank branches during the extension period.

The Bank may at its sole discretion accept or reject the mentioned extension. For avoidance of doubt, the extension request under this clause is not subject to debt classification in accordance with the prevailing regulations. The Company may request for tenor extension in accordance with this clause with respect to all loans having been utilised before, on or after the date of this [Agreement] [Amendment] if any.

- (c) The Bank may consider approving the loan tenor being shorter than that requested by the Company in the Drawdown Notice. The Bank shall confirm the approved loan tenor in the Loan Advice. The Company agrees that the loan tenor so confirmed by the Bank shall be binding upon the Company.

2.3.2 The following provisions apply to utilization of overdraft facility:

- (a) The outstanding principal amount under the overdraft facility may not exceed the overdraft facility limit at any time.
- (b) Unless otherwise agreed by the Bank, the Company shall utilize the overdraft facility by giving the Bank payment instructions.
- (c) If the overdraft facility is utilized in foreign currency, the Company shall submit to the Bank all relevant supporting documents evidencing the facility purpose satisfactory to the Bank at least two Business Days prior to the utilization day.
- (d) If the overdraft facility is utilized in VND, the Company shall submit to the Bank all relevant supporting documents evidencing the facility purpose satisfactory to the Bank [within five Business Days after the Bank disburses the overdraft facility for any transaction resulting in an increased day-end overdraft net position by VND250 million or above] [at least two Business Days prior to the utilization day].
- (e) The overdraft facility will be disbursed to the beneficiary's account directly or to the Company's account with another bank, in which case the Company undertakes to submit to the Bank supporting documents evidencing the transfer of the amount so disbursed to the relevant beneficiary within 10 days from the disbursement day.

--	--

- 2.3.3 From time to time, if the Company submits to the Bank the Drawdown Notice or application letter providing:
- (i) the requested Facility amount which once granted would result in the utilized limit of such Facility exceeding the relevant prescribed limit *provided that* the total utilized limit shall always be within the Total Facility Limit;
 - (ii) the requested Facility tenor which is longer than the relevant maximum prescribed tenor; or
 - (iii) the requested Facility purpose which is different from that prescribed in clause 2 hereabove.

the Bank may at its sole discretion accept or reject the mentioned utilization of the Facility. The fact that the Facility is so granted will constitute a deemed consent by the Bank to the said Drawdown Notice or application letter. Details of each Facility to be utilized (including but not limited to loan amount/ tenor/ currency, interest rate and loan purpose) will be specified in each Drawdown Notice or application letter.

- 2.3.4 Unless otherwise provided in this Agreement and subject to the terms and conditions herein, any Facility utilized but all obligations committed by the Company to the Bank thereunder have been completed or discharged will be available for re-utilization immediately.
- 2.3.5 Utilization of Facility in foreign currency will be subject to prevailing foreign exchange regulations at the time of utilization. If the loan is utilized in foreign currency, the Company undertakes to have sufficient foreign currency to repay the corresponding indebtedness (including principal and interest) in accordance with prevailing regulations.

2.4 Payments

- (a) All principal, interest, or fee and charges (if any) (“**Amount Payable**”) shall be automatically debited from the Company’s relevant account with the Bank at its due date, without deduction for or on account of any tax.
- (b) If the credit balance of the Company’s relevant account is not sufficient for payment of the principal due (whether at stated maturity, by acceleration or otherwise), an overdue interest will be charged at 150% (or a lower rate as determined and informed by the Bank to the Company from time to time) of the prevailing interest rate at the time of overdue on any overdue principal amount payable to the Bank as provided for hereunder, calculating from the time such amount becomes overdue until the date of full payment. The Bank shall notify the Company of the transfer of the principal to overdue debts in accordance with the Bank’s prescribed format.
- (c) Repayment before the due date of the loan (if any) may be accepted subject to a prepayment fee at the Bank’s own discretion.
- (d) Each payment by the Company to the Bank will be made in the currency of the liability to which such payment relates.
- (e) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day. The term “month” used in this Agreement 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:

- (i) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day; and
- (ii) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last calendar day in that calendar month if such last calendar day is a Business Day, or if not, on the next Business Day of the following calendar month.

This rule will apply only to the last Month of any period.

- (f) In case of standby letters of credits/guarantee and/or letters of credit facilities, the Company hereby authorizes the Bank to accept and pay any amount demanded or claimed in accordance with such standby letters of credits/guarantee and/or the letters of credit. The Company agrees that the Bank may debit the Company's account(s) at the Bank to effect the aforesaid payment without further obtaining any consent or authorization from the Company. If such debit by the Bank results in a negative account balance, the Bank will provide the Company with a forced loan with its period, interest rate and currency to be determined by the Bank until the Company makes full payment and advised to the Company in form of the Loan Advice immediately after such forced loan.
- (g) In case of overdraft facility, without prejudice to Clause 2.2 and subject to Clause 2.4(h), the Bank shall automatically debit the principal under the overdraft facility to the relevant Company's overdraft facility account upon the available positive credit balance on such account. The Company agrees that at least once every six consecutive months, the utilized overdraft facility must be fully repaid.
- (h) Unless instructed otherwise by the Company, if the Company maintains the outstanding overdraft facility concurrently with the short-term loan facility and/or trade loan facility under this Agreement and/or other medium-long term loans under other agreements and they are due on the same day, the Company agrees that the Bank will collect principal of these facilities on the relevant payment days in accordance with the following priority order:
 - (i) short-term loan facility, medium-long term loans;
 - (ii) trade facility; and
 - (iii) overdraft facility.

The repayment source for short-medium-long term loans and/or trade loans is from either (i) credit balance of the Company's relevant accounts or (ii) incoming funds (excluding loan disbursement funds and funds from foreign exchange conversion for other purposes) credited to the Company's relevant accounts before 4.30 pm of the repayment date.

- (i) If the Bank receives a payment insufficient to discharge all the obligations then due and payable under this Agreement, the Bank shall, to the extent permitted by applicable Vietnamese law, determine the order of payment towards the obligations and notify the Company of the same.
- (j) The restructuring of the Facility repayment tenor will be considered by the Bank in accordance with prevailing regulations if so requested by the Company.



- (k) The Bank will proceed with debt classification in accordance with prevailing regulations if the Company fails to make repayment to the Bank as provided hereunder.

2.5 Security

[]

2.6 Perfection of Security

- (a) The Company agrees to enter into a separate service agreement with a service provider appointed by the Bank (the “**Service Provider**”) who will assist the Company in completing the procedure for perfection of security (including but not limited to notarisation and registration of security). The Company will pay to the Service Provider all costs and expenses associated with any notarization, if required, and perfection of security regardless of its successfulness.
- (b) The Company shall (at its own cost) take any action and execute any document which is required by the Service Provider and/or the Bank so that executed security document (the “**Security Document**”) is effective and perfected in favour of the Bank (or any successor of the Bank).
- (c) The Facility shall not be available for utilization unless, in the Bank's opinion, the security has been perfected and the evidence of which and relevant original title documents in respect of secured assets are delivered to the Bank save as approved otherwise by the Bank at its sole discretion.
- (d) The Company further agrees that the Service Provider shall be responsible to pay compensation for losses and damages (i) caused by the loss or damage of title documents if and when the title documents are provided to the Service Provider for the purpose of any notarization, if required, and perfection of security or (ii) due to the negligent and/or wilful acts or omissions of the Service Provider.
- (e) If any of the Security Documents shall become or be declared wholly or partly as illegal, invalid or unenforceable, the Company agree (at its own cost) to take all necessary actions required by the Bank and to the Bank's satisfaction to rectify the situation.

2.7 Conditions Precedent

As a precondition for the utilization of Facility under the Agreement:

- (a) the Bank **may** require the Company to deliver some or all of the following:
 - i. evidence(s) satisfactory to the Bank that requirements under clauses 2.5 and 2.6(c) have been met;
 - ii. the Bank’s standard form Trade Financing General Agreement shall have been duly signed and delivered by the Company;
 - iii. the Blanket Counter-Indemnity in the Bank’s standard form shall have been duly signed and delivered by the Company;



- iv. HSBC Business Credit Card Employer’s Participation Agreement and HSBC Business Credit Card - Cardholder Nomination Form shall have been duly signed and delivered by the Company; and/or
 - v. Drawdown Notice, Guarantee Application and/or similar document requesting utilization of the Facilities.
- (b) the Company may need to satisfy other conditions as the Bank may deem necessary in connection with the offer of any Facility.

2.8 Representations and Warranties

The Company makes the following representations and warranties to the Bank. The representations and warranties set out in this clause shall be deemed to be repeated on the utilization or each day the Amount Payable remains outstanding. The Company must notify the Bank if at any time these representations cease to be correct.

- (a) *Status and Power*: The Company is validly constituted and existing under the laws of the jurisdiction of its incorporation and has power and capacity to utilize the Facilities extended by the Bank under this Agreement, to incur obligations provided in this Agreement, to enter into and perform its obligations under this Agreement, to own its properties, and to carry on its business as now conducted or contemplated. The Company has taken all necessary actions to authorise the execution, delivery and performance of this Agreement and the other documents contemplated hereunder (the “Transaction Documents”).
- (b) *Documents Binding*: The terms of this Agreement and the other Transaction Documents to which the Company is a party constitute legal, valid and binding obligations enforceable against it.
- (c) *No Conflict*: The entry into and performance by the Company of, and the transactions contemplated by, the Transaction Documents to which it is or will be a party do not and will not conflict with (i) any law or regulation applicable to it [(including without limitation (i) those in force in the People’s Republic of China and Vietnam and (ii) those relating to the economic sanctions, anti-bribery / corruption, anti-money laundering and anti-terrorist financing)], (ii) its constitutional documents, or (iii) any agreement or instrument which is binding upon it or any of its assets.
- (d) *No Material Adverse Effect*: To the Company’s knowledge, there are no litigation, arbitration, dispute or other events which are current, threatened or pending against the Company and which might have a material adverse effect on (i) its ability to perform its obligations under the Transaction Documents, (ii) the business, operations, property, condition (financial or otherwise) or prospects of the Company or (iii) the validity or enforceability of the Transaction Documents or the rights or remedies of the Bank under such documents (the “**Material Adverse Effect**”).
- (e) *No Dissolution*: The Company has not taken any corporate or governmental action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against it for its winding-up, dissolution, administration or re-organization (whether by voluntary arrangement, scheme of arrangement or otherwise) or for the appointment of a receiver, administrator, administrative receiver, conservator, custodian, trustee or similar officer of it or of any or all of its assets or revenues.

--	--

- (f) *No Misinformation*: Information and documents provided by the Company the Bank are true, correct, complete and genuine and they are not misleading by omission or otherwise.
- (g) *Compliance with laws*: The Company has complied, and is in compliance, with all Vietnamese law and administrative documents and its constitutional documents.
- (h) *Sanction*: None of the Company, any of its Subsidiaries, any director or officer or any employee, agent, or affiliate of the Company or any of its Subsidiaries is an individual or entity (“**Person**”) that is, or is owned or controlled by Persons that are, (i) the subject of any sanctions administered or enforced by the US Department of the Treasury’s Office of Foreign Assets Control, the US Department of State, the United Nations Security Council, the European Union, Her Majesty’s Treasury, the Hong Kong Monetary Authority, the State Bank of Vietnam or any other relevant sanctions authorities (collectively, “**Sanctions**”), or (ii) located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions, including, without limitation, currently, the Crimea region, Cuba, Iran, North Korea, Sudan and Syria.
- (i) *Anti-bribery and corruption*: None of the Company, nor to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of any applicable anti-bribery law, including but not limited to, the United Kingdom Bribery Act 2010 (the “**UK Bribery Act**”) and the U.S. Foreign Corrupt Practices Act of 1977 (the “**FCPA**”). Furthermore, the Company and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance with the UK Bribery Act, the FCPA and similar laws, rules or regulations and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

2.9 Covenants

The Company agrees with the Bank on the following covenants:

- (a) *Use of the Facilities*: The Company shall use the Facility for the proper purpose as specified herein and in the Drawdown Notice or application letter (if applicable).
- (b) *Compliance with Laws and Licences*: The Company shall comply with all applicable laws, regulations or other legal requirements and obtain, renew and comply with the terms of all licenses, permits, consents or other authorisations held in respect of the Company’s business.
- (c) *Information*: As soon as possible but no later than four (4) months after the end of each financial year, the Company shall deliver its audited (consolidated) financial statements to the Bank and such other information as the Bank may reasonably request from time to time for the purposes of checking and supervision of the Facility purpose, understanding the Company’s financial condition and business and assessing the Company’s ability to meet its obligations under this Agreement. The Company shall supply to the Bank, promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the Company and which might, if adversely determined, have a Material Adverse Effect.
- (d) *No Change in Business*: The Company shall procure that no substantial change is made

--	--

to the general nature of the business of the Company from that carried on at the date of this Agreement.

- (e) *Reports on Secured Assets being Stocks and/or Receivables:* As soon as possible but not later than 30 days after end of each quarter, the Company shall deliver to the Bank a report on status of the mortgaged stocks and/or receivables to the Bank's satisfactory.
- (f) *Re-valuation of Secured Assets subject to Valuation as required by the Bank:* As soon as requested by the Bank, the Company shall provide the Bank with the re-valuation report of the Secured Assets.
- (g) *Sanction:* The Company shall not, directly or indirectly, use the proceeds of the Facility, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, (i) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions or (ii) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the Facility, whether as underwriter, advisor, investor or otherwise).
- (h) *Anti-bribery and corruption:* No part of the proceeds of the Facility will be used, directly or indirectly, for any payments that could constitute a violation of any applicable anti-bribery law.

2.10 Set off

In addition to rights provided under Vietnamese law, for the purpose of paying the Amount Payable when they are due, the Company agrees that the Bank is entitled, without notice to the Company or to any other individual/organisation, to set off (i) any balance standing to the credit in any and all accounts of the Company with the Bank and (ii) any other indebtedness owing by the Bank to the Company, against the Amount Payable regardless of the place of payment, booking branch or currency of either obligation.

Any deposit which the Bank elects to use to effect a set off pursuant to this clause shall be deemed to have matured and become due and payable (to the extent required to effect such set off) upon the due date of the Amount Payable in respect of which the set off is to be effected. If the Amount Payable are in a different currency from such deposit, the Bank shall have the right to use the amount of the currency of that deposit for the purchase of the currency of the Amount Payable to the extent necessary to pay the Amount Payable at a market rate of exchange in its usual course of business at the relevant time.

2.11 Costs and Expenses

The Company will pay to the Bank on demand and on a full indemnity basis the amount of all costs, fees and expenses (including but not limited to any legal, security and valuation costs), and other charges and registration fees incurred or charged by the Bank (acting reasonably) in connection with the negotiation, preparation, and execution of the Transaction Documents and the investigation, enforcement of or the preservation of any rights under the Transaction Documents and any proceedings instituted by or against the Bank as a consequence of taking or holding the Transaction Documents or enforcing these rights.

The Bank will, with prior notice to the Company, debit these costs to the Company's account with the Bank denominated in the currency in which such costs and expenses are denominated and agreed for this purpose (or, in the absence of such agreement, such account (whether in the

--	--

relevant currency or not and with such currency conversions as may be necessary at the Bank's then prevailing spot rate of exchange) of the Company as the Bank shall select for this purpose).

2.12 Assignment

Unless expressly agreed otherwise by both parties and subject to the laws of Vietnam, the Bank may transfer all or any part of the Bank's rights, benefits and/or obligations under this Agreement or in respect of any of the facilities to any person by delivering to the Company a notice in writing (the "**Notification Letter**"). The Company shall sign to acknowledge and agree to the content of this Notification Letter and return to the Bank. If no acknowledgement has been received by the Bank within 30 days from the date of the Notification Letter, the Company agrees that it shall be deemed that the Company has accepted the terms and conditions of such Notification Letter.

2.13 Notice

Save for Drawdown Notice, application letter, supporting documents and any other instructions from the Company in relation to utilization of Facility, any notice or communication under this Agreement will be in writing in English and/or Vietnamese and will be hand delivered or sent by email, post or facsimile to the address registered with the Bank. Proof of posting or dispatch of any notice or communication will be deemed to be proof of receipt:

- (i) in the case of a letter sent by post, when it is left at the relevant address or three (3) Business Days after having been posted;
- (ii) in the case of a facsimile, when transmission is confirmed by an activity report indicating the transmission was transmitted error free and legibly;
- (iii) in case of an email, when transmission was transmitted failure free; and
- (iv) in the case of hand deliver to the Company or employees of the Company, when it is acknowledged.

Any notice or debt reminder can be in forms of telephoning, sending a message to the Company or authorized person or operator of the Company.

2.14 Credit Agreement Constitution

The Bank and the Company agree that each Drawdown Notice and Loan Advice [and/or OD Statement] contemplated hereunder together with this Agreement will constitute a credit agreement between the Bank and the Company.

2.15 Governing Law and Jurisdiction

The Facility is made available subject to the laws of Vietnam including but not limited to foreign exchange regulations. Disputes arising out of or in connection with this Agreement shall be resolved by the competent court of Vietnam where the head office of the Bank is located or the other competent court of Vietnam in the Bank's sole option in accordance with applicable civil procedural law.

2.16 Language

[This Agreement is made into [2 (two) originals in English/2 (two) originals in Vietnamese].]



[This Agreement is made into [2 (two) originals in English and 2 (two) originals in Vietnamese] [() originals in English and () originals in Vietnamese] of equal value. In case of inconsistency between the English and Vietnamese version, [English/Vietnamese] version shall prevail to the extent of such inconsistency.]

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

For and on behalf of **HSBC BANK (VIETNAM) LTD.**

Name:
Title:

For and on behalf of the **Company**

The Company acknowledges that the Company has been provided by the Bank with necessary information in relation to this Agreement before executing it.

Name:
Title:

--	--