

**DATED 18 NOVEMBER 2022**

**COMPANY**

**DEXIN CHINA HOLDINGS COMPANY LIMITED**  
(德信中國控股有限公司)

**AND**

**SUBSIDIARY GUARANTORS**

**TAK YICK INTERNATIONAL LIMITED (德益國際有限公司)**

**DAXIN INTERNATIONAL LIMITED (達信國際有限公司)**

**DEXIN HOLDING (HONG KONG) LIMITED (德信控股(香港)有限公司)**

**YINXIN HOLDING (HONG KONG) LIMITED (銀鑫控股(香港)有限公司)**

**AND**

**CERTAIN NOTEHOLDERS**

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**RESTRUCTURING SUPPORT AGREEMENT**

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**THIS RESTRUCTURING SUPPORT AGREEMENT** (the “**Agreement**”) is made as a deed and dated 18 November 2022.

**THE PARTIES:**

- (1) **DEXIN CHINA HOLDINGS COMPANY LIMITED** (德信中國控股有限公司), an exempted company incorporated with limited liability under the laws of the Cayman Islands, and its registered office at the offices of Conyers Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the “**Company**”);
- (2) **TAK YICK INTERNATIONAL LIMITED** (德益國際有限公司), a BVI business company incorporated with limited liability under the laws of the BVI, and its registered office at the offices of Conyers Trust Company (BVI) Limited, Commerce House, Wickhams CAY 1, P.O. Box 3140, Road Town, Tortola VG1110, British Virgin Islands (“**Tak Yick**”);
- (3) **DAXIN INTERNATIONAL LIMITED** (達信國際有限公司), a BVI business company incorporated with limited liability under the laws of the BVI, and its registered office at the offices of Conyers Trust Company (BVI) Limited, Commerce House, Wickhams CAY 1, P.O. Box 3140, Road Town, Tortola VG1110, British Virgin Islands (“**Daxin**”);
- (4) **DEXIN HOLDING (HONG KONG) LIMITED** (德信控股(香港)有限公司), a limited liability company incorporated in Hong Kong, and its registered office at Room 2813, 28/F., The Center, 99 Queen’s Road Central, Hong Kong (“**Dexin HK**”);
- (5) **YINXIN HOLDING (HONG KONG) LIMITED** (銀鑫控股(香港)有限公司), a limited liability company incorporated in Hong Kong, and its registered office at Room 2813, 28/F., The Center, 99 Queen’s Road Central, Hong Kong (“**Yinxin**” and together with Tak Yick, Daxin and Dexin HK, the “**Subsidiary Guarantors**”);
- (6) **MORROW SODALI LIMITED**, in its capacity as Information and Exchange Agent (as defined in Schedule 1), only with respect to Clause 5.4; and
- (7) Certain **noteholders** as Consenting Creditors.

**THE BACKGROUND:**

- (A) Unless the Company deems (in its sole discretion) that there is enough support to proceed with consummating the exchange offer launched at the same time as this Agreement (the “**Exchange Offer**”) and this remains viable, the Company wishes to implement the Restructuring via the Scheme.
- (B) Each Consenting Creditor is a contingent creditor of the Company by virtue of holding a beneficial interest as principal in the Existing Notes.
- (C) The Scheme will be structured as a compromise between the Company and those persons who hold a beneficial interest as principal in the Existing Notes at the Scheme Record Date. In order to be presented for sanction by the Court, the Scheme must first be approved by a majority in number of Scheme Creditors representing at least seventy-five percent (75%) by value of the Existing Notes that are present and voting (in person or by proxy) at the Scheme Meeting.
- (D) Each Consenting Creditor is entering into this Agreement to enable the Scheme to proceed with an enhanced prospect of success on the terms and conditions set out in this Agreement.

**THE OPERATIVE PROVISIONS:**

**IT IS AGREED** as follows:

## **1 DEFINITIONS AND INTERPRETATION**

- 1.1** In this Agreement, each word, phrase or expression shall (unless the context otherwise requires) bear the meaning attributed to it in Part A of Schedule 1.
- 1.2** Save as otherwise expressly provided, the principles of interpretation set out in Part B of Schedule 1 shall be applied in construing the provisions of this Agreement.

## **2 RESTRUCTURING SUPPORT**

- 2.1** Each Consenting Creditor hereby confirms that it shall use its beneficial interest in the Existing Notes to approve and fully support the Restructuring and the Scheme on the terms and subject to the conditions set out in this Agreement.
- 2.2** This Agreement sets out the Parties' entire understanding of the Restructuring and supersedes any previous agreement between any of the Parties with respect to the Restructuring.
- 2.3** Subject to the terms of this Agreement, the Existing Finance Documents shall continue in full force and effect in accordance with their respective terms.

## **3 UNDERTAKINGS**

- 3.1** Subject to Clause 3.2, and in consideration for the compliance by the Company and the Subsidiary Guarantors with their respective obligations under Clause 3.3, each Consenting Creditor irrevocably undertakes in favour of the Company that it will:
  - (a) tender all of its Existing Notes in respect of the Exchange Offer, if the Exchange Offer has not expired or been terminated at the time of such Consenting Creditor's accession to this Agreement;
  - (b) submit, or have submitted on its behalf, a validly completed Accession Letter with its evidence of holdings (if applicable) to the Information and Exchange Agent via the RSA Accession Portal (<https://portal.morrowsodali.com/dexin>) prior to the relevant deadline;
  - (c) work in good faith with the Company and its advisors to implement the Restructuring in a timely manner and in a manner consistent with the terms of this Agreement and the Term Sheet;
  - (d) take all such actions as are necessary to:
    - (i) cause its Account Holder to submit to the Information and Exchange Agent a validly completed Account Holder Letter together with an electronic instruction (as applicable), including a valid Accession Code, in respect of the outstanding principal amount of the Existing Notes in which it holds a beneficial interest as principal for the purposes of voting its holdings at the Scheme Record Date for the Scheme at the relevant deadline;
    - (ii) attend the Scheme Meeting either in person or by proxy; and
    - (iii) vote and deliver within any applicable time periods any proxies, instructions, directions or consents in respect of all Existing Notes in which it holds a beneficial interest as principal, including (without limitation) to vote in favour of the Scheme in respect of the aggregate outstanding principal amount of all Existing Notes in which it holds a beneficial interest as principal at the Scheme Record Date (as set out in its Account Holder Letter and/or electronic instruction

(as applicable)) at the Scheme Meeting;

- (e) not take, commence or continue any Enforcement Action, whether directly or indirectly, to delay the Scheme Effective Date, interfere with the implementation of the Restructuring and/or the Scheme, or the consummation of the transactions contemplated thereby;
- (f) provide reasonable support and assistance to the Obligors (at the Company's cost) to prevent the occurrence of an Insolvency Proceeding in respect of each Obligor or any of its Subsidiaries, including, without limitation, supporting any application, filing and/or petition to the courts of any jurisdiction in connection with the same, including (but not limited to) filing any evidence in support of either Obligor's opposition to a creditor seeking to commence any adverse action;
- (g) not object to the Scheme or any application to the Court in respect thereof or otherwise commence any proceedings to oppose or alter any Scheme Document filed by the Company in connection with the confirmation of the Restructuring, except to the extent that such Scheme Document is materially inconsistent with the terms as set out in the Term Sheet;
- (h) not take any actions (or solicit or encourage any person to take any actions) inconsistent with, or that would, or are intended to, or would be likely to delay, impede, frustrate or prevent approval, confirmation or implementation of, the Restructuring or any related documents, except to the extent that the Restructuring and any related documents are materially inconsistent with the terms as set out in the Term Sheet;
- (i) support any actions taken by the Obligors to obtain recognition or protection of the Restructuring in a relevant insolvency or bankruptcy court of any competent jurisdiction and take all other commercially reasonable actions reasonably requested by the Company to implement or protect the Restructuring, but without incurring any additional Liability or cost, unless at the expense of the Group;
- (j) not formulate, encourage, procure or otherwise support any alternative proposal or alternate offer for the implementation of the Restructuring or to otherwise engage in any such discussions or take any action which would delay, impede, frustrate or prevent any approvals for the Restructuring or the consummation of any transaction contemplated thereby;
- (k) not sell, transfer or otherwise dispose of, or instruct any Account Holder or Intermediary that holds an interest in the Existing Notes on its behalf to sell, transfer or otherwise dispose of, all or any part of its Restricted Notes and any additional Existing Notes purchased or otherwise acquired by that Consenting Creditor after the date of this Agreement or its Accession Letter (as applicable) unless the transfer has been made in accordance with Clause 6; and
- (l) notify the Company via the Information and Exchange Agent of any purported change (whether an increase or decrease) to its holdings of Restricted Notes as soon as reasonably practicable, and in any event within five (5) Business Days from the date of such change, by sending a Transfer Notice to the Information and Exchange Agent via the RSA Transfer Portal (<https://portal.morrowsodali.com/dexinTRANSFER>) (the Company and Information and Exchange Agent may determine that any Transfer which does not adhere to such timings is not valid). Please visit the Exchange Website (<https://projects.morrowsodali.com/dexin>) for further information on how the Transfer Notice needs to be submitted to the Information and Exchange Agent.

**3.2** Nothing in this Agreement shall require any Consenting Creditor to take, or omit to take, any action that would:

- (a) be contrary to any applicable law or regulation; or
- (b) result in the Consenting Creditor incurring any Liability, other than as expressly contemplated by this Agreement.

**3.3** If the Company and the Subsidiary Guarantors are implementing the Restructuring via the Scheme, the Company undertakes to, and the Subsidiary Guarantors will use best endeavors to procure that, the Company will:

- (a) pay or procure payment of the Cash Prepayment and Instruction Fees:
  - (i) in accordance with Clause 5 (*Cash Prepayment and Instruction Fees*); and
  - (ii) free and clear of and without any deduction or withholding for or on account of Tax unless it is required to make such a deduction or withholding, in which case the Cash Prepayment and Instruction Fees payable shall be increased to the extent necessary to ensure that each Consenting Creditor receives a sum net of any deduction or withholding equal to the sum which it would have received had no such deduction or withholding been made or required to be made;
- (b) implement the Restructuring and the Scheme in the manner envisaged by, and substantially on the terms and conditions set out in, this Agreement and the Term Sheet;
- (c) prepare, review, and finalize (as applicable), in good faith, the Scheme Document and any and all other documents required to implement the Restructuring such that they are consistent in all material respects with the terms as set out in the Term Sheet;
- (d) upon the Scheme Document being finalized, promptly propose, file and pursue expeditiously any legal process or proceedings contemplated by or required to implement the Restructuring, including (without limitation) the Scheme;
- (e) take any actions pursuant to any order of, or sanction by, any relevant courts (including, without limitation, the Court) as may be required or necessary to implement or give effect to the Restructuring;
- (f) use reasonable endeavours to procure that the Scheme Effective Date occurs and the Restructuring is fully implemented on or before the Longstop Date;
- (g) use reasonable endeavours to obtain any necessary regulatory or statutory approval required to permit or facilitate the Restructuring;
- (h) use reasonable endeavours to obtain all corporate and regulatory approvals necessary to implement the Restructuring in the manner envisaged by, and substantially on the terms and conditions set out in, this Agreement and the Term Sheet;
- (i) prior to the Scheme Record Date, to the extent practicable, cancel or procure the cancellation of any Existing Notes that it or any other member of the Group has a beneficial interest in or which it or any other member of the Group has redeemed, converted, acquired or purchased, and for the avoidance of doubt, any such Existing Notes owned by the Group shall not be voted at the Scheme Meeting; and
- (j) keep the Consenting Creditors reasonably informed in relation to the status and progress of the Restructuring, including following a reasonable request by any legal advisor to the Consenting Creditors.

#### **4 RIGHTS AND OBLIGATIONS**

- 4.1 The obligations of the Company and Subsidiary Guarantors under this Agreement are joint and several, and the obligations of each Consenting Creditor under this Agreement are several (not joint, nor joint and several). Failure by a Consenting Creditor to perform its obligations under this Agreement does not affect the obligations of any other Consenting Creditor under this Agreement. No Consenting Creditor is responsible for the obligations of any other Consenting Creditor under this Agreement.
- 4.2 The rights of each Party under or in connection with this Agreement are separate and independent rights. A Party may separately enforce its rights under this Agreement.
- 4.3 The Liability of each Consenting Creditor for its obligations under this Agreement shall be several only (and not joint, nor joint and several) and shall extend only to any loss or damage arising out of its own breaches of this Agreement and failure by a Consenting Creditor to perform its obligations under this Agreement shall not prejudice the rights and/or obligations of any other Consenting Creditor.

## 5 CASH PREPAYMENT AND INSTRUCTION FEES

### *Cash Prepayment and Instruction Fees*

- 5.1 Subject to Clauses 5.2 and 5.3, if the Restructuring is implemented and the Restructuring Effective Date occurs, the Company or the Subsidiary Guarantors will pay, or procure to be paid, the Cash Prepayment and Instruction Fees with respect to each Eligible Restricted Note which has validly been made subject to this Agreement by a Consenting Creditor prior to or on the Cash Prepayment Fee Deadline.
- 5.2 The Cash Prepayment and Instruction Fees will be paid on the Restructuring Effective Date (or as soon as practicable thereafter):
  - (a) to the Consenting Creditor who validly held such Eligible Restricted Note as of the Cash Prepayment Fee Deadline and still holds it at Scheme Record Date, provided that it fully complies with the requirements of Clause 5.3 and that no Transfer or purported Transfer of such Eligible Restricted Note has occurred after the Cash Prepayment Fee Deadline; or
  - (b) to the Consenting Creditor who is the transferee by a valid Transfer (or, if applicable, a chain of valid Transfers) of such Eligible Restricted Note in accordance with Clause 6 after the Cash Prepayment Fee Deadline and as a result holds them at the Scheme Record Date, provided that it fully complies with the requirements of Clause 5.3.

Notwithstanding the above:

- (c) any Transfer (or, if applicable, chain of Transfers) of an Eligible Restricted Note must be completed strictly in accordance with Clause 6 (including without limitation indicating in each Transfer Notice that the acquired Restricted Note was an Eligible Restricted Note), upon any Transfer or purported Transfer of an Eligible Restricted Note the transferor relinquishes its entitlement to the Cash Prepayment and Instruction Fees in respect of such Note, and a valid Transfer (or, if applicable, chain of valid Transfers) of the Eligible Restricted Note in accordance with Clause 6 is the only way a person (other than the person referred to in Clause 5.2(a) above) may acquire an entitlement to the Cash Prepayment and Instruction Fees; and
- (d) where a purported Transfer (or, if applicable, chain of Transfers) is not completed strictly in accordance with Clause 6 (including, without limitation, where a trade has taken place but the forms required under this Agreement (including any applicable evidence of holding) have not been validly provided to the Information and Exchange Agent), it is agreed neither the transferor nor the transferee (regardless of whether such persons are

Consenting Creditors) will be entitled to claim (or Transfer) the Cash Prepayment and Instruction Fees in respect of any Eligible Restricted Note subject to the purported Transfer, and the aggregate amount payable by the Company or Subsidiary Guarantors in respect of the Cash Prepayment and Instruction Fees will be reduced accordingly.

**5.3** In order to receive the Cash Prepayment and Instruction Fees, a Consenting Creditor:

- (a) must have (i) instructed to tender all of its Existing Notes in respect of the Exchange Offer or (ii) acquired, in compliance with Clause 5.2, its Eligible Restricted Notes from a Consenting Creditor who instructed to tender all such Existing Notes in favour of the Exchange Offer and validly acceded to this Agreement;
- (b) must have submitted, or have submitted on its behalf, a validly completed Accession Letter with its evidence of holdings (if applicable) to the Information and Exchange Agent via the RSA Accession Portal prior to the relevant deadline;
- (c) must vote in favour of the Scheme at the Scheme Meeting;
- (d) must include, or cause its Account Holder to do so on their behalf, its valid Accession Code in all its voting instructions and Account Holder Letter and/or electronic instruction (as applicable), in respect of the Scheme;
- (e) must vote all of the Existing Notes then held by it in favour of the Scheme at the Scheme Meeting;
- (f) must not have exercised its rights to terminate this Agreement; and
- (g) must not have breached any provision of this Agreement, including but not limited to, any of the undertakings set out in Clause 3 or Clause 6,

otherwise the Consenting Creditor shall not be entitled to any Cash Prepayment and Instruction Fee.

#### ***Information and Exchange Agent***

**5.4** Each Consenting Creditor acknowledges and agrees that:

- (a) the Information and Exchange Agent shall be responsible for:
  - (i) receipt and processing of the Accession Letters and Transfer Notices;
  - (ii) distribution of Accession Codes; and
  - (iii) overseeing evidence of holdings of the Consenting Creditors as per the procedures described herein;
- (b) the Information and Exchange Agent intends to, promptly following the Cash Prepayment Fee Deadline, contact the Consenting Creditors whose Restricted Notes qualified as Eligible Restricted Notes as at the Cash Prepayment Fee Deadline;
- (c) the decision of the Information and Exchange Agent and/or the Company in relation to any reconciliation of entitlement (including entitlement to any Cash Prepayment and Instruction Fee), Eligible Restricted Notes and calculations (as applicable) which may be required, including the Information and Exchange Agent's determination of whether the provisions and timings set out in this Agreement have been complied with, shall be final (in the absence of manifest error), and may not be disputed by any Consenting Creditor. Each Consenting Creditor hereby unconditionally and irrevocably waives and releases any claims which may arise against the Information and Exchange Agent after

the date of this Agreement (save in the case of wilful misconduct or fraud) in each case in relation to the Information and Exchange Agent's performance of its roles in connection with this Agreement;

- (d) in undertaking any reconciliation of entitlement, Eligible Restricted Notes and calculations (as applicable), the Information and Exchange Agent and/or the Company may request, and the Consenting Creditor undertakes to deliver, such evidence as may be reasonably required by the Information and Exchange Agent and/or the Company, including without limitation such evidence required to prove (to the reasonable satisfaction of the Information and Exchange Agent and/or the Company (as applicable)): (i) that it holds the beneficial interest in the aggregate principal amount of the Existing Notes set out in its Accession Letter and any relevant Transfer Notice; and (ii) its entitlement to receive the Cash Prepayment and Instruction Fees (to the extent applicable) in respect of any Eligible Restricted Notes of which it is the beneficial owner and in respect of which it claims such entitlement;
- (e) without prejudice to Clauses 5.2(c) and 5.2(d), the Information and Exchange Agent and/or the Company will determine the entitlement of any Consenting Creditor to the Cash Prepayment and Instruction Fees based on: (i) the validly completed Accession Letter and Transfer Notice (as applicable) submitted by the Consenting Creditor to the Information and Exchange Agent; (ii) evidence from such Consenting Creditor that it is the beneficial owner of the Eligible Restricted Notes in accordance with Clause 6; and (iii) if applicable, details of any transfers (including without limitation the identity of any transferee and/or Accession Code of any transferee) pursuant to which it became or ceases to be the beneficial owner of the Eligible Restricted Notes; each Consenting Creditor acknowledges that any incomplete or inaccurate information provided under or in respect of this Agreement by such Consenting Creditor may void its entitlement to any Cash Prepayment and Instruction Fee;
- (f) the Information and Exchange Agent is party to this Agreement solely for taking the benefit of this Clause 5.4 (but taking no obligations under any other provision of this Agreement);
- (g) any calculation or determination by the Information and Exchange Agent under this Agreement of an amount under this Agreement is, in the absence of manifest error, conclusive and binding on the Parties;
- (h) the Information and Exchange Agent may disclose to the Company, upon request: the principal amount of the Existing Notes held by all and each of the Consenting Creditors; the Accession Letters delivered to it under the terms of this Agreement (if applicable); and any contact details provided by any Consenting Creditor to the Information and Exchange Agent from time to time under or in connection with this Agreement;
- (i) it is the responsibility of the beneficial owner to submit a validly completed Accession Letter and Transfer Notice (as applicable) to the Information and Exchange Agent prior to the relevant deadlines. The Information and Exchange Agent shall bear no responsibility or Liability whatsoever for the failure of any beneficial owner to comply with such requirements; and
- (j) submitting an Accession Letter to the Information and Exchange Agent constitutes by each such beneficial owner the express and irrevocable release of the Information and Exchange Agent from, and its holding harmless and indemnification of the Information and Exchange Agent against, any and all Liability arising, direct or indirectly, from or otherwise in connection with this Restructuring Support Agreement.

## DISCLOSURE BY THE INFORMATION AND EXCHANGE AGENT

### *Accession*

- 6.1 A person holding a beneficial interest as principal in the Existing Notes who is not a Party may accede to this Agreement as a Consenting Creditor by delivering a properly completed and executed Accession Letter with its evidence of holdings (if applicable) to the Information and Exchange Agent via the RSA Accession Portal (<https://portal.morrowsodali.com/dexin>) in respect of all of its Existing Notes (thereby making them Restricted Notes for the purposes of this Agreement) after they have instructed to tender all of their Existing Notes in respect of the Exchange Offer, if the Exchange Offer has not expired or been terminated at the time of such accession to this Agreement.
- 6.2 Each Party agrees that any person that executes an Accession Letter in compliance with the terms of this Agreement shall (subject to the terms of the Accession Letter) be:
  - (a) henceforth a Party to this Agreement; and
  - (b) bound by, and entitled to enforce, the terms of this Agreement as if they were an original party to the same in the capacity of a Consenting Creditor;

in each case, on and from the date of its Accession Letter.

### *Transfer and Purchase*

- 6.3 No Consenting Creditor may sell, assign, novate or otherwise transfer or dispose of (whether directly or indirectly) all or any part of its legal or beneficial interests, rights, benefits or obligations under or in respect of any of the Existing Notes held by it or implement any transaction of a similar or equivalent economic effect (collectively, a “Transfer”) other than in accordance with Clause 6.4 below.
- 6.4 While this Agreement remains in effect, a Transfer will only be valid and effective if:
  - (a) the Transfer is made in accordance with the terms of the relevant Existing Finance Documents;
  - (b) the relevant transferee is either a Consenting Creditor or has first agreed to be bound by the terms of this Agreement as a Consenting Creditor by acceding to this Agreement in accordance with Clauses 6.1 and 6.2 above; and
  - (c) a Transfer Notice is validly executed and delivered by each of the transferor and the transferee to the Information and Exchange Agent via the RSA Transfer Portal.

The Information and Exchange Agent will update its records reflecting holdings of Restricted Notes at any given time, including the Aggregate Percentage, in accordance with any validly executed Transfer Notices it receives. For the avoidance of doubt, any Existing Notes which were Eligible Restricted Notes prior to the completion of a Transfer in accordance with this Clause 6.4 shall remain Eligible Restricted Notes following and notwithstanding the completion of the Transfer.

- 6.5 Without prejudice to Clauses 6.1 to 6.4 above, if any Consenting Creditor purports to effect a Transfer other than in accordance with this Clause 6, then that Consenting Creditor shall remain liable as a Consenting Creditor in respect of its obligations and liabilities under this Agreement, in respect of the relevant Restricted Notes until the relevant transferee is bound by the terms of this Agreement.
- 6.6 Upon the completion of a valid Transfer pursuant to Clause 6.4, the transferee shall be deemed

to be a Consenting Creditor hereunder with respect to such transferred portion of interest in the Restricted Notes and the transferor shall be deemed to have relinquished its rights, claims and liabilities (other than accrued liabilities under this Agreement), including, if applicable, any right to receive the Cash Prepayment and Instruction Fee in respect of Eligible Restricted Notes, and be released from its obligations under this Agreement with respect to such transferred portion of interest in the Restricted Notes.

**6.7** For the avoidance of doubt and subject to this Clause 6, nothing in this Agreement will prevent a Consenting Creditor from purchasing additional Existing Notes; such Consenting Creditor must, within five (5) Business Days of such acquisition provide a completed Transfer Notice to the Information and Exchange Agent via the RSA Transfer Portal at <https://portal.morrowsodali.com/dexinTRANSFER> (including without limitation if the transferor is not a Consenting Creditor) in order to indicate that such additional Existing Notes are Restricted Notes for the purposes of this Agreement.

***Position Disclosure by the Information and Exchange Agent***

**6.8** Each Consenting Creditor authorises the Information and Exchange Agent to disclose the position held by such Consenting Creditor (at the relevant time based on any Accession Letter and/or any Transfer Notice) to the Obligors (and their advisors), to any Consenting Creditor and to any other person if the Company in its sole discretion requests the Information and Exchange Agent to do so.

**7 REPRESENTATIONS AND WARRANTIES**

**7.1** Each Party represents and warrants to the other Parties, on the date of this Agreement or on the date of the Accession Letter, as the case may be, that:

- (a) unless any Party is a natural person, it is duly incorporated (if a corporate person) or duly established (in any other case) and validly existing and (where applicable) in good standing under the laws of its jurisdiction of incorporation and has the power to own its assets and carry on its business as it is being conducted;
- (b) the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations, subject to applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally and subject to general principles of equity regardless of whether considered in proceedings in equity or at law;
- (c) the entry into and performance by it of this Agreement do not and will not conflict with:
  - (i) any law or regulation applicable to it; or
  - (ii) its constitutional documents;
- (d) it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated hereby and has duly executed this Agreement; and
- (e) all Authorisations required or desirable, to the extent applicable:
  - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Agreement; and
  - (ii) to make this Agreement admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect.

7.2 Each Consenting Creditor represents and warrants to the Obligors that on the date of any Accession Letter and any Transfer Notice delivered by it in accordance with the terms of this Agreement, it or the entity that it represents (if applicable) is the beneficial owner of and has full power to vote (or is able to direct the legal and beneficial owner to vote) in respect of the Existing Notes as set out in its Accession Letter or its Transfer Notices, as applicable.

7.3 Each Consenting Creditor that is an investment fund or similar entity represents and warrants to the Obligors, on the date of its Accession Letter, and at all times while this Agreement remains in effect and it continues to constitute a Consenting Creditor that its investment manager and/or advisor is the person identified as its investment manager and/or advisor in paragraph 5 of its Accession Letter.

## 8 TERMINATION

8.1 This Agreement and the rights and obligations created pursuant to this Agreement will terminate automatically and immediately on the earliest to occur of any of the following:

- (a) the Scheme not being finally approved by the requisite majorities of Scheme Creditors at the Scheme Meeting (provided that the Scheme Meeting may be postponed or adjourned to a subsequent date in order to obtain the requisite approval) and there being no reasonable prospect of the Restructuring being effected prior to the Longstop Date;
- (b) the Court not granting a Sanction Order at the hearing of the Court convened for such purpose and there being no reasonable prospect of the Restructuring being effected prior to the Longstop Date and the Company has exhausted all avenues of appeal;
- (c) the Restructuring Effective Date or the date the Exchange Offer transaction is completed in accordance with its terms; and
- (d) the Longstop Date.

8.2 This Agreement may be terminated:

- (a) at the sole discretion of the Company, upon notice to Consenting Creditors, if the Company makes a reasonable, good-faith determination that there is no reasonable prospect of successfully completing the Scheme prior to the Longstop Date;
- (b) in respect of a Consenting Creditor, at the election of the Company by the delivery of a written notice of termination by the Company to a Consenting Creditor, if that Consenting Creditor does not comply with any undertaking in this Agreement in any material respect, unless the failure to comply is capable of remedy and is remedied within ten (10) Business Days of delivery of such notice of termination by the Company to the relevant Consenting Creditor, and in such circumstances the termination shall be with effect from immediately after ten (10) Business Days, but only if the failure to comply is not remedied within the ten (10) Business Days; or
- (c) at the election of the Super Majority Consenting Creditors by and upon a written notice of termination to the Company (which shall notify the other Parties), following the occurrence of any of the following:
  - (i) the commencement of any Insolvency Event (other than the Scheme or any petition for recognition of the Scheme under Chapter 15 of Title 11 of the United States Code or similar recognition, moratorium or protection proceedings in Hong Kong, the United States or elsewhere) in respect of the Company or the Subsidiary Guarantors; or
  - (ii) material non-compliance with this Agreement by the Company or the Subsidiary

Guarantors, unless such failure to comply is capable of remedy and is remedied within ten (10) Business Days from the date on which the Company is first notified by the Super Majority Consenting Creditors of such breach of the relevant terms under this Agreement.

**8.3** Upon any termination in accordance with this Clause 8, the relevant Party or Parties shall be immediately released from all their obligations and shall have no rights under this Agreement, provided that such termination and release:

- (a) shall not limit or prejudice the rights of any Party against any other Party which have accrued as a result of, or relate to, breaches of the terms of this Agreement at the time of or prior to termination; and
- (b) shall not limit the effect of Clauses 4 (*Rights and Obligations*), 8 (*Termination*), 9 (*Amendment and Waiver*), 10 (*Notice*), 11 (*Severance*), 13 (*Disclosure*) and 15 (*Governing Law and Jurisdiction*), which shall continue to apply.

## **9 AMENDMENT AND WAIVER**

**9.1** Except as provided in Clauses 9.2 and 9.3, any terms of this Agreement (including any terms of any schedule hereto) may be amended or waived in writing by the Majority Consenting Creditors, the Company and the Subsidiary Guarantors and such amendment or waiver shall be binding on all Parties.

**9.2** Either the Company or the Subsidiary Guarantors may amend, waive or modify the terms of this Agreement (including any terms of any schedule hereto, including for the avoidance of doubt Schedule 4), at its sole discretion (but without any obligation to do so) and without the consent of any Consenting Creditors, in any manner that is not materially adverse to the interests of the Consenting Creditors, including, but not limited to, amendments, waivers or modifications:

- (a) to increase any cash consideration or Cash Prepayment and Instruction Fee amount payable to Scheme Creditors or Consenting Creditors, as applicable;
- (b) to add any guarantor or guarantee in respect of the New Notes or to add collateral to secure the New Notes;
- (c) to add additional covenants in respect of the New Notes;
- (d) to cure any ambiguity, defect, omission or inconsistency in this Agreement;
- (e) to waive any of the obligations on the Consenting Creditors pursuant to Clauses 5 (*Cash Prepayment and Instruction Fees*) and 6 (*Accession, Transfer and Purchase, and Aggregate Position Disclosure by the Information and Exchange Agent*);
- (f) to make any other change to the terms of the Restructuring or this Agreement that is beneficial to, and does not have a material adverse effect on, the rights of any Consenting Creditor when compared to the terms then in effect.

**9.3** An amendment or waiver:

- (a) subject to Clause 9.2 above and sub-clauses (b) and (c) below, in respect of the material money terms of the Restructuring set out in the Term Sheet (being the dates on which interest and any amounts are to be paid, the rate of interest payable and the relevant mandatory redemption dates), may only be made in writing by each of the Company, the Subsidiary Guarantors, and the Super Majority Consenting Creditors unless the change would result in substantially the same commercial and economic outcome for

all Consenting Creditors;

- (b) in respect of the time period referred to in the definition of “Cash Prepayment Fee Deadline”, the Company may extend such time period in its sole discretion (the “**Cash Prepayment Fee Deadline Extension**”), provided that the Company shall promptly notify all Parties of the Cash Prepayment Fee Deadline Extension; and
- (c) which would amend the definitions of “Majority Consenting Creditors” or “Super Majority Consenting Creditors” or Clause 3.1, may only be made in writing by the Company and each Consenting Creditor.

**9.4** Any waiver of any right under this Agreement is only effective if it is in writing and signed by the waiving or consenting Party and it applies only in the circumstances for which it is given, and shall not prevent the Party who has given the waiver from subsequently relying on the provision it has waived.

**9.5** Except as expressly stated, no failure to exercise or delay in exercising any right or remedy provided under this Agreement or by law constitutes a waiver of such right or remedy or shall prevent any future exercise in whole or in part thereof.

**9.6** No single or partial exercise of any right or remedy under this Agreement shall preclude or restrict the further exercise of any such right or remedy.

**9.7** Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

## **10 NOTICE**

**10.1** A notice given under this Agreement:

- (a) shall be in writing in the English language (or be accompanied by a properly prepared translation into English);
- (b) shall be sent for the attention of the person, and to the address, email addresses or fax number, given in Schedule 5 and in any Accession Letter (or such other address, fax number or person as the relevant Party may notify to the other Parties); and
- (c) shall be:
  - (i) delivered personally;
  - (ii) sent by fax;
  - (iii) sent by pre-paid first-class post or recorded delivery;
  - (iv) (if the notice is to be served by post outside the country from which it is sent) sent by airmail; or
  - (v) sent by e-mail.

**10.2** A notice is deemed to have been received:

- (a) if delivered personally, at the time of delivery;
- (b) in the case of fax or e-mail, at the time of transmission, provided that if not transmitted during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of the next Business Day of the recipient;

- (c) in the case of pre-paid first class post or recorded delivery, forty-eight (48) hours from the date of posting;
- (d) in the case of airmail, five (5) days from the date of posting; or
- (e) if deemed receipt under the previous paragraphs of this Clause 10 is not within business hours (meaning 9:00 a.m. to 5:30 p.m. Hong Kong time, Monday to Friday on a day that is a Business Day), when business next starts in the place of receipt.

**10.3** To prove service, it is sufficient to prove that the notice was transmitted by fax to the fax number of the Party, by e-mail to the e-mail address of the Party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

## **11 SEVERANCE**

**11.1** If any provision of this Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

**11.2** If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

## **12 COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each Party had signed the same document.

## **13 DISCLOSURE**

**13.1** All Parties agree to the Public Version of this Agreement and/or the aggregate principal amount of Existing Notes held by all Consenting Creditors and/or the Aggregate Percentage at the relevant time based on the information contained in any relevant Accession Letter and Transfer Notices provided to the Information and Exchange Agent or Company being publicly or privately disclosed by any Party to any person, including (but not limited to) by transmission to holders of the Existing Notes through the Clearing Systems. Save as provided in Clauses 6.8 and 13.2, none of the Company or any Affiliate of the Company may, without the prior written consent of the relevant Consenting Creditor, disclose the identity of any Consenting Creditor or the specific number of Existing Notes it indirectly holds to any other person.

**13.2** Notwithstanding anything to the contrary herein, any Party may disclose the execution version of this Agreement (and any Accession Letters):

- (a) to the trustee for the Existing Notes and/or Information and Exchange Agent;
- (b) to the Court as part of the evidence to be submitted in respect of the Scheme and in support of any application to the courts of any jurisdiction for recognition of the Scheme;
- (c) to any Governmental Agency, any of its professional consultants (including, without limitation, its legal and financial advisors and auditors), or its financers or to its employees, to the extent such disclosure is required in order to implement the Restructuring;
- (d) to its auditors, in connection with the preparation of its statutory accounts;
- (e) in the case of a Consenting Creditor only, to its Affiliates and to its professional advisors solely in connection with their capacity as professional advisor to the Consenting

Creditors in connection with the Restructuring; and/or

(f) to the extent required or compelled by applicable law, rule or regulation.

## 14 THIRD PARTY RIGHTS

Save as expressly stated in this Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the laws of Hong Kong) (the “**Third Parties Ordinance**”) or otherwise to enforce any term of this Agreement. This provision shall not affect any right or remedy which exists or is available apart from the Third Parties Ordinance.

## 15 GOVERNING LAW AND JURISDICTION

15.1 This Agreement will be governed by and construed in accordance with Hong Kong law.

15.2 The courts of Hong Kong shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a “**Dispute**”).

15.3 The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly, the Issuer and the Holder will not argue to the contrary.

15.4 By executing or acceding to (as applicable) this Agreement and notwithstanding any term to the contrary in any Existing Finance Documents, each Consenting Creditor acknowledges and submits to the jurisdiction of the Court in respect of the Scheme.

This Agreement has been entered into on the date stated on the first page hereof.

**SCHEDEULE 1**  
**DEFINITIONS AND INTERPRETATION**  
**PART A: DEFINITIONS**

In this Agreement, each word, phrase or expression shall (unless the context otherwise requires) bear the meaning attributed to it below:

**“Accession Code”** means a unique code provided by the Information and Exchange Agent to a Consenting Creditor following its accession to, this Agreement, which code must be included by such Consenting Creditor in its voting instructions in respect of the Scheme.

**“Accession Letter”** means a letter pursuant to which a person becomes a Party as a Consenting Creditor, in the form set out in Schedule 2.

**“Account Holder”** means a person who is recorded in the books of a Clearing System as being a holder of Existing Notes in an account with such Clearing System at the Scheme Record Date.

**“Account Holder Letter”** means a letter from an Account Holder on behalf of the Scheme Creditor in the form attached to the relevant Scheme Document.

**“Affiliate”** means, with respect to any person, any other person: (a) directly or indirectly controlling, controlled by, or under direct or indirect common control with, such person; or (b) who is a director or officer of such person or any Subsidiary of such person or of any person referred to in paragraph (a) of this definition. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise.

**“Aggregate Percentage”** means, at any time, the percentage that the aggregate outstanding principal amount of the Restricted Notes held by all Consenting Creditors collectively (calculated based on the disclosures provided in this Agreement, their Accession Letters and Transfer Notices, as applicable) represents of the outstanding principal amount of all Existing Notes.

**“Authorisation”** means:

- (a) an authorisation, consent, approval, resolution, license, exemption, filing, notarization, lodgment or registration; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgment, filing, registration or notification, the expiry of that period without intervention or action.

**“Business Day”** means any day which is not a Saturday, Sunday, legal holiday or other day on which banking institutions in Hong Kong, Singapore, the People’s Republic of China or New York are authorised or required by law or governmental regulation to close.

**“BVI”** means the British Virgin Islands.

**“Cash Prepayment and Instruction Fees”** means Cash Prepayment Fee and Instruction Fee.

**“Cash Prepayment Fee”** means, with respect to each Consenting Creditor, subject to and in accordance with Clause 5 (*Cash Prepayment and Instruction Fees*), an amount in cash equal to 2.5% of the aggregate principal amount of the Eligible Restricted Notes held as at the Cash Prepayment Fee Deadline, *provided that* such Consenting Creditor enters into this Agreement on or before the Cash

**Prepayment Fee Deadline.**

**“Cash Prepayment Fee Deadline”** means 4:00 p.m. London time on 1 December 2022, or such later date and time as the Company may elect in accordance with Clause 9.3(b).

**“Cash Prepayment Fee Deadline Extension”** has the meaning given to it in Clause 9.3(b).

**“Clearing System”** means any one of:

- (a) Clearstream Banking S.A.; or
- (b) Euroclear Bank SA/NV.

**“Companies Ordinance (Cap. 622, Laws of Hong Kong)”** means the Companies Ordinance of Hong Kong as amended, modified or re-enacted from time to time.

**“Consenting Creditor”** means a person holding a beneficial interest as principal in the Existing Notes who has agreed to be bound by the terms of this Agreement in accordance with Clause 6.

**“Court”** means the Hong Kong court and any court capable of hearing appeals therefrom and/or any court capable of sanctioning the Scheme in any other relevant jurisdiction at the sole discretion of the Company.

**“Eligible Restricted Note”** means a Restricted Note which was made subject to this Agreement by a Consenting Creditor on or prior to the Cash Prepayment Fee Deadline.

**“Enforcement Action”** means, in relation to any Existing Finance Document:

- (a) the acceleration of any sum payable or the making of any declaration that any sum payable is due and payable or payable on demand;
- (b) the making of any demand against any member of the Group under any guarantee or surety provided by that member of the Group;
- (c) the suing for, commencing, or joining of any legal or arbitration proceedings against any member of the Group to recover any sums payable or under any guarantee or surety provided by any member of the Group;
- (d) the taking of any steps to enforce or require the enforcement of any security granted by any member of the Group;
- (e) the levying of any attachment, garnishment, sequestration or other legal process over or in respect of any assets of the Group;
- (f) the petitioning, applying, or voting for any Insolvency Proceedings in relation to any member of the Group;
- (g) the commencing or continuation of any legal action or other proceedings against any member of the Group (or any director or officer thereof) or any of their respective assets;
- (h) joining any other entity or person in the exercise of any of the foregoing rights;
- (i) exercising any right, power, privilege or remedy in connection with the foregoing; or
- (j) directing any trustee or agent to do any of the foregoing,

other than (x) as contemplated by the Restructuring, and (y) any action falling within paragraphs (a) to (j)

above which is necessary, but only to the extent necessary, to preserve the validity, existence, or priority of claims in respect of the Existing Notes, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent the loss of the right to bring, support, or join proceedings by reason of applicable limitation periods.

**“Exchange Offer”** has the meaning given to it in the recitals to this Agreement.

**“Existing Finance Documents”** means the Existing Notes, the Existing Notes Indenture and any related guarantee or security documents.

**“Existing Notes”** means the 9.95% senior notes due 2022 (ISIN: XS2262084374; Common Code: 226208437) issued by the Company and guaranteed by the Subsidiary Guarantors, with an outstanding principal amount of US\$348,300,000.

**“Existing Notes Indenture”** means the indenture dated 3 December 2020, as amended, supplemented, or otherwise modified from time to time, between the Company, the Subsidiary Guarantors and China Construction Bank (Asia) Corporation Limited (中國建設銀行(亞洲)股份有限公司) as trustee pursuant to which the Existing Notes were constituted.

**“Eligible Restricted Notes”** means a Restricted Notes which was made subject to this Restructuring Support Agreement by a Consenting Creditor on or prior to the Cash Prepayment Fee Deadline.

**“Governmental Agency”** means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute).

**“Group”** means the Company and its Subsidiaries.

**“Information and Exchange Agent”** means Morrow Sodali Limited, or any other person appointed by the Company to act as information and exchange agent in connection with this Agreement and the Scheme.

**“Insolvency Event”** means a court of competent jurisdiction granting an order to commence any Insolvency Proceedings in relation to the Company or the Subsidiary Guarantors.

**“Insolvency Proceedings”** means:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, bankruptcy, provisional supervision or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Company or the Subsidiary Guarantors;
- (b) a composition or arrangement with any creditor of the Company or the Subsidiary Guarantors, or an assignment for the benefit of creditors generally of the Company or the Subsidiary Guarantors or a class of such creditors;
- (c) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager, provisional supervisor or other similar officer in respect of the Company or the Subsidiary Guarantors or any of its assets;
- (d) an enforcement of any security over any assets of the Company or the Subsidiary Guarantors; or
- (e) any procedure or step taken in any jurisdiction analogous to those set out in paragraphs (a) to (d) above.

**“Instruction Fee”** means, with respect to each Consenting Creditor, subject to and in accordance with

Clause 5 (*Cash Prepayment and Instruction Fees*), an amount in cash equal to 0.5% of the aggregate principal amount of the Eligible Restricted Notes held as at the Cash Prepayment Fee Deadline, *provided that* such Consenting Creditor enters into this Agreement on or before the Cash Prepayment Fee Deadline.

**“Intermediary”** means a person who holds an interest in Existing Notes on behalf of another person, but who is not an Account Holder.

**“Liability”** means any debt, liability or obligation whatsoever, whether present, future, prospective or contingent.

**“Longstop Date”** means 29 September 2023, or such later date and time as the Company may elect to extend to.

**“Majority Consenting Creditors”** means, at any time, Consenting Creditors who hold an aggregate outstanding principal amount of more than 50% of the outstanding principal amount of the Existing Notes held in aggregate by the Consenting Creditors at the time.

**“New Notes”** means the new notes to be constituted as a result of the Restructuring on the terms contemplated by the Term Sheet.

**“Obligors”** means, collectively, the Company and the Subsidiary Guarantors; and **“Obligor”** means any one of them.

**“Parties”** means, collectively, the Company, the Subsidiary Guarantors and the Consenting Creditors; and **“Party”** means any one of them.

**“Public Version of this Agreement”** means a version of this Agreement and its Schedules headed “Public Version” on its cover page prepared by Sidley Austin (in its capacity as legal advisor to the Company) which may or may not contain redactions including but not limited to protecting the identities and notice details of the Parties.

**“Restricted Notes”** means, with respect to a Consenting Creditor at any time, the aggregate outstanding principal amount of Existing Notes set out in an Accession Letter and held by such Consenting Creditor, as modified from time to time by any Transfer Notices (as applicable) delivered by Consenting Creditors to the Information and Exchange Agent in accordance with Clause 6, and **“Restricted Note”** means any portion of the Restricted Notes.

**“Restructuring”** means the restructuring of the indebtedness of the Obligors in respect of the Existing Notes, to be conducted substantially in the manner envisaged by, and substantially on the terms set out in, the Term Sheet.

**“Restructuring Effective Date”** means the day on which all conditions precedent to the Restructuring have been satisfied or waived (as the case may be), including the obtaining of all relevant approvals or consents.

**“RSA Accession Portal”** <https://portal.morrowsodali.com/dexin>, the portal managed by the Information and Exchange Agent for creditors to submit Accession Letters.

**“RSA Transfer Portal”** <https://portal.morrowsodali.com/dexinTRANSFER>, the portal managed by the Information and Exchange Agent for creditors to submit Transfer Notices.

**“Sanction Order”** means the sealed copy of the order of the Court sanctioning the Scheme.

**“Scheme”** means the scheme of arrangement proposed to be effected pursuant to Part 13 Division 2 of the Companies Ordinance (Cap. 622, Laws of Hong Kong) (and/or a scheme of arrangement in any other relevant jurisdiction at the sole discretion of the Company) between the Company and the Scheme

Creditors for the purpose of implementing the Restructuring, as contemplated under the Term Sheet and this Agreement.

**“Scheme Creditors”** means creditors of the Company whose claims against the Obligors are (or will be) the subject of the Scheme.

**“Scheme Document”** means the composite document to be circulated by the Company to the holders of the Existing Notes in relation to the Scheme, which will include (among other things) an explanatory statement and the terms of the Scheme.

**“Scheme Effective Date”** means the date on which the Sanction Order is delivered by the Court to the registrar of companies in Hong Kong in accordance with Companies Ordinance (Cap. 622, Laws of Hong Kong) and/or in any other relevant jurisdiction at the sole discretion of the Company.

**“Scheme Meeting”** means the meeting of the creditors of the Company whose claims against the Company are (or will be) the subject of the Scheme to vote on that Scheme convened pursuant to an order of the Court (and any adjournment of such meeting).

**“Scheme Record Date”** means the time designated by the Company for the determination of the Scheme Creditors’ claims for the purposes of voting at the Scheme Meeting.

**“Subsidiary”** means with respect to any person, any corporation, association or other business entity of which more than 50% of the voting power of the outstanding voting stock is owned, directly or indirectly, by such person and one or more other Subsidiaries of such person. **“Subsidiaries”** shall be construed accordingly.

**“Super Majority Consenting Creditors”** means, at any time, Consenting Creditors who hold an aggregate outstanding principal amount of the Existing Notes of more than 75% of the outstanding principal amount of the Existing Notes held in aggregate by the Consenting Creditors, at that time.

**“Tax”** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**“Term Sheet”** means the term sheet attached at Schedule 4.

**“Transfer Notice”** means a notice substantially in the form set out in Schedule 3 (*Form of Transfer Notice*).

## **PART B: INTERPRETATION**

Save as otherwise expressly provided, the principles of interpretation set out below shall be applied in construing the provisions of this Agreement:

1. Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
2. A “person” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
3. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Schedules.
4. References to Clauses and Schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant Schedule.
5. A reference to one gender shall include a reference to the other genders.
6. Words in the singular shall include the plural and *vice versa*.
7. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment and includes any subordinate legislation for the time being in force made under it.
8. “Writing” or “written” includes faxes but not e-mail, save that for the purposes of Clause 9 (Amendment and Waiver) references to “writing” or “written” shall include email as well.
9. Where the words “include(s)”, “including” or “in particular” are used in this Agreement, they are deemed to have the words “without limitation” following them. The words “other” and “otherwise” are illustrative and shall not limit the sense of the words preceding them.
10. Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
11. “US\$” denotes the lawful currency for the time being of the United States of America and “RMB” denotes the lawful currency for the time being of the People’s Republic of China.

## SCHEDULE 2

### FORM OF ACCESSION LETTER<sup>1</sup>

To:

**Dexin China Holdings Company Limited** (德信中國控股有限公司)  
**Tak Yick International Limited** (德益國際有限公司)  
**DAXIN International Limited** (達信國際有限公司)  
**Dexin Holding (Hong Kong) Limited** (德信控股(香港)有限公司)  
**Yinxin Holding (Hong Kong) Limited** (銀鑫控股(香港)有限公司)

c/o **Morrow Sodali Limited** as Information and Exchange Agent

*IMPORTANT: DO NOT FILL OUT THE PDF VERSION OF THIS FORM. Please visit the Exchange Website (<https://projects.morrowsodali.com/dexin>) for instructions on how the Accession Letter needs to be submitted to the Information and Exchange Agent.*

From: [Insert name of Consenting Creditor]

Email: [email of Consenting Creditor]

Date: \_\_\_\_\_ 20[•]

Dear Sirs,

#### **Restructuring Support Agreement dated 18 November 2022 (the “Agreement”)**

1. We refer to the Agreement. This is an Accession Letter as defined in the Agreement. Except as otherwise defined herein, terms defined in the Agreement have the same meaning when used in this Accession Letter.
2. We agree, for the benefit of each Party, to be a Consenting Creditor under the Agreement and to be bound by the terms of the Agreement as a Consenting Creditor.
3. We agree, represent and warrant to each other Party on the date of this Accession Letter that we or the entity that we represent (if applicable) are the beneficial owner of and have full power to vote (or are able to direct the legal and beneficial owner to vote) in respect of the Existing Notes as set out in this Accession Letter.
4. We confirm the aggregate principal amount of the Restricted Notes that we hold are set out alongside our name below together with the custodial information.
5. We represent and warrant to the Company that our investment manager and/or advisor is (if any) [•].

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<sup>1</sup> This form must be prepared and delivered in accordance with the instructions found on the Exchange Website (<https://projects.morrowsodali.com/dexin>). If you are in any doubt as to how to complete this form, please immediately contact the Information and Exchange Agent at the details provided below.

6. The contact details of [*insert name of Consenting Creditor*] for purposes of Clause 10 of the Agreement are as follows:

Address: [•]

For the attention of: [•]

Phone number (with country code): [•]

E-mail: [•]

with a copy to its investment manager, [*name of investment manager of the Consenting Creditor*]

Address: [•]

For the attention of: [•]

Phone number (with country code): [•]

E-mail: [•]

7. This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by Hong Kong law. By executing this Accession Letter, the signatory confirms it has complied with all legal requirements regarding the valid execution of this Accession Letter under its jurisdiction of incorporation.

Signed by [*name and capacity of signatory*]<sup>2</sup> )

)

)

for and on behalf of

[*Name of Consenting Creditor*] )

)

)

---

<sup>2</sup> The detail of the capacity in which the entity signing the Accession Letter as well as the entities in respect of which it is acting by doing so must be disclosed (unless the Consenting Creditor is an individual holder) in accordance with Clause 5 of the Accession Letter above.

The principal amount of Existing Notes that we hold as at the date of this Accession Letter is as follows:

ISIN	Total Principal Amount of Existing Notes	Electronic Instruction Reference Number <sup>3</sup>
XS2262084374		

Such Restricted Notes are held as follows:

**Clearing System:** [•]<sup>4</sup>

**Direct Participant name:** [•]

**Direct Participant account number:** [•]<sup>5</sup>

**IMPORTANT:** DO NOT FILL OUT THE PDF VERSION OF THIS FORM. The completed and executed Accession Letter must be submitted to the Information and Exchange Agent online via the RSA Accession Portal (<https://portal.morrowsodali.com/dexin>). Please follow the instructions on the Exchange Website (<https://projects.morrowsodali.com/dexin>) on how to submit this Accession Letter to the Information and Exchange Agent.

For assistance, please contact the Information and Exchange Agent via e-mail to [dexin@investor.morrowsodali.com](mailto:dexin@investor.morrowsodali.com).

The Accession Code will be available via the RSA Accession Portal, which must be included in all voting instructions and Account Holder Letter in respect of the Scheme.

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<sup>3</sup> Prior to the expiry of the Exchange Offer, please include the electronic instruction reference number provided by Euroclear (usually 7 digits) or Clearstream (usually 16 digits beginning with CSTDY) to the Direct Participant. For transferees that have not previously a Consenting Creditor by participating in the Exchange Offer prior to the expiration, please contact the transferor for the applicable Electronic Instruction Reference Number. Following the expiry of the Exchange Offer, the electronic instruction reference number is no longer required except for the case where transferee purchasing position from a Consenting Creditor who participated in the Exchange Offer prior to the expiration.

<sup>4</sup> Please state either Euroclear or Clearstream.

<sup>5</sup> Please include the 5 digit Euroclear or Clearstream (as applicable) account number of the Direct Participant.

## SCHEDULE 3

### FORM OF TRANSFER NOTICE<sup>6</sup>

*IMPORTANT: Before completing this form please visit the Exchange Website (<https://projects.morrowsodali.com/dexin>) for instructions on how the Transfer Notice needs to be submitted to the Information and Exchange Agent*

#### PRIVATE AND CONFIDENTIAL

Date: \_\_\_\_\_

To:

**Dexin China Holdings Company Limited** (德信中國控股有限公司)  
**Tak Yick International Limited** (德益國際有限公司)  
**DAXIN International Limited** (達信國際有限公司)  
**Dexin Holding (Hong Kong) Limited** (德信控股(香港)有限公司)  
**Yinxin Holding (Hong Kong) Limited** (銀鑫控股(香港)有限公司)

c/o **Morrow Sodali Limited** as Information and Exchange Agent

From: [Name of transferor] (the “**Transferor7  
[Name of Transferee] (the “**Transferee****

1. We refer to the Restructuring Support Agreement dated 18 November 2022 between, *inter alios*, Dexin China Holdings Company Limited (德信中國控股有限公司), Tak Yick International Limited (德益國際有限公司), DAXIN International Limited (達信國際有限公司), Dexin Holding (Hong Kong) Limited (德信控股(香港)有限公司) and Yinxin Holding (Hong Kong) Limited (銀鑫控股(香港)有限公司) (the “**Agreement- 2. This is a Transfer Notice. We hereby confirm that, at the date of this notice, we have completed a Transfer and the Transferee is a Consenting Creditor (having submitted a validly executed Accession Letter).**

<sup>6</sup> If you are in any doubt as to how to complete and/or deliver this form, please immediately contact the Information and Exchange Agent. Per Clause 3.1(l) of the Restructuring Support Agreement, such Transfer Notice should be delivered within five (5) Business Days of any change in a Consenting Creditor’s holdings.

<sup>7</sup> The Transferor need not be a party to the Transfer Notice where the Transferor is not a Consenting Creditor; if the Transferor is not a Consenting Creditor leave “Accession Code of Transferor” above blank.

3. We hereby give you notice that the Existing Notes described below have been transferred by the Transferor to the Transferee:

ISIN	Principal amount of Existing Notes transferred <sup>8</sup>	Are they Eligible Restricted Notes? <sup>9</sup>	Accession Code of the Transferor	Accession Code of the Transferee
XS2262084374	US\$[●]	YES / NO		

4. The Transferee confirms that it will provide evidence satisfactory to the Information and Exchange Agent of our position in the Existing Notes described above.<sup>10</sup>

5. We request that you treat the existence and contents of this Transfer Notice with the utmost confidentiality and that you do not disclose these to any person without our prior written consent. We do, however, consent to you disclosing the aggregate outstanding principal amount of the Existing Notes held by the Consenting Creditors collectively (calculated from the disclosures provided in any relevant Accession Letters and Transfer Notices) to the Company and the Subsidiary Guarantors (and their advisors) and any Consenting Creditor, upon request by any of them.

6. This Transfer Notice and any non-contractual obligations arising out of or in connection with it are governed by Hong Kong law.

<sup>8</sup> Eligible Restricted Notes means Restricted Notes that are entitled to a Cash Prepayment and Instruction Fee, which are either acceded to this Agreement prior to the Cash Prepayment Fee Deadline by the signatory or, if following the Cash Prepayment Fee Deadline, were validly acquired by the signatory from a Consenting Creditor who held such Restricted Notes prior to the Cash Prepayment Fee Deadline. See Clause 5 (Cash Prepayment and Instruction Fees) for more information. If you are in any doubt as to whether your Notes are Eligible Restricted Notes you must contact the Information and Exchange Agent immediately.

<sup>9</sup> Please indicate YES or NO. If the Transfer included both Eligible Restricted Notes and non-eligible Restricted Notes, please complete two separate Transfer Notices (one in respect of the relevant portion of each).

<sup>10</sup> Evidence of holding can, subject to the Information and Exchange Agent's confirmation, include a custody statement, screenshot of holdings, or scanned copy of a portfolio report dated no more than 3 months prior to the date of the Participating Debt Notice and that includes the following information: (i) ISIN / security description; (ii) name of beneficial owner of the relevant Existing Debt Instruments; (iii) position held; and (iv) current date. In the event of any questions or concerns, please contact the Information and Exchange Agent.

Yours faithfully,

[*The Transferor*]

.....

**Transferor details**

Name of Transferor (Name of the Consenting Creditor): [•]<sup>11</sup>

E-mail Address: [•]

Phone Number (including country code): [•]

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<sup>11</sup> This should be the same name that appears on the Transferor's Accession Letter.

Yours faithfully,

*[The Transferee]*

.....

**Transferee details**

Name of Transferee (Name of the Consenting Creditor): [•]<sup>12</sup>

E-mail Address: [•]

Phone Number (including country code): [•]

IMPORTANT: PLEASE DO NOT FILL OUT THE PDF VERSION OF THIS FORM. The completed and executed Transfer Notice must be submitted to the Information and Exchange Agent online via the RSA Transfer Portal: <https://portal.morrowsodali.com/dexinTRANSFER>. Please visit the Exchange Website (<https://projects.morrowsodali.com/dexin>) for instructions on how the Transfer Notice needs to be submitted to the Information and Exchange Agent.

In the event that the Transferee is not yet a party to the Restructuring Support Agreement, the Transferee must first validly submit an Accession Letter to the Information and Exchange Agent online via the RSA Accession Portal: <https://portal.morrowsodali.com/dexin> and obtain an Accession Code, which must be included above in this Transfer Notice.

For assistance, please contact the Information and Exchange Agent +44 20 4513 6933 or at +852 2319 4130 or via e-mail to [dexin@investor.morrowsodali.com](mailto:dexin@investor.morrowsodali.com).

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<sup>12</sup> This should be the same name that appears on the Transferee's Accession Letter.

## SCHEDULE 4

### TERM SHEET

#### DEXIN CHINA HOLDINGS COMPANY LIMITED (德信中國控股有限公司)

##### Restructuring Term Sheet

###### (Subject to Contract)

This draft term sheet is not intended to be a comprehensive list of all relevant terms and conditions of the Restructuring or any other transaction in relation to the Existing Notes (as defined below). This draft term sheet is not binding and the transactions contemplated by this draft term sheet are subject to, amongst other things, the execution of definitive documentation by the parties. All capitalized terms and expressions not otherwise defined herein shall have the meaning assigned to them in the restructuring support agreement (the "Restructuring Support Agreement") to which this term sheet is attached.

General Information	
<b>Issuer of Existing Notes (Company)</b>	Dexin China Holdings Company Limited (德信中國控股有限公司), incorporated in the Cayman Islands with limited liability
<b>Existing Subsidiary Guarantors</b>	Tak Yick International Limited (德益國際有限公司), incorporated with limited liability in the British Virgin Islands  DAXIN International Limited (達信國際有限公司), incorporated with limited liability in the British Virgin Islands  Dexin Holding (Hong Kong) Limited (德信控股(香港)有限公司), incorporated with limited liability in Hong Kong  Yinxin Holding (Hong Kong) Limited (銀鑫控股(香港)有限公司), incorporated with limited liability in Hong Kong
<b>Scheme Creditors, (and each, a Scheme Creditor)</b>	The persons holding the beneficial interests as principal in the New York law-governed 9.95% senior notes due 3 December 2022 (the " <b>Existing Notes</b> ") issued by the Company and guaranteed by the Subsidiary Guarantors as at the Record Time (as defined below) for the Scheme(s). As at the date of this term sheet, the aggregate principal amount of the Existing Notes outstanding is US\$348,300,000.  " <b>Record Time</b> " is the time designated by the Company for the determination of the outstanding principal amount of the Existing Notes held by Scheme Creditors for the purposes of voting at each of the Scheme meeting(s).
Restructuring of the Existing Notes	
<b>Proposed Restructuring</b>	The Proposed Restructuring is expected to involve a full release of the Scheme Creditors' Claims (as defined below) in exchange for the Restructuring Consideration (as defined below).  The Company plans to implement the Proposed Restructuring through a scheme of arrangement pursuant to Part 13 Division 2 of the Companies Ordinance (Cap. 622, Laws of Hong Kong) (and/or a scheme of arrangement in any other relevant jurisdiction at the sole discretion of the Company) (the " <b>Scheme</b> ").

<b>Scheme Creditors' Claims</b>	<p>The sum of:</p> <ul style="list-style-type: none"> <li>(a) the outstanding principal amount of the Existing Notes held by the Scheme Creditors at the Record Time (the “<b>Existing Notes Principal</b>”); and</li> <li>(b) all accrued and unpaid interest on such Existing Notes up to (but excluding) the Restructuring Effective Date (the “<b>Accrued Interest</b>”).</li> </ul> <p>(together in aggregate, the “<b>Scheme Creditors’ Claims</b>”, and with respect to each Scheme Creditor, the “<b>Scheme Creditor Claim</b>”).</p> <p>On and from the Restructuring Effective Date, Scheme Creditors agree to a full release of all Scheme Creditors’ Claims and related claims against (among others) the Company, the Subsidiary Guarantors, any and all of the subsidiaries of the Subsidiary Guarantors, the shareholders, and the officers, directors, advisors and representatives, or office-holders, of each of the foregoing under the Existing Notes in exchange for the Restructuring Consideration (subject to carve-outs for fraud, dishonesty, willful default and willful misconduct).</p>
<b>Restructuring Consideration</b>	<p>The Restructuring Consideration for a participating Scheme Creditor will consist of:</p> <ul style="list-style-type: none"> <li>(a) where the Voting Requirements <i>are satisfied</i> by the Scheme Creditor as at the Voting Instruction Deadline: <ul style="list-style-type: none"> <li>(i) the Cash Prepayment Fee (to the extent it is eligible to receive), payable in cash;</li> <li>(ii) the Instruction Fee (to the extent it is eligible to receive), payable in cash;</li> <li>(iii) all accrued and unpaid interest on the Existing Notes held by such Scheme Creditor at the Record Time up to (but excluding) the stated maturity of the Existing Notes, payable in cash; and</li> <li>(iv) new notes in an aggregate principal amount equal to the result of the Scheme Creditor Claim of such Scheme Creditor <i>minus</i> (i) and (iii) above.</li> </ul> <p>All of (i), (ii), (iii) and (iv) above in this paragraph (a) will be paid on the Restructuring Effective Date (or as soon as practicable thereafter).</p> </li> <li>(b) where the Voting Requirements <i>are not satisfied</i> by the Scheme Creditor as at the Voting Instruction Deadline but the Scheme Creditor has submitted required documentation by the relevant deadlines in accordance with the terms of the Scheme Document, in order to claim its entitlement to the Restructuring Consideration: <ul style="list-style-type: none"> <li>(i) all accrued and unpaid interest on the Existing Notes held by such Scheme Creditor at the Record Time up to (but excluding) the stated maturity of the Existing Notes, payable in cash; and</li> <li>(ii) new notes in an aggregate principal amount equal to the result of the Scheme Creditor Claim of such Scheme</li> </ul> </li> </ul>

	<p>Creditor <i>minus</i> (i) above.</p> <p>(b)(i) above will be paid on the Restructuring Effective Date (or as soon as practicable thereafter). (b)(ii) above will not be paid on the Restructuring Effective Date, but will be paid during or at the end of the Holding Period (as the case may be).</p> <p><b>“Restructuring Effective Date”</b> means the day on which all conditions to the effectiveness of the Restructuring have been satisfied or waived (as the case may be), including the obtaining of all relevant approvals or consents (e.g. including without limitation delivery of respective court orders in respect of the Scheme(s), and relevant listing/quotation approvals for the New Notes on the SGX-ST (as defined below)), and the settlement of all professional fees associated with the Restructuring).</p> <p><b>“Voting Requirements”</b> means the requirements that a participating Scheme Creditor submits a validly completed Account Holder Letter and any other documentation required to the Information and Exchange Agent by the Voting Instruction Deadline.</p> <p><b>“Voting Instruction Deadline”</b> means the time designated by the Company as the deadline for Scheme Creditors to submit their voting instructions to the Information and Exchange Agent.</p> <p><b>“Holding Period”</b> means the period commencing from the Restructuring Effective Date up to the date falling 360 days after the Restructuring Effective Date (or, if such date is not a Business Day, the next Business Day after that date).</p>
<p><b>Cash Prepayment and Instruction Fees</b></p>	<p>Subject to the terms of the Restructuring Support Agreement, each eligible Scheme Creditor (such Scheme Creditor must enter into to the Restructuring Support Agreement (“<b>Consenting Creditor</b>”)) will receive on the Restructuring Effective Date (i) a Cash Prepayment Fee in cash in an amount equal to 2.5% and (ii) a Instruction Fee in cash in an amount equal to 0.5% of the aggregate principal amount of the Eligible Restricted Notes held as at the Cash Prepayment Fee Deadline, if such Consenting Creditor enters into this Agreement on or before the Cash Prepayment Fee Deadline.</p> <p><b>“Cash Prepayment Fee Deadline”</b> means 4:00 p.m. London time on 1 December 2022, or such later date and time as the Company may elect in accordance with the Restructuring Support Agreement.</p> <p>Notwithstanding the above, the Cash Prepayment and Instruction Fees are paid in cash on the Restructuring Effective Date (or as soon as practicable thereafter) to the:</p> <p class="list-item-l1">(a) Consenting Creditor who held the Eligible Restricted Notes at the Cash Prepayment Fee Deadline and who still holds them at Scheme Record Time (provided no valid or invalid transfer of such Existing Notes); or</p> <p class="list-item-l1">(b) Consenting Creditor holding the Eligible Restricted Notes at the Scheme Record Time as a result of valid transfer/s of such Eligible Restricted Notes.</p> <p>If there is a purported transfer that does not adhere strictly to the terms of the Restructuring Support Agreement, including the transfer provisions, then the transfer is invalid and both the transferor and transferee lose the Cash Prepayment and Instruction Fee entitlement on the Eligible Restricted Notes subject to the purported invalid transfer, and the aggregate amount of Cash</p>

	<p>Prepayment and Instruction Fees payable is reduced accordingly. The Information and Exchange Agent's determination will be final and may not be disputed.</p> <p>In any event, the Cash Prepayment and Instruction Fees are only payable to such Consenting Creditor, if:</p> <ul style="list-style-type: none"> <li>(a) It tenders all of its Existing Notes under the Exchange Offer or validly acquires its Eligible Restricted Notes in compliance with the terms of the Restructuring Support Agreement from a Consenting Creditor who tendered such Existing Notes under the Exchange Offer and validly acceded to the Restructuring Support Agreement;</li> <li>(b) It submits a validly completed Accession Letter to the Information and Exchange Agent via the RSA Accession Portal prior to the relevant deadline;</li> <li>(c) It votes in favour of the Scheme Meeting;</li> <li>(d) It votes all its Existing Notes then held in favour of the Scheme Meeting; and</li> <li>(e) It has not exercised its rights to terminate or breached any provision of the Restructuring Support Agreement.</li> </ul>
<b>Treatment of the Existing Notes</b>	Save as otherwise provided for in this term sheet, on the Restructuring Effective Date, all outstanding Existing Notes will be cancelled.

## Terms of the New Notes

*The following summary is provided solely for your convenience. This summary is not intended to be complete and it is subject to important limitations and exceptions. For a more detailed description of the New Notes, see “Description of the New Notes” set out in Annex A. The information contained in “Description of the New Notes” shall prevail to the extent of any inconsistency with the information set forth in this summary. Terms used in this summary and not otherwise defined shall have the meanings given to them in “Description of the New Notes.”*

<b>Issuer of New Notes</b>	Dexin China Holdings Company Limited (德信中國控股有限公司)
<b>Original Issue Date</b>	The Restructuring Effective Date (or as soon as practicable thereafter)
<b>Principal Amount</b>	<p>The original principal amount of New Notes to be issued on the Restructuring Effective Date shall be an amount equal to the result of:</p> <p>(a) the outstanding principal amount of the Existing Notes held by the Scheme Creditors at the Record Time; <i>plus</i></p> <p>(b) all accrued and unpaid interest on the Existing Notes held by the Scheme Creditors at the Record Time from (and including) the stated maturity of the Existing Notes up to (but excluding) the Restructuring Effective Date; <i>minus</i></p> <p>(c) the Cash Prepayment Fee payable to all eligible Scheme Creditors.</p>
<b>Maturity/Principal Repayment</b>	The tenor of the New Notes will be two years from the Restructuring Effective Date, repayable on the maturity date of the New Notes (the “ <b>Maturity Date</b> ”).
<b>Interest</b>	<p>The New Notes will bear interest from and including the Original Issue Date at the rate of 7.95% per annum, payable semi-annually in arrears.</p> <p>See “Description of the New Notes.”</p>

<b>Ranking of the New Notes</b>	<p>The New Notes will be:</p> <ul style="list-style-type: none"> <li>• general obligations of the Company;</li> <li>• senior in right of payment to any existing and future obligations of the Company expressly subordinated in right of payment to the New Notes;</li> <li>• at least <i>pari passu</i> in right of payment with all other unsecured, unsubordinated Indebtedness of the Company (subject to any priority rights of such unsecured, unsubordinated Indebtedness pursuant to applicable law);</li> <li>• guaranteed by the Subsidiary Guarantors and the JV Subsidiary Guarantors (if any) on a senior basis, subject to the limitations described under “The Subsidiary Guarantees and the JV Subsidiary Guarantees” in “Description of the New Notes;”</li> <li>• effectively subordinated to the secured obligations (if any) of the Company, the Subsidiary Guarantors and the JV Subsidiary Guarantors (if any), to the extent of the value of the assets serving as security therefor; and</li> <li>• effectively subordinated to all existing and future obligations of the Non-Guarantor Subsidiaries (as defined in “Description of the New Notes.”)</li> </ul>
<b>Subsidiary Guarantees and JV Subsidiary Guarantees</b>	<p>Each of the Subsidiary Guarantors and JV Subsidiary Guarantees will, jointly and severally, guarantee the due and punctual payment of the principal of, premium, if any, and interest on, and all other amounts payable under, the New Notes; provided that any JV Subsidiary Guarantee will be limited to the JV Entitlement Amount (as defined in “Description of the New Notes”).</p> <p>A Subsidiary Guarantee may be released in certain circumstances. See “Release of the Subsidiary Guarantees or JV Subsidiary Guarantees” in “Description of the New Notes.”</p> <p>The initial Subsidiary Guarantors consist of Tak Yick International Limited (德益國際有限公司), DAXIN International Limited (達信國際有限公司), Dexin Holding (Hong Kong) Limited (德信控股(香港)有限公司), and Yinxin Holding (Hong Kong) Limited (銀鑫控股(香港)有限公司). None of the Restricted Subsidiaries organized under the laws of the PRC on the Original Issue Date will provide Subsidiary Guarantees.</p> <p>A Subsidiary Guarantee and a JV Subsidiary Guarantee may be released in certain circumstances. See “The Subsidiary Guarantees and the JV Subsidiary Guarantees” in “Description of the New Notes.”</p> <p>The Company will cause each of its future Restricted Subsidiaries (other than Persons organized under the laws of the PRC, the Exempted Subsidiaries and the Listed Subsidiaries), as soon as practicable (and in any event within 30 days) upon becoming a Restricted Subsidiary or, in the case of an Exempted Subsidiary or a Listed Subsidiary, ceases to be an Exempted Subsidiary or a Listed Subsidiary, as the case may be, to provide a guarantee of the New Notes as either a</p>

	<p>Subsidiary Guarantor or a JV Subsidiary Guarantor.</p> <p>Notwithstanding the foregoing sentence, the Company may elect to have any future Restricted Subsidiary organized outside the PRC (that is not an Exempted Subsidiary or a Listed Subsidiary) not provide a Subsidiary Guarantee or a JV Subsidiary Guarantee (such Restricted Subsidiaries that do not provide a Subsidiary Guarantee or a JV Subsidiary Guarantee in accordance with the Indenture, the “New Non-Guarantor Subsidiaries,” and together with the Initial Other Non-Guarantor Subsidiaries, the “Other Non-Guarantor Subsidiaries”) at the time such entity becomes a Restricted Subsidiary or ceases to be an Exempted Subsidiary or a Listed Subsidiary; <i>provided that</i>, after giving effect to the Consolidated Assets of such Restricted Subsidiary, the Consolidated Assets of all Offshore Non-Guarantor Subsidiaries (other than Exempted Subsidiaries and Listed Subsidiaries) that are not Subsidiary Guarantors or JV Subsidiary Guarantors do not account for more than 15.0% of the Total Assets (as defined in “Description of the New Notes”).</p>
<p><b>Ranking of the Subsidiary Guarantees</b></p>	<p>The Subsidiary Guarantee of each Subsidiary Guarantor will be:</p> <ul style="list-style-type: none"> <li>• is a general obligation of such Subsidiary Guarantor;</li> <li>• is effectively subordinated to the secured obligations (if any) of such Subsidiary Guarantor, to the extent of the value of the assets serving as security therefor;</li> <li>• is senior in right of payment to all existing and future obligations of such Subsidiary Guarantor expressly subordinated in right of payment to such Subsidiary Guarantor;</li> <li>• ranks at least <i>pari passu</i> with all other unsecured, unsubordinated Indebtedness of such Subsidiary Guarantor (subject to any priority rights of such unsecured, unsubordinated Indebtedness pursuant to applicable law); and</li> <li>• effectively subordinated to all existing and future obligations of the Non-Guarantor Subsidiaries.</li> </ul>
<p><b>Ranking of the JV Subsidiary Guarantees</b></p>	<p>If any is provided, the JV Subsidiary Guarantee of each JV Subsidiary Guarantor:</p> <ul style="list-style-type: none"> <li>• will be a general obligation of such JV Subsidiary Guarantor;</li> <li>• will be enforceable only up to the JV Entitlement Amount;</li> <li>• will be limited to the JV Entitlement Amount, and will be senior in right of payment to future obligations of such JV Subsidiary Guarantor expressly subordinated in right of payment to such JV Subsidiary Guarantor;</li> <li>• will be limited to the JV Entitlement Amount, and will rank at least <i>pari passu</i> with all other unsecured and unsubordinated Indebtedness of such JV Subsidiary Guarantor (subject to any priority rights of such unsecured and unsubordinated Indebtedness pursuant to applicable law); and</li> <li>• will be effectively subordinated to the secured obligations (if</li> </ul>

	<p>any) of such JV Subsidiary Guarantor, to the extent of the value of the assets serving as security therefor; and</p> <ul style="list-style-type: none"> <li>• effectively subordinated to all existing and future obligations of the Non-Guarantor Subsidiaries.</li> </ul>						
<b>Use of Proceeds</b>	We will not receive any cash proceeds from the issuance of the New Notes.						
<b>Mandatory Redemption</b>	<p>On each redemption date set forth below (each, a “Mandatory Redemption Date”), the Company shall redeem at least the Minimum Principal of the New Notes at a redemption price equal to 100% of the principal amount of the New Notes redeemed plus accrued and unpaid interest, if any, to (but not including) the relevant Mandatory Redemption Date.</p> <table> <thead> <tr> <th><b>Mandatory Redemption Date</b></th><th><b>Required Principal</b></th></tr> </thead> <tbody> <tr> <td>The date falling 12 months after the Original Issue Date</td><td>10% of the Issue Amount</td></tr> <tr> <td>The date falling 18 months after the Original Issue Date</td><td>25% of the Issue Amount</td></tr> </tbody> </table> <p><b>“Minimum Principal”</b> means the greater of (a) zero and (b) a principal amount of the New Notes calculated as (i) the required principal set forth in the table appearing above on the relevant Mandatory Redemption Date <i>minus</i> (ii) the aggregate principal amount of the New Notes redeemed or repurchased and cancelled on or prior to such Mandatory Redemption Date.</p>	<b>Mandatory Redemption Date</b>	<b>Required Principal</b>	The date falling 12 months after the Original Issue Date	10% of the Issue Amount	The date falling 18 months after the Original Issue Date	25% of the Issue Amount
<b>Mandatory Redemption Date</b>	<b>Required Principal</b>						
The date falling 12 months after the Original Issue Date	10% of the Issue Amount						
The date falling 18 months after the Original Issue Date	25% of the Issue Amount						
<b>Optional Redemption</b>	<p>At any time prior to the Maturity Date, the Company may, at its option, redeem the New Notes, in whole or in part, at a redemption price equal to 100% of the principal amount of the New Notes plus accrued and unpaid interest, if any, to (but not including) the redemption date, as set forth in “Optional Redemption” in “Description of the New Notes.”</p>						
<b>Repurchase of New Notes Upon a Change of Control Triggering Event</b>	<p>Not later than 30 days following a Change of Control Triggering Event, the Company will make an Offer to Purchase all outstanding New Notes at a purchase price equal to 100% of their principal amount plus accrued and unpaid interest, if any, to (but not including) the repurchase date. See “Repurchase of Notes Upon a Change of Control Triggering Event” in “Description of the New Notes.”</p>						
<b>Redemption for Taxation Reason</b>	<p>Subject to certain exceptions and as more fully described herein, the New Notes may be redeemed, at the option of the Company or a Surviving Person (as defined in "Description of the New Notes") with respect to the Company, as a whole but not in part, upon giving not less than 30 days' nor more than 60 days' notice to the Holders (as defined in "Description of the New Notes") and the Trustee (which notice shall be irrevocable), at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest (including any Additional Amounts), if any, to the date fixed by the Company or the Surviving Person, as the case may be, for redemption, if the Company or a Subsidiary Guarantor would become obligated to pay certain additional amounts as a result of certain changes in specified tax laws. See “Redemption for Taxation Reasons” in “Description of the New Notes.”</p>						

<b>Additional Amounts</b>	<p>All payments of principal of, and premium (if any) and interest on the New Notes or under the Subsidiary Guarantees and the JV Subsidiary Guarantees by or on behalf of the Company, a Surviving Person (as defined in "Description of the New Notes") or an applicable Subsidiary Guarantor or JV Subsidiary Guarantor will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or within any Taxing Jurisdiction (as defined in "Description of the New Notes"), unless such withholding or deduction is required by law or by regulation or governmental policy having the force of law. In the event such a withholding or deduction is required, the Company, a Surviving Person (as defined in "Consolidation, Merger and Sale of Assets" in "Description of the New Notes") or the applicable Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be, will pay such additional amounts as will result in the receipt by the Holder of each Note of such amounts as would have been received by such Holder had no such withholding or deduction been required. See "Additional Amounts" in "Description of the New Notes."</p>
<b>Carve-out to Events of Default</b>	<p>The events of default provision under the New Notes will carve out the defaults under other indebtedness whose occurrence is as a result of any default or event of default under the Excluded Indebtedness, and final judgments and orders for payment of money and certain insolvency proceedings in relation to the Excluded Indebtedness. See "Events of Default" in "Description of the New Notes."</p>
<b>Covenants</b>	<p>The New Notes, the New Notes Indenture, the Subsidiary Guarantees and the JV Subsidiary Guarantees limit the Company's ability and the ability of its Restricted Subsidiaries to, among other things:</p> <ul style="list-style-type: none"> <li>• incur or guarantee additional indebtedness and issue disqualified or preferred stock;</li> <li>• make investments or other specified restricted payments;</li> <li>• guarantee indebtedness of Restricted Subsidiaries;</li> <li>• sell assets;</li> <li>• allocate proceeds from Specified Asset Sales;</li> <li>• create liens;</li> <li>• enter into sale and leaseback transactions;</li> <li>• engage in any business other than permitted businesses;</li> <li>• enter into agreements that restrict the Restricted Subsidiaries' ability to pay dividends, transfer assets or make intercompany loans;</li> <li>• enter into transactions with certain shareholders or affiliates; and</li> <li>• effect a consolidation or merger.</li> </ul> <p>These covenants are subject to a number of important qualifications and exceptions described in "Certain Covenants" in "Description of</p>

	the New Notes.”
<b>Amendments and Waiver of the New Notes Indenture</b>	Certain major terms of the New Notes Indenture may be modified, amended or waived with the consent of holders of not less than 75% in aggregate principal amount of the outstanding New Notes, including the reduction of the principal amount of, or premium, if any, or interest on, any New Note, the release of any Subsidiary Guarantor or JV Subsidiary Guarantor from its Subsidiary Guarantee or JV Subsidiary Guarantee, as the case may be, except as provided in the New Notes Indenture. See “Amendments and Waiver—Amendments With Consent of Holders” in “Description of the New Notes.”
<b>Transfer Restrictions</b>	The New Notes, the Subsidiary Guarantees and the JV Subsidiary Guarantees (if any) will not be registered under the Securities Act or under any state securities laws of the United States and will be subject to customary restrictions on transfer and resale. See “Transfer Restrictions.”
<b>Form, Denomination and Registration</b>	The New Notes will be issued only in fully registered form, without coupons, in minimum denominations of US\$150,000 of principal amount and integral multiples of US\$1 in excess thereof and will be initially represented by one or more global notes deposited with a common depositary for Euroclear and Clearstream and registered in the name of the common depositary or its nominee for the accounts of Euroclear and Clearstream. Beneficial interests in the Global Note will be shown on, and transfers thereof will be effected only through, the records maintained by Euroclear and Clearstream.
<b>Book-entry Only</b>	The New Notes will be issued in book-entry form through the facilities of Euroclear and Clearstream for the accounts of their respective participants. For a description of certain factors relating to clearance and settlement, see “ Book-Entry; Delivery and Form” in “Description of the New Notes.”
<b>Trustee</b>	China Construction Bank (Asia) Corporation Limited (中國建設銀行(亞洲)股份有限公司)
<b>Paying and Transfer Agent and Registrar</b>	China Construction Bank (Asia) Corporation Limited (中國建設銀行(亞洲)股份有限公司)
<b>Listing</b>	Application will be made to the Singapore Exchange Securities Trading Limited (“SGX-ST”) for the listing of the New Notes by way of debt issues to Professional Investors only. The New Notes will be traded on the SGX-ST in a minimum board lot size of US\$150,000 for as long as the New Notes are listed on the SGX-ST and the rules of the SGX-ST so require.
<b>Ratings</b>	The New Notes are unrated.
<b>Governing Law</b>	New York Law

## **ANNEX A**

## DESCRIPTION OF THE NEW NOTES

For purposes of this “Description of the New Notes,” the term “Company” refers only to Dexin China Holdings Company Limited (德信中國控股有限公司), a company incorporated in the Cayman Islands with limited liability, and any successor obligor on the Notes, and not to any of its Subsidiaries, and the term “Notes” refers only to the New Notes to be issued by the Company, including any Additional Notes (as defined below). Each Subsidiary of the Company which Guarantees the Notes (other than a JV Subsidiary Guarantor) is referred to as a “Subsidiary Guarantor,” and each such Guarantee is referred to as a “Subsidiary Guarantee.” Each Subsidiary of the Company that in the future provides a JV Subsidiary Guarantee (as defined below) is referred to as a “JV Subsidiary Guarantor.”

All references to the “Risk Factors” are to the risk factors set forth in the Company’s Exchange Offer Memorandum dated November 18, 2022 (as supplemented from time to time).

The Notes are to be issued under an indenture (the “Indenture”), to be dated as of the Original Issue Date, among the Company, the Subsidiary Guarantors and China Construction Bank (Asia) Corporation Limited, as trustee (the “Trustee”).

The following is a summary of certain material provisions of the Indenture, the Notes, the Subsidiary Guarantees and the JV Subsidiary Guarantees. This summary does not purport to be complete and is qualified in its entirety by reference to, all of the provisions of the Indenture, the Notes, the Subsidiary Guarantees and the JV Subsidiary Guarantees (if any). It does not restate those agreements in their entirety. Whenever particular sections or defined terms of the Indenture not otherwise defined herein are referred to, such sections or defined terms are incorporated herein by reference. Copies of the Indenture will be available to holders of the Notes upon prior written request and satisfactory proof of holding by Holders during normal business hours (being 9:00 am (Hong Kong time) to 3:00 pm (Hong Kong time) from Mondays to Fridays (excluding public holidays)) on or after the Original Issue Date at the specified office of the Trustee at 20/F, CCB Tower, 3 Connaught Road Central, Central, Hong Kong or sent to the Holders by email.

## BRIEF DESCRIPTION OF THE NOTES

The Notes are:

- general obligations of the Company;
- senior in right of payment to any existing and future obligations of the Company expressly subordinated in right of payment to the Notes;
- at least *pari passu* in right of payment with all other unsecured, unsubordinated Indebtedness of the Company (subject to any priority rights of such unsecured, unsubordinated Indebtedness pursuant to applicable law);
- guaranteed by the Subsidiary Guarantors and the JV Subsidiary Guarantors, if any, on a senior basis, subject to the limitations described below under the caption “—The Subsidiary Guarantees and the JV Subsidiary Guarantees” and in “Risk Factors—Risks Relating to the Subsidiary Guarantees and the JV Subsidiary Guarantees”;
- effectively subordinated to the secured obligations (if any) of the Company, the Subsidiary Guarantors and the JV Subsidiary Guarantors (if any), to the extent of the value of the assets serving as security therefor; and
- effectively subordinated to all existing and future obligations of the Non-Guarantor Subsidiaries (as defined below).

The Notes will mature on the date that falls two years from (and including) the Restructuring Effective Date (as defined in the restructuring support agreement dated November 18, 2022 (as such may be amended, supplemented or modified from time to time) by and among the Company, the Subsidiary Guarantors and certain Holders), unless earlier redeemed pursuant to the terms thereof and the Indenture.

The Notes will bear interest at 7.95% per annum from and including the Original Issue Date or from and including the most recent interest payment date to which interest has been paid or duly provided for, payable semi-annually in arrear on the days of the year which are six months and 12 months, respectively, from the day of the year of the Original Issue Date of each year (each, an “Interest Payment Date”), commencing six months from the Original Issue Date. Interest on the Notes will be paid to the Holders of record at the close of business on the day 15 calendar days prior to each Interest Payment Date (each, a “Record Date”), notwithstanding any transfer, exchange or cancellation thereof after a Record Date and prior to the immediately following Interest Payment Date. Interest on the Notes will be calculated on the basis of a 360-day year comprised of twelve 30-day months. So long as the Notes are held in global form, the payment in respect of the Notes will be made to the person shown as the holder of the Notes in the Register at the close of business (of the relevant clearing system) on the Clearing System Business Day before the due date for such payments, where “Clearing System Business Day” means a weekday (Monday to Friday, inclusive) except December 25 and January 1.

The Notes may be redeemed prior to maturity as described under “—Mandatory Redemption on Specified Dates,” “—Optional Redemption” and “—Redemption for Taxation Reasons” or as otherwise provided in the Indenture.

In any case in which the date of the payment of principal of, premium (if any) on or interest on the Notes is not a Business Day in the relevant place of payment or in the place of business of the Paying Agent, then payment of such principal, premium or interest need not be made in such place on such date but may be made on the next succeeding Business Day. Any payment made on such Business Day shall have the same force and effect as if made on the date on which such payment is due and no interest on the Notes shall accrue for the period after such date.

The Indenture allows additional Notes to be issued from time to time (the “Additional Notes”), subject to certain limitations described under “—Further Issues.” Unless the context requires otherwise, references to the “Notes” for all purposes of the Indenture and this “Description of the New Notes” include any Additional Notes that are actually issued.

The Notes will be issued only in fully registered form, without coupons, in denominations of US\$150,000 and integral multiples of US\$1 in excess thereof. No service charge will be made for any registration of transfer or exchange of the Notes, but the Company, the Transfer Agent or the Registrar may require indemnity or payment of a sum sufficient to cover any transfer tax or other similar governmental charge payable in connection therewith.

All payments on the Notes held through Euroclear or Clearstream will be made in accordance with the applicable rules and procedures of Euroclear or Clearstream. All payments on the Notes held in physical form will be made by wire transfer in U.S. dollars by the Company at the office or agency of the Company maintained for that purpose (which initially will be the specified office of the Paying Agent currently located at 20/F, CCB Tower, 3 Connaught Road Central, Central, Hong Kong), and the Notes may be presented for registration of transfer or exchange at such office; provided that, if the Notes are in certificated form and the Company acts as its own paying agent, at the option of the Company, payment of interest may be made by wire transfer at the expense of the Company to the address of the Holders as such address appears in the Note register maintained by the Note Registrar or by wire transfer. Amounts payable on the Notes held through Euroclear or Clearstream will be available to Euroclear or Clearstream participants (as defined herein) on the Business Day following payment thereof.

## **THE SUBSIDIARY GUARANTEES AND THE JV SUBSIDIARY GUARANTEES**

The initial Subsidiary Guarantors that will execute the Indenture on the Original Issue Date will consist of Tak Yick International Limited (德益國際有限公司), DAXIN International Limited (達信國際有限公司), Dexin Holding (Hong Kong) Limited (德信控股(香港)有限公司) and Yinxin Holding (Hong Kong) Limited (銀鑫控股(香港)有限公司).

The initial Subsidiary Guarantors are holding companies that do not have significant operations. None of the existing or future Restricted Subsidiaries organized under the laws of the PRC or any Exempted Subsidiary will provide a Subsidiary Guarantee or JV Subsidiary Guarantee on the Original Issue Date or at any time in the future.

In the case of a Restricted Subsidiary that is, or is proposed by the Company or any Restricted Subsidiary to be, established after the Original Issue Date, or any entity in respect of which the Company or any Restricted Subsidiary (x) in the case of a Restricted Subsidiary, is proposing to sell, whether through the sale of existing shares or the issuance of new shares, no less than 20% of the Capital Stock of such Restricted Subsidiary, or (y) in the case of any other entity, is proposing to purchase the Capital Stock of an Independent Third Party such that it becomes a non-Wholly Owned Subsidiary of the Company and designate such Subsidiary as a Restricted Subsidiary, the Company may (in each case, to the extent such Restricted Subsidiary is not an Exempted Subsidiary, a Listed Subsidiary or incorporated in the PRC), concurrently with or as soon as practicable after the consummation of such establishment, sale, issuance, or purchase, cause (a) such Restricted Subsidiary and (b) the Restricted Subsidiaries of such Restricted Subsidiary that are organized in any jurisdiction other than the PRC (other than Exempted Subsidiaries or Listed Subsidiaries) to provide a JV Subsidiary Guarantee (as defined below) instead of a Subsidiary Guarantee, if the following conditions, in the case of both (a) and (b), are satisfied:

- as of the date of execution of the JV Subsidiary Guarantee (as defined below), no document exists that is binding on the Company or the relevant Restricted Subsidiary that would have the effect of (a) prohibiting the Company or such Restricted Subsidiary from causing such JV Subsidiary Guarantee to be provided or (b) requiring the Company or such Restricted Subsidiary to deliver or keep in place a guarantee on terms that are more favorable to the recipients of such guarantee than the JV Subsidiary Guarantee;
- such sale or issuance of Capital Stock is made to, or such purchase of Capital Stock is made from, an Independent Third Party at a consideration that is not less than (in the case of a sale or issuance) or no more than (in the case of a purchase) the Fair Market Value of such Capital Stock;
- concurrently with or as soon as practicable after providing the JV Subsidiary Guarantee, the Company shall or shall cause such JV Subsidiary Guarantor to deliver to the Trustee:
  - (i) (A) a duly executed Guarantee of such JV Subsidiary Guarantor (the "JV Subsidiary Guarantee") and each Restricted Subsidiary (if any) of such JV Subsidiary Guarantor that is not a Non-Guarantor Subsidiary, and (B) a duly executed supplemental indenture to the Indenture pursuant to which such JV Subsidiary Guarantor will guarantee the payment of the Notes, each of which provides, among other things, that the aggregate claims of the Trustee under such JV Subsidiary Guarantee and all JV Subsidiary Guarantees provided by the Restricted Subsidiaries and shareholders of such JV Subsidiary Guarantor will be limited to the JV Entitlement Amount;
  - (ii) an Officers' Certificate certifying a copy of the Board Resolution to the effect that such JV Subsidiary Guarantee has been approved by a majority of the disinterested members of the Board of Directors; and
  - (iii) a legal opinion by a law firm of recognized international standing confirming that under New York law such JV Subsidiary Guarantees are valid, binding and enforceable against the JV Subsidiary Guarantors providing such JV Subsidiary Guarantees (subject to customary qualifications and assumptions).

The Subsidiary Guarantee of each Subsidiary Guarantor:

- is a general obligation of such Subsidiary Guarantor;
- is effectively subordinated to the secured obligations of such Subsidiary Guarantor, to the extent of the value of the assets serving as security therefor;
- is senior in right of payment to all future obligations of such Subsidiary Guarantor expressly subordinated in right of payment to such Subsidiary Guarantee;
- ranks at least *pari passu* in right of payment with all other unsecured and unsubordinated Indebtedness of such Subsidiary Guarantor (subject to any priority rights of such unsecured and unsubordinated Indebtedness pursuant to applicable law); and
- effectively subordinated to all existing and future obligations of the Non-Guarantor Subsidiaries.

If any is provided, the JV Subsidiary Guarantee of each JV Subsidiary Guarantor:

- will be a general obligation of such JV Subsidiary Guarantor;
- will be enforceable only up to the JV Entitlement Amount;
- will be effectively subordinated to the secured obligations of such JV Subsidiary Guarantor, to the extent of the value of the assets serving as security therefor;
- will be limited to the JV Entitlement Amount, and will be senior in right of payment to all future obligations of such JV Subsidiary Guarantor expressly subordinated in right of payment to such JV Subsidiary Guarantee;
- will be limited to the JV Entitlement Amount, and will rank at least *pari passu* with all other unsecured and unsubordinated Indebtedness of such JV Subsidiary Guarantor (subject to any priority rights of such unsecured and unsubordinated Indebtedness pursuant to applicable law); and
- effectively subordinated to all existing and future obligations of the Non-Guarantor Subsidiaries.

The Company will cause each of its future Restricted Subsidiaries (other than Persons organized under the laws of the PRC, Exempted Subsidiaries or Listed Subsidiaries), as soon as practicable (and in any event within 30 days) after such Person becomes a Restricted Subsidiary or ceases to be an Exempted Subsidiary or a Listed Subsidiary, to execute and deliver to the Trustee a supplemental indenture to the Indenture pursuant to which such Restricted Subsidiary will Guarantee the payment of the Notes as either a Subsidiary Guarantor or a JV Subsidiary Guarantor. Notwithstanding the foregoing sentence, the Company may elect to have any future Restricted Subsidiary organized outside the PRC (that is not an Exempted Subsidiary or a Listed Subsidiary) not provide a Subsidiary Guarantee or a JV Subsidiary Guarantee (such Restricted Subsidiaries that do not provide a Subsidiary Guarantee or a JV Subsidiary Guarantee in accordance with the Indenture, the “New Non-Guarantor Subsidiaries,” and together with the Initial Other Non-Guarantor Subsidiaries, the “Other Non-Guarantor Subsidiaries”) at the time such entity becomes a Restricted Subsidiary or ceases to be an Exempted Subsidiary or a Listed Subsidiary; *provided* that, after giving effect to the Consolidated Assets of such Restricted Subsidiary, the Consolidated Assets of all Restricted Subsidiaries organized outside the PRC (other than Exempted Subsidiaries or Listed Subsidiaries) that are not Subsidiary Guarantors or JV Subsidiary Guarantors do not account for more than 15.0% of Total Assets.

Each Restricted Subsidiary that guarantees the Notes after the Original Issue Date other than a JV Subsidiary Guarantor is referred to as a “Future Subsidiary Guarantor” and upon execution of the applicable supplemental indenture to the Indenture will be a “Subsidiary Guarantor.” The Other Non-Guarantor Subsidiaries, together with those Restricted Subsidiaries organized under the laws of the PRC (the “PRC Non-Guarantor Subsidiaries”), Exempted Subsidiaries and Listed Subsidiaries, are referred to herein as the “Non-Guarantor Subsidiaries.”

Although the Indenture contains limitations on the amount of additional Indebtedness that Non-Guarantor Subsidiaries (including Restricted Subsidiaries organized under the laws of the PRC) may incur, the amount of such additional Indebtedness could be substantial. In the event of a bankruptcy, liquidation or reorganization of any Non-Guarantor Subsidiary, the Non-Guarantor Subsidiaries will pay the holders of their debt and their trade creditors before they will be able to distribute any of their assets to the Company.

Under the Indenture, and any supplemental indenture to the Indenture, as applicable, each of the Subsidiary Guarantors and the JV Subsidiary Guarantors (if any) will jointly and severally Guarantee the due and punctual payment of the principal of, premium, if any, and interest on, and all other amounts payable under, the Notes; *provided* that any JV Subsidiary Guarantee will be limited to the JV Entitlement Amount. The Subsidiary Guarantors and the JV Subsidiary Guarantors will (1) agree that their respective obligations under the Subsidiary Guarantees and the JV Subsidiary Guarantees, as the case may be, will be enforceable irrespective of any invalidity, irregularity or unenforceability of the Notes or the Indenture and (2) waive their right to require the Trustee to pursue or exhaust its legal or equitable remedies against the Company prior to exercising its rights under the Subsidiary Guarantees and the JV Subsidiary Guarantees, as the case may be. Moreover, if at any time any amount paid under a Note or the Indenture is rescinded or must otherwise be repaid or restored, the rights of the Holders under the Subsidiary Guarantees and the JV Subsidiary Guarantees, as the case may be, will be reinstated with respect to such payment as though such payment

had not been made. All payments under the Subsidiary Guarantees and the JV Subsidiary Guarantees, as the case may be, are required to be made in U.S. dollars.

Under the Indenture, and any supplemental indenture to the Indenture, as applicable,

- each Subsidiary Guarantee will be limited to an amount not to exceed the maximum amount that can be Guaranteed by the applicable Subsidiary Guarantor without rendering the Subsidiary Guarantee, as it relates to such Subsidiary Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally; and
- each JV Subsidiary Guarantee will be limited to an amount which is the lower of (i) the JV Entitlement Amount and (ii) an amount not to exceed the maximum amount that can be Guaranteed by the applicable JV Subsidiary Guarantor without rendering the JV Subsidiary Guarantee, as it relates to such JV Subsidiary Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally.

If a Subsidiary Guarantee or JV Subsidiary Guarantee were to be rendered voidable, it could be subordinated by a court to all other Indebtedness (including guarantees and other contingent liabilities) of the applicable Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be, and, depending on the amount of such Indebtedness, a Subsidiary Guarantor's liability on its Subsidiary Guarantee or a JV Subsidiary Guarantor's liability on its JV Subsidiary Guarantee, as the case may be, could in each case be reduced to zero.

The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee may be limited, or possibly invalid, under applicable laws. Similarly, the obligations of each JV Subsidiary Guarantor under its JV Subsidiary Guarantee may be limited, or possibly invalid, under applicable laws. See "Risk Factors—Risks Relating to the Subsidiary Guarantees and the JV Subsidiary Guarantees—The Subsidiary Guarantees or JV Subsidiary Guarantees may be challenged under applicable insolvency or fraudulent transfer laws, which could impair the enforceability of the Subsidiary Guarantees or JV Subsidiary Guarantees".

### **Release of the Subsidiary Guarantees or JV Subsidiary Guarantees**

A Subsidiary Guarantee given by a Subsidiary Guarantor and a JV Subsidiary Guarantee given by a JV Subsidiary Guarantor may be released in certain circumstances, including:

- upon repayment in full of the Notes;
- upon a defeasance as described under "—Defeasance—Defeasance and Discharge";
- upon the designation by the Company of a Subsidiary Guarantor or a JV Subsidiary Guarantor, as the case may be, as an Unrestricted Subsidiary in compliance with the terms of the Indenture;
- upon the sale, merger or disposition of a Subsidiary Guarantor or a JV Subsidiary Guarantor, as the case may be, in compliance with the terms of the Indenture (including the covenants described under the captions "—Certain Covenants—Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries," "—Certain Covenants—Limitation on Asset Sales" and "—Consolidation, Merger and Sale of Assets") resulting in such Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be, no longer being a Restricted Subsidiary, so long as (1) such Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be, is simultaneously released from its obligations in respect of any of the Company's other Indebtedness or any Indebtedness of any other Restricted Subsidiary and (2) the proceeds from such sale, merger or disposition are used for the purposes permitted or required by the Indenture;
- in the case of a Subsidiary Guarantee, upon the replacement of a Subsidiary Guarantee with a JV Subsidiary Guarantee; or
- in the case of a Subsidiary Guarantor or JV Subsidiary Guarantor that becomes a New Non-Guarantor Subsidiary, in compliance with the terms of the Indenture.

In the case of a Subsidiary Guarantor with respect to which the Company or any Restricted Subsidiary is proposing to sell, whether through the sale of existing shares or the issuance of new shares, no less than 20% of the Capital Stock of such Subsidiary Guarantor, the Company may concurrently with or as soon as practicable after the consummation of such sale or issuance of Capital Stock, instruct the Trustee to release the Subsidiary Guarantees provided by such Subsidiary Guarantor and each of its Restricted Subsidiaries organized outside the PRC, and upon such release such Subsidiary Guarantor and its Restricted Subsidiaries organized outside the PRC will become New Non-Guarantor Subsidiaries (such that each New Non-Guarantor Subsidiary will no longer Guarantee the Notes); *provided* that, after the release of such Subsidiary Guarantees, the Consolidated Assets of all Restricted Subsidiaries organized outside the PRC that are not Subsidiary Guarantors or JV Subsidiary Guarantors (including such New Non-Guarantor Subsidiaries and excluding Exempted Subsidiaries and Listed Subsidiaries) do not account for more than 15.0% of Total Assets. A Subsidiary Guarantee of a Subsidiary Guarantor may only be released pursuant to this paragraph if, as of the date of such proposed release, no document exists that is binding on the Company or any of the Restricted Subsidiary that would have the effect of (a) prohibiting the Company or such relevant Restricted Subsidiary from permitting the release of such Subsidiary Guarantee or (b) requiring the Company or such Subsidiary Guarantor to deliver or keep in place a guarantee of other Indebtedness of the Company by such Subsidiary Guarantor.

No release of a Subsidiary Guarantor from its Subsidiary Guarantee or a JV Subsidiary Guarantor from its JV Subsidiary Guarantee shall be effective against the Trustee or the Holders until the Company has delivered to the Trustee an Officers' Certificate stating that all requirements relating to such release have been complied with and that such release is authorized and permitted by the terms of the Indenture. The Trustee shall be entitled to rely conclusively without liability upon such Officers' Certificate as sufficient evidence thereof in which event it shall be conclusive and binding on the Holders.

#### **Replacement of Subsidiary Guarantees with JV Subsidiary Guarantees**

A Subsidiary Guarantee given by a Subsidiary Guarantor may be released and replaced by a JV Subsidiary Guarantee following the sale or issuance by the Company or any Restricted Subsidiary of Capital Stock in (a) such Subsidiary Guarantor or (b) any other Subsidiary Guarantor that, directly or indirectly, owns a majority of the Capital Stock of such Subsidiary Guarantor, in each case where such sale or issuance, whether through the sale of existing shares or the issuance of new shares, is for no less than 20% of the issued Capital Stock of the relevant Subsidiary Guarantor, *provided* that the following conditions are satisfied or complied with:

- as of the date of such proposed release, no document exists that is binding on the Company or such Restricted Subsidiary that would have the effect of (a) prohibiting the Company or such Restricted Subsidiary from releasing such Subsidiary Guarantee, (b) prohibiting the Company or such Restricted Subsidiary from providing a JV Subsidiary Guarantee as described below, or (c) requiring the Company or such relevant Restricted Subsidiary to cause to deliver or keep in force a replacement guarantee on terms that are more favorable to the recipients of such guarantee than the recipient of the JV Subsidiary Guarantee;
- such sale or issuance is made to an Independent Third Party at a consideration that is not less than the Fair Market Value of such Capital Stock;
- concurrently with or as soon as practicable after the release of such Subsidiary Guarantee, the Company shall or shall cause such JV Subsidiary Guarantor to deliver to the Trustee:
  - (i) (A) a duly executed JV Subsidiary Guarantee of such JV Subsidiary Guarantor and each Restricted Subsidiary (if any) of such JV Subsidiary Guarantor that is not a Non-Guarantor Subsidiary and (B) a duly executed supplemental indenture to the Indenture pursuant to which such JV Subsidiary Guarantor will Guarantee the payment of the Notes, each of which provides, among other things, that the aggregate claims of the Trustee under such JV Subsidiary Guarantee and all JV Subsidiary Guarantees provided by the Restricted Subsidiaries and shareholders of such JV Subsidiary Guarantor will be limited to the JV Entitlement Amount;
  - (ii) an Officers' Certificate certifying a copy of a Board Resolution to the effect that such JV Subsidiary Guarantee has been approved by a majority of the disinterested members of the Board of Directors; and

- (iii) a legal opinion by a law firm of recognized international standing confirming that under New York law such JV Subsidiary Guarantee is valid, binding and enforceable against the JV Subsidiary Guarantor providing such JV Subsidiary Guarantee (subject to customary qualifications and assumptions).

Notwithstanding the foregoing paragraph, any such sale or issuance of the Capital Stock of the relevant Subsidiary Guarantor (including where such sale results in the relevant Subsidiary Guarantor ceasing to be a Restricted Subsidiary) will need to comply with the other covenants set forth in the Indenture, including, without limitation, the covenants described under the captions “—Certain Covenants—Limitation on Asset Sales” and “—Certain Covenants—Limitation on Restricted Payments.”

Any Net Cash Proceeds from the sale or issuance of such Capital Stock shall be applied by the Company (or any Restricted Subsidiary) in accordance with the covenant described under the caption “—Certain Covenants—Limitation on Asset Sales.”

As of the date of the Indenture, all of the Company’s Subsidiaries will be “Restricted Subsidiaries.” Under the circumstances described below under the caption “—Certain Covenants—Designation of Restricted and Unrestricted Subsidiaries,” the Company will be permitted to designate Subsidiaries as “Unrestricted Subsidiaries.” The Company’s Unrestricted Subsidiaries will generally not be subject to the restrictive covenants in the Indenture. The Company’s Unrestricted Subsidiaries will not Guarantee the Notes.

## **FURTHER ISSUES**

Subject to the covenants described below and in accordance with the terms of the Indenture, the Company may, from time to time, without notice to or the consent of the Holders, create and issue Additional Notes having the same terms and conditions as the Notes (including the benefit of the Subsidiary Guarantees and the JV Subsidiary Guarantees, if any) in all respects (or in all respects except for the issue date, issue price and the first payment of interest on them and, to the extent necessary, certain temporary securities law transfer restrictions) (a “Further Issue”) so that such Additional Notes may be consolidated and form a single class with the previously outstanding Notes and vote together as one class on all matters with respect to the Notes; *provided* that the issuance of any such Additional Notes shall then be permitted under the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock” below.

## **MANDATORY REDEMPTION ON SPECIFIED DATES**

On each redemption date set forth below (each, a “Mandatory Redemption Date”), the Company shall redeem at least the Minimum Principal of the Notes at a redemption price equal to 100% of the principal amount of the Notes redeemed plus accrued and unpaid Interest, if any, to (but not including) the relevant Mandatory Redemption Date.

<b>Mandatory Redemption Date</b>	<b>Required Principal</b>
12 months from the Original Issue Date	10% of the initially issued amount of Notes
18 months from the Original Issue Date	25% of the initially issued amount of Notes

## **OPTIONAL REDEMPTION**

At any time and from time to time, the Company may at its option redeem the Notes, in whole or in part, at a redemption price equal to 100% of the principal amount of the Notes plus accrued and unpaid interest, if any, to (but not including) the redemption date. Neither the Trustee nor the Paying Agent is responsible for calculating or verifying any calculations or any amounts payable under this “—Optional Redemption” section.

### **Selection and Notice**

The Company will give not less than 30 days’ nor more than 60 days’ notice of any redemption to the Holders and the Trustee in accordance with the Indenture. If less than all of the Notes are to be redeemed at any time, the Notes for redemption will be selected as follows:

- (1) if the Notes are listed on any national securities exchange and/or being held through any clearing system, in compliance with the requirements of the principal national securities exchange on which the Notes are listed or the requirements of the clearing systems through which the Notes are held, as applicable; or
- (2) if the Notes are not listed on any national securities exchange, on a *pro rata* basis, by lot or by such other method as the Trustee in its sole and absolute discretion deems fair and appropriate, unless otherwise required by law or by applicable clearing system requirements.

A Note of US\$150,000 in principal amount or less shall not be redeemed in part. If any Note is to be redeemed in part only, the notice of redemption relating to such Note will state the portion of the principal amount to be redeemed. With respect to any certificated Note, a new Note in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note. On and after the redemption date, interest will cease to accrue on the Notes or portions of them called for redemption.

## **REPURCHASE OF NOTES UPON A CHANGE OF CONTROL TRIGGERING EVENT**

Not later than 30 days following a Change of Control Triggering Event, the Company will make an Offer to Purchase all outstanding Notes (a “Change of Control Offer”) at a purchase price equal to 101% of the principal amount thereof plus accrued and unpaid interest, if any, to (but not including) the Offer to Purchase Payment Date (see the definition of “Offer to Purchase”).

The Company has agreed in the Indenture that it will timely repay all Indebtedness or obtain consents as necessary under, or terminate, agreements or instruments that would otherwise prohibit a Change of Control Offer required to be made pursuant to the Indenture. Notwithstanding this agreement of the Company, it is important to note that if the Company is unable to repay (or cause to be repaid) all of the Indebtedness, if any, that would prohibit repurchase of the Notes or is unable to obtain the requisite consents of the holders of such Indebtedness, or terminate any agreements or instruments that would otherwise prohibit a Change of Control Offer, it would continue to be prohibited from purchasing the Notes. In that case, the Company’s failure to purchase tendered Notes would constitute an Event of Default under the Indenture.

Certain of the events constituting a Change of Control Triggering Event under the Notes may also constitute an event of default under certain other debt instruments of the Company and its Subsidiaries. Future debt of the Company may also (1) prohibit the Company from purchasing Notes in the event of a Change of Control Triggering Event; (2) provide that a Change of Control Triggering Event is a default; or (3) require repurchase of such debt upon a Change of Control Triggering Event. Moreover, the exercise by the Holders of their right to require the Company to purchase the Notes could cause a default under other Indebtedness, even if the Change of Control Triggering Event itself does not, due to the financial effect of the purchase on the Company. The Company’s ability to pay cash to the Holders following the occurrence of a Change of Control Triggering Event may be limited by the Company’s and the Subsidiary Guarantors’ then-existing financial resources. There can be no assurance that sufficient funds will be available when necessary to make the required purchase of the Notes. See “Risk Factors—Risks Relating to the New Notes—We may not be able to repurchase the New Notes upon a Change of Control Triggering Event”.

The phrase “all or substantially all,” as used with respect to the assets of the Company in the definition of “Change of Control,” will likely be interpreted under applicable law of the relevant jurisdictions and will be dependent upon particular facts and circumstances. As a result, there may be a degree of uncertainty in ascertaining whether a sale or transfer of “all or substantially all” the assets of the Company has occurred.

Notwithstanding the above, the Company will not be required to make a Change of Control Offer following a Change of Control Triggering Event if a third party makes the Change of Control Offer in the same manner, at the same time and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

Except as described above with respect to a Change of Control Triggering Event, the Indenture does not contain provisions that permit the Holders to require that the Company purchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

Neither the Trustee nor any of the Agents will be required to take any steps to monitor or ascertain whether a Change of Control Triggering Event or any event which could lead to a Change of Control Triggering Event has occurred or may occur and shall not be liable to any person for any failure to do so. The Trustee shall be entitled to assume that no such event has occurred until it has received written notice to the contrary from the Company. The Trustee shall not be required to take any steps to take ascertain whether the condition for the exercise of the rights herein has occurred. The Trustee shall not be responsible for determining or verifying whether a Note is to be accepted for redemption and will not be responsible to the Holders or any other person for any loss arising from any failure to do so. The Trustee shall not be under any duty to determine, calculate or verify the redemption amount payable hereunder and will not be responsible to the Holders for any loss arising from any failure by it to do so.

## **NO SINKING FUND**

There will be no sinking fund payments for the Notes.

## **ADDITIONAL AMOUNTS**

All payments of principal of, and premium (if any) and interest on the Notes or under the Subsidiary Guarantees and the JV Subsidiary Guarantees by or on behalf of the Company, a Surviving Person (as defined under the caption “—Consolidation, Merger and Sale of Assets”) or an applicable Subsidiary Guarantor or JV Subsidiary Guarantor will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or within any jurisdiction in which the Company, a Surviving Person or an applicable Subsidiary Guarantor or JV Subsidiary Guarantor is organized or resident for tax purposes (or any political subdivision or taxing authority thereof or therein), including, without limitation, if applicable, the PRC (each, as applicable, a “Relevant Jurisdiction”), or the jurisdiction through which payments are made or any political subdivision or taxing authority thereof or therein (each, together with a Relevant Jurisdiction, a “Taxing Jurisdiction”), unless such withholding or deduction is required by law or by regulation or governmental policy having the force of law. In the event that any such withholding or deduction is so required, the Company, a Surviving Person or the applicable Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be, will pay such additional amounts (“Additional Amounts”) as will result in receipt by the Holder of each Note of such amounts as would have been received by such Holder had no such withholding or deduction been required, except that no Additional Amounts shall be payable:

- (1) for or on account of:
  - (a) any tax, duty, assessment or other governmental charge that would not have been imposed but for:
    - (i) the existence of any present or former connection between the Holder or beneficial owner of such Note and the Taxing Jurisdiction, other than merely holding such Note or the receipt of payments thereunder or under a Subsidiary Guarantee or JV Subsidiary Guarantee, including, without limitation, such Holder or beneficial owner being or having been a national, domiciliary or resident of such Taxing Jurisdiction or treated as a resident thereof or being or having been physically present or engaged in a trade or business therein or having or having had a permanent establishment therein;
    - (ii) the presentation of such Note (in cases in which presentation is required) more than 30 days after the later of the date on which the payment of the principal of, premium, if any, and interest on, such Note became due and payable pursuant to the terms thereof or was made or duly provided for, except to the extent that the Holder thereof would have been entitled to such Additional Amounts if it had presented such Note for payment on any date within such 30-day period;

- (iii) the failure of the Holder or beneficial owner to comply with a timely request of the Company, a Surviving Person, any Subsidiary Guarantor or any JV Subsidiary Guarantor, addressed to the Holder, to provide information concerning such Holder's or its beneficial owner's nationality, residence, identity or connection with any Taxing Jurisdiction, if and to the extent that due and timely compliance with such request is required under the tax laws of such jurisdiction in order to reduce or eliminate any withholding or deduction as to which Additional Amounts would have otherwise been payable to such Holder; or
- (iv) the presentation of such Note (in cases in which presentation is required) for payment in the Taxing Jurisdiction, unless such Note could not have been presented for payment elsewhere;
- (b) any estate, inheritance, gift, sale, transfer, personal property or similar tax, assessment or other governmental charge;
- (c) any tax, assessment or other governmental charge that is payable otherwise than by withholding or deduction from payments of principal, premium (if any) and interest on the Notes or from payments under the Subsidiary Guarantees or JV Subsidiary Guarantees (if any);
- (d) any tax, assessment, withholding or deduction required by sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended ("FATCA"), any current or future Treasury Regulations or rulings promulgated thereunder, any intergovernmental agreement between the United States and any other jurisdiction to implement FATCA, any law, regulation or other official guidance enacted in any jurisdiction implementing such an intergovernmental agreement or FATCA, or any agreement with the U.S. Internal Revenue Service under FATCA; or
- (e) any combination of taxes, duties, assessments or other governmental charges referred to in the preceding clauses (a), (b), (c) and (d); or

(2) to a Holder that is a fiduciary, partnership or person other than the sole beneficial owner of any payment to the extent that such payment would be required to be included in the income under the laws of a Taxing Jurisdiction, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, or a member of that partnership or a beneficial owner who would not have been entitled to such Additional Amounts had that beneficiary, settlor, partner or beneficial owner been the Holder thereof.

Whenever there is mentioned in any context the payment of principal of, and any premium or interest on, any Note or under any Subsidiary Guarantee or JV Subsidiary Guarantee, such mention shall be deemed to include payment of Additional Amounts provided for in the Indenture to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

Neither the Trustee nor any Agent shall be responsible for paying any Additional Amounts or for determining whether such Additional Amounts are payable or the amount thereof, and none of them shall be responsible or liable for any failure by the Company, any Surviving Person, any Subsidiary Guarantor or JV Subsidiary Guarantor, Holder or any third party to pay such Additional Amounts.

## **REDEMPTION FOR TAXATION REASONS**

The Notes may be redeemed, at the option of the Company or a Surviving Person with respect to the Company, as a whole but not in part, upon giving not less than 30 days' nor more than 60 days' notice to the Holders and the Trustee (which notice shall be irrevocable), at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest (including any Additional Amounts), if any, to (but not including) the date fixed by the Company or the Surviving Person, as the case may be, for redemption (the "Tax Redemption Date") if, as a result of:

(1) any change in, or amendment to, the laws (or any regulations or rulings promulgated thereunder) of a Relevant Jurisdiction affecting taxation; or

(2) any change in the existing official position or the stating of an official position regarding the application or interpretation of such laws, regulations or rulings (including a holding, judgment or order by a court of competent jurisdiction),

which change or amendment becomes effective (or in the case of an official position, is announced) (i) with respect to the Company or any initial Subsidiary Guarantor, on or after the Original Issue Date, or (ii) with respect to any Future Subsidiary Guarantor, JV Subsidiary Guarantor or Surviving Person, on or after the date such Future Subsidiary Guarantor, JV Subsidiary Guarantor or Surviving Person becomes a Subsidiary Guarantor, JV Subsidiary Guarantor or Surviving Person, with respect to any payment due or to become due under the Notes or the Indenture, the Company, a Surviving Person or a Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be, is, or on the next Interest Payment Date would be, required to pay Additional Amounts, and such requirement cannot be avoided by the taking of reasonable measures by the Company, a Surviving Person, a Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be; *provided* that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Company, a Surviving Person, a Subsidiary Guarantor or a JV Subsidiary Guarantor, as the case may be, would be obligated to pay such Additional Amounts if a payment in respect of the Notes were then due.

Prior to the giving of any notice of redemption of the Notes pursuant to the foregoing, the Company, a Surviving Person, a Subsidiary Guarantor or a JV Subsidiary Guarantor, as the case may be, will deliver to the Trustee at least 30 days but not more than 60 days before a redemption date:

- (1) an Officers' Certificate stating that such change, amendment or statement of an official position referred to in the prior paragraph has occurred, describing the facts related thereto and stating that such requirement cannot be avoided by the Company, such Surviving Person, a Subsidiary Guarantor or a JV Subsidiary Guarantor, as the case may be, taking reasonable measures available to it; and
- (2) an Opinion of Counsel or an opinion of a tax consultant, in either case of recognized standing with respect to tax matters of the Relevant Jurisdiction, stating that the requirement to pay such Additional Amounts results from such change, amendment or statement of an official position referred to in the prior paragraph.

The Trustee shall and is entitled to accept and rely conclusively upon such certificate and opinion as sufficient evidence of the satisfaction of the conditions precedent described above without further verification, in which event it shall be conclusive and binding on the Holders. The Trustee will not be responsible for any loss occasioned by acting in reliance on such certificate and opinion, and is not obligated to investigate or verify any information in such certificate and opinion.

Any Notes that are redeemed for tax reasons will be cancelled.

## **CERTAIN COVENANTS**

Set forth below are summaries of certain covenants contained in the Indenture.

### **Limitation on Indebtedness and Preferred Stock**

- (1) The Company will not, and will not permit any Restricted Subsidiary to, Incur any Indebtedness (including Acquired Indebtedness), and the Company will not permit any Restricted Subsidiary to issue Preferred Stock, *provided* that the Company, any Subsidiary Guarantor or any JV Subsidiary Guarantor may Incur Indebtedness (including Acquired Indebtedness) and any Non-Guarantor Subsidiary may Incur Permitted Subsidiary Indebtedness if, after giving effect to the Incurrence of such Indebtedness and the receipt and application of the proceeds therefrom, (x) no Default has occurred and is continuing and (y) the Fixed Charge Coverage Ratio would be not less than 2.25 to 1.0. Notwithstanding the foregoing, the Company will not permit any Restricted Subsidiary to Incur any Disqualified Stock (other than Disqualified Stock held by the Company, a Subsidiary Guarantor or a JV Subsidiary Guarantor, so long as it is so held).

(2) Notwithstanding the foregoing, the Company and, to the extent provided below, any Restricted Subsidiary may incur each and all of the following (“Permitted Indebtedness”):

- (a) Indebtedness under the Notes (excluding any Additional Notes) and each Subsidiary Guarantee and JV Subsidiary Guarantee;
- (b) any *Pari Passu* Guarantees;
- (c) Indebtedness of the Company or any Restricted Subsidiary outstanding on the Original Issue Date excluding Indebtedness permitted under clause (d) (together with refinancings thereof); *provided* that such Indebtedness of Non-Guarantor Subsidiaries shall be included in the calculation of Permitted Subsidiary Indebtedness (other than any such Indebtedness described in clauses (d), (f), (g), (m) and (o) below);
- (d) Indebtedness of the Company or Indebtedness or Preferred Stock of any Restricted Subsidiary owed to or held by the Company or any Restricted Subsidiary; *provided* that (i) any event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any subsequent transfer of such Indebtedness (other than to the Company or any Restricted Subsidiary) shall be deemed, in each case, to constitute an Incurrence of such Indebtedness not permitted by this clause (d) and (ii) if the Company is the obligor on such Indebtedness and none of the Subsidiary Guarantors and the JV Subsidiary Guarantors is the obligee on such Indebtedness, such Indebtedness must expressly be subordinated in right of payment to the Notes, and if a Subsidiary Guarantor or a JV Subsidiary Guarantor is the obligor on such Indebtedness and none of the Company, the Subsidiary Guarantors and the JV Subsidiary Guarantors is the obligee on such Indebtedness, such Indebtedness must be expressly subordinated in right of payment to the Subsidiary Guarantee of such Subsidiary Guarantor or the JV Subsidiary Guarantee of such JV Subsidiary Guarantor, as the case may be; *provided further* that any Preferred Stock issued by a Subsidiary Guarantor and held by the Company or another Restricted Subsidiary must by the terms thereof or by operation of law be subordinated in right of payment to the Subsidiary Guarantee of such Subsidiary Guarantor or the JV Subsidiary Guarantee of such JV Subsidiary Guarantor;
- (e) Indebtedness (“Permitted Refinancing Indebtedness”) of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, defease, discharge or extend (collectively, “refinance” and “refinances” and “refinanced” shall have a correlative meaning), then outstanding Indebtedness (or Indebtedness that is no longer outstanding but that is refinanced substantially concurrently with the Incurrence of such Permitted Refinancing Indebtedness) Incurred under the immediately preceding paragraph (1) or clause (a), (b), (c), (h), (n), (p), (q), (r), (s), (t), (u) or (v) of this paragraph (2) and any refinancings thereof in an amount not to exceed the amount so refinanced (plus premiums, accrued interest, fees and expenses); *provided* that (i) Indebtedness the proceeds of which are used to refinance the Notes or Indebtedness that is *pari passu* with, or subordinated in right of payment to, the Notes or a Subsidiary Guarantee or a JV Subsidiary Guarantee shall only be permitted under this clause (e) if (A) in case the Notes are refinanced in part or the Indebtedness to be refinanced is *pari passu* with the Notes or a Subsidiary Guarantee or a JV Subsidiary Guarantee, as the case may be, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is outstanding, is expressly made *pari passu* with, or subordinate in right of payment to, the remaining Notes or such Subsidiary Guarantee or such JV Subsidiary Guarantee, as the case may be, or (B) in case the Indebtedness to be refinanced is subordinated in right of payment to the Notes or a Subsidiary Guarantee or a JV Subsidiary Guarantee, as the case may be, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is issued or remains outstanding, is expressly made subordinate in right of payment to the Notes or such Subsidiary Guarantee or such JV Subsidiary Guarantee, as the case may be, at least to the extent that the Indebtedness to be refinanced is subordinated to the Notes or such Subsidiary Guarantee or such JV Subsidiary Guarantee, (ii) such new Indebtedness, determined as of the date of Incurrence of such new Indebtedness, does not mature prior

to the Stated Maturity of the Indebtedness to be refinanced, and the Average Life of such new Indebtedness is at least equal to the remaining Average Life of the Indebtedness to be refinanced, (iii) in no event may Indebtedness of the Company, or any Subsidiary Guarantor or any JV Subsidiary Guarantor be refinanced pursuant to this clause by means of any Indebtedness of any Restricted Subsidiary that is not a Subsidiary Guarantor or a JV Subsidiary Guarantor, and (iv) in no event may Indebtedness of the Company or any Subsidiary Guarantor be refinanced pursuant to this clause by means of any Indebtedness of any JV Subsidiary Guarantor;

- (f) Indebtedness Incurred by the Company or any Restricted Subsidiary pursuant to Hedging Obligations to reduce or manage the exposure of the Company or any of its Restricted Subsidiaries to fluctuations in interest rates, currencies or the price of commodities;
- (g) Pre-Registration Mortgage Guarantees by the Company or any Restricted Subsidiary;
- (h) Indebtedness Incurred by the Company or any Restricted Subsidiary for the purpose of financing (x) all or any part of the purchase price of assets, real or personal property (including the lease purchase price of land use rights) or equipment to be used in the ordinary course of business by the Company or a Restricted Subsidiary in the Permitted Business, including any such purchase through the acquisition of Capital Stock of any Person that owns such assets, real or personal property or equipment which will, upon acquisition, become a Restricted Subsidiary, or (y) all or any part of the purchase price or the cost of development, construction or improvement of assets, real or personal property (including the lease purchase price of land use rights) or equipment to be used in the ordinary course of business by the Company or such Restricted Subsidiary in the Permitted Business; *provided* that, in the case of clauses (x) and (y), (A) the aggregate principal amount of such Indebtedness shall not exceed such purchase price or cost, (B) such Indebtedness shall be Incurred no later than 180 days after the acquisition of such assets, property or equipment or completion of such development, construction or improvement and (C) on the date of the Incurrence of such Indebtedness and after giving effect thereto, the aggregate principal amount outstanding of all such Indebtedness Incurred under this clause (h) (together with refinancings thereof and the aggregate principal amount outstanding of Indebtedness and Preferred Stock Incurred under clauses (p), (q), (s), (t), (u) and (v) below and the refinancings thereof, but excluding any Contractor Guarantee or Guarantee Incurred under such clauses and this clause (h) to the extent the amount of such Contractor Guarantee or Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 35% of Total Assets;
- (i) Indebtedness Incurred by the Company or any Restricted Subsidiary constituting reimbursement obligations with respect to workers' compensation claims or self-insurance obligations or bid, performance or surety bonds (in each case other than for an obligation for borrowed money);
- (j) Indebtedness Incurred by the Company or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit, trade guarantees or similar instruments issued in the ordinary course of business to the extent that such letters of credit, trade guarantees or similar instruments are not drawn upon or, if drawn upon, to the extent such drawing is reimbursed no later than 30 days following receipt by the Company or such Restricted Subsidiary of a demand for reimbursement;
- (k) Indebtedness arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, or from Guarantees or letters of credit, surety bonds or performance bonds securing any obligation of the Company or any Restricted Subsidiary pursuant to such agreements, in any case, Incurred in connection with the disposition of any business, assets or Restricted Subsidiary, other than Guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or Restricted Subsidiary for the purpose of financing such acquisition; *provided* that the maximum aggregate liability in respect of all such Indebtedness in the nature of such Guarantee shall at no time exceed the gross proceeds actually received from the disposition of such business, assets or Restricted Subsidiary;

- (l) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five Business Days of Incurrence;
- (m) Guarantees by the Company or any Restricted Subsidiary of Indebtedness of the Company or any Restricted Subsidiary that was permitted to be Incurred by another provision of this covenant, subject to the covenant described under the caption “—Limitation on Issuances of Guarantees by Restricted Subsidiaries”;
- (n) Indebtedness of the Company or any Restricted Subsidiary with a maturity of one year or less used by the Company or any Restricted Subsidiary for working capital; *provided* that, the aggregate principal amount of Indebtedness permitted by this clause (n) at any time outstanding does not exceed US\$30 million (or the Dollar Equivalent thereof);
- (o) Indebtedness of the Company or any Restricted Subsidiary constituting an obligation to pay the deferred purchase price of Capital Stock of a Person pursuant to a Staged Acquisition Agreement or Minority Interest Staged Acquisition Agreement, to the extent that such deferred purchase price is paid within 12 months after the date the Company or such Restricted Subsidiary enters into and becomes obligated to pay such deferred purchase price pursuant to such Staged Acquisition Agreement or Minority Interest Staged Acquisition Agreement;
- (p) Indebtedness Incurred or Preferred Stock or Disqualified Stock issued by any Restricted Subsidiary arising from any Investment made by a Trust Company Investor in a Restricted Subsidiary, and Indebtedness of the Company or a Restricted Subsidiary constituting a Guarantee by, or grant of a Lien on the assets of, the Company or a Restricted Subsidiary in favor of a Trust Company Investor with respect to the obligation to pay a guaranteed or preferred return to such Trust Company Investor on Capital Stock of such Restricted Subsidiary held by such Trust Company Investor, *provided* that on the date of such Incurrence of all such Indebtedness and after giving effect thereto, the aggregate principal amount outstanding of all such Indebtedness and Preferred Stock Incurred under this clause (p) (together with refinancings thereof and the aggregate principal amount outstanding of Indebtedness that was Incurred under clause (h) above and clauses (q), (s), (t), (u) and (v) below and the refinancings thereof, but excluding any Contractor Guarantee or Guarantee Incurred under such clauses and this clause (p) to the extent the amount of such Contractor Guarantee or Guarantee is otherwise reflected in such aggregate principal amount), does not exceed an amount equal to 35% of Total Assets;
- (q) Bank Deposit Secured Indebtedness Incurred by the Company or any Restricted Subsidiary; *provided* that, on the date of the Incurrence of such Indebtedness and after giving effect thereto, the aggregate principal amount outstanding of all such Indebtedness Incurred under this clause (q) (together with refinancings thereof and the aggregate principal amount outstanding of Indebtedness and Preferred Stock Incurred under clauses (h) and (p) above and clauses (s), (t), (u) and (v) below and the refinancings thereof, but excluding any Contractor Guarantee or Guarantee Incurred under such clauses and this clause (q) to the extent the amount of such Contractor Guarantee or Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 35% of Total Assets;
- (r) Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount outstanding at any time (together with refinancings thereof) not to exceed US\$30 million (or the Dollar Equivalent thereof);
- (s) Indebtedness Incurred by the Company or any Restricted Subsidiary constituting a Guarantee of Indebtedness of any Person (other than the Company or a Restricted Subsidiary) by the Company or such Restricted Subsidiary, *provided* that, on the date of the Incurrence of such Indebtedness and after giving effect thereto, the aggregate of all Indebtedness Incurred under this clause (s) (together with refinancing thereof and the aggregate principal amount outstanding of Indebtedness and Preferred Stock Incurred under clauses (h), (p) and (q) above and clauses (t), (u) and (v) below and the refinancings thereof, but excluding any Contractor Guarantee or Guarantee Incurred under such clauses and this

clause (s) to the extent the amount of such Contractor Guarantee or Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 35% of Total Assets;

- (t) Acquired Indebtedness of any Restricted Subsidiary Incurred and outstanding on the date on which such Restricted Subsidiary became a Restricted Subsidiary (other than Indebtedness Incurred (i) to provide all or any portion of the funds utilized to consummate the transaction or series of transactions pursuant to which a Person becomes a Restricted Subsidiary or (ii) otherwise in contemplation of a Person becoming a Restricted Subsidiary or any such acquisition); *provided* that, on the date of the Incurrence of such Indebtedness and after giving effect thereto, the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (t) (together with refinancing thereof and the aggregate principal amount outstanding of Indebtedness and Preferred Stock Incurred under clauses (h), (p), (q) and (s) above and clauses (u) and (v) below and the refinancings thereof, but excluding any Contractor Guarantee or Guarantee Incurred under such clauses and this clause (t) to the extent the amount of such Contractor Guarantee or Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 35% of Total Assets;
- (u) Indebtedness Incurred by the Company or any Restricted Subsidiary which is secured by Investment Properties and Guarantees thereof by the Company or any Restricted Subsidiary, *provided* that on the date of the Incurrence of such Indebtedness and after giving effect thereto, the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (u) (together with refinancing thereof and the aggregate principal amount outstanding of Indebtedness and Preferred Stock Incurred under clauses (h), (p), (q), (s) and (t) above and clause (v) below and the refinancings thereof, but excluding any Contractor Guarantee or Guarantee Incurred under such clauses and this clause (u) to the extent the amount of such Contractor Guarantee or Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 35% of Total Assets;
- (v) Indebtedness Incurred by the Company or any Restricted Subsidiary under Credit Facilities; *provided* that on the date of the Incurrence of such Indebtedness and after giving effect thereto, the aggregate principal amount outstanding of all such Indebtedness Incurred under this clause (v) (together with refinancings thereof and the aggregate principal amount outstanding of Indebtedness that was Incurred under clauses (h), (p), (q), (s), (t) and (u) above and the refinancings thereof, but excluding any Contractor Guarantee or Guarantee Incurred under such clauses and this clause (v) to the extent the amount of such Contractor Guarantee or Guarantee is otherwise reflected in such aggregate principal amount), does not exceed an amount equal to 35% of Total Assets; and
- (w) Indebtedness constituting a Subordinated Shareholder Loan.

(3) For purposes of determining compliance with this covenant, in the event that an item of Indebtedness or Preferred Stock meets the criteria of more than one of the types of Indebtedness or Preferred Stock described above, including under the proviso in the first paragraph, the Company, in its sole discretion, shall classify, and from time to time may reclassify, such item of Indebtedness or Preferred Stock in one or more types of such Indebtedness or Preferred Stock.

(4) Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that may be Incurred or Preferred Stock that may be issued pursuant to this covenant will not be deemed to be exceeded with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies.

#### **Limitation on Restricted Payments**

The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly (the payments or any other actions described in clauses (1) through (4) below being collectively referred to as “Restricted Payments”):

(1) declare or pay any dividend or make any distribution on or with respect to the Company’s or any Restricted Subsidiary’s Capital Stock (other than dividends or distributions payable or paid in shares of the Company’s Capital Stock (other than Disqualified Stock or Preferred Stock) or in options, warrants or other rights to

acquire shares of such Capital Stock) held by Persons other than the Company or any Wholly Owned Restricted Subsidiary;

- (2) purchase, call for redemption or redeem, retire or otherwise acquire for value any shares of Capital Stock of the Company or any Restricted Subsidiary (including options, warrants or other rights to acquire such shares of Capital Stock) or any direct or indirect parent of the Company held by any Persons other than the Company or any Wholly Owned Restricted Subsidiary;
- (3) make any voluntary or optional principal payment, or voluntary or optional redemption, repurchase, defeasance, or other acquisition or retirement for value, of Indebtedness that is subordinated in right of payment to the Notes or any of the Subsidiary Guarantees or any of the JV Subsidiary Guarantees (excluding any intercompany Indebtedness between or among the Company and any Restricted Subsidiary); or
- (4) make any Investment, other than a Permitted Investment;

if, at the time of, and after giving effect to, the proposed Restricted Payment:

- (a) a Default has occurred and is continuing or would occur as a result of such Restricted Payment;
- (b) the Company could not Incur at least US\$1.00 of Indebtedness under the proviso in the first paragraph of the covenant described under the caption “—Limitation on Indebtedness and Preferred Stock”; or
- (c) such Restricted Payment, together with the aggregate amount of all (1) Restricted Payments made by the Company and its Restricted Subsidiaries after the Original Issue Date and (2) payments made by the Company and its Restricted Subsidiaries after the Measurement Date but on or before the Original Issue Date that would have been Restricted Payments had they been made after the Original Issue Date (excluding all such payments set forth in clauses (2) to (13) of the immediately following paragraph), shall exceed the sum of:
  - (i) 50% of the aggregate amount of the Consolidated Net Income of the Company (or, if the Consolidated Net Income is a loss, minus 100% of the amount of such loss) accrued on a cumulative basis during the period (taken as one accounting period) beginning on January 1, 2019 and ending on the last day of the Company’s most recently ended fiscal quarter for which consolidated financial statements of the Company (which the Company shall use its reasonable best efforts to compile in a timely manner) are available (which may include internal consolidated financial statements); *plus*
  - (ii) 100% of the aggregate Net Cash Proceeds received by the Company after the Measurement Date as a capital contribution to its common equity or from the issuance and sale of its Capital Stock (other than Disqualified Stock) to a Person who is not a Restricted Subsidiary of the Company, including any such Net Cash Proceeds received upon
    - (A) the conversion of any Indebtedness (other than Subordinated Indebtedness) of the Company into Capital Stock (other than Disqualified Stock) of the Company, or
    - (B) the exercise by a Person who is not a Restricted Subsidiary of the Company of any options, warrants or other rights to acquire Capital Stock of the Company (other than Disqualified Stock) in each case excluding the amount of any such Net Cash Proceeds used to redeem, repurchase, defease or otherwise acquire or retire for value any Subordinated Indebtedness or Capital Stock of the Company; *plus*
  - (iii) the amount by which Indebtedness of the Company or any Restricted Subsidiary is reduced on the Company’s consolidated balance sheet upon the conversion or exchange (other than by a Restricted Subsidiary of the Company) subsequent to the Measurement Date of any Indebtedness of the Company or any Restricted Subsidiary convertible or exchangeable into Capital Stock (other than Disqualified Stock) of the Company (less the amount of any cash, or the Fair Market Value of any other property, distributed by the Company upon such conversion or exchange); *plus*
  - (iv) an amount equal to the net reduction in Investments (other than reductions in Permitted Investments) that were made after the Measurement Date in any Person resulting from (A) payments of interest on

Indebtedness, dividends or repayments of loans or advances by such Person, in each case to the Company or any Restricted Subsidiary (except, in each case, to the extent any such payment or proceeds are included in the calculation of Consolidated Net Income) after the Measurement Date, (B) the unconditional release of a Guarantee provided by the Company or a Restricted Subsidiary after the Measurement Date of an obligation of another Person, (C) to the extent that an Investment made after the Measurement Date was, after such date, or is sold or otherwise liquidated or repaid for cash, the lesser of (x) cash return of capital with respect to such Investment (less the cost of disposition, if any) and (y) the initial amount of such Investment, (D) from redesignations of Unrestricted Subsidiaries as Restricted Subsidiaries, not to exceed, in each case, the amount of Investments (other than Permitted Investments) made by the Company or a Restricted Subsidiary after the Measurement Date in any such Person, or (E) any Person becoming a Restricted Subsidiary (whereupon all Investments made by the Company or any Restricted Subsidiary in such Person since the Measurement Date shall be deemed to have been made pursuant to clause (1) of the definition of "Permitted Investment") but only to the extent such Investments by the Company or any Restricted Subsidiary in such Person was a Restricted Payment made to the extent permitted under this paragraph (c); *plus*

- (v) US\$20.0 million (or the Dollar Equivalent thereof).

The foregoing provision shall not be violated by reason of:

- (1) the payment of any dividend or redemption of any Capital Stock within 60 days after the related date of declaration or call for redemption if, at said date of declaration or call for redemption, such payment or redemption would comply with the preceding paragraph;
- (2) the redemption, repurchase, defeasance or other acquisition or retirement for value of Subordinated Indebtedness of the Company or any of the Subsidiary Guarantors or JV Subsidiary Guarantors with the Net Cash Proceeds of, or in exchange for, a substantially concurrent Incurrence of Permitted Refinancing Indebtedness;
- (3) the redemption, repurchase or other acquisition of Capital Stock of the Company or any Subsidiary Guarantor or any JV Subsidiary Guarantor (or options, warrants or other rights to acquire such Capital Stock) in exchange for, or out of the Net Cash Proceeds of a substantially concurrent capital contribution or a sale (other than to a Restricted Subsidiary of the Company) of, shares of the Capital Stock (other than Disqualified Stock) of the Company, any Subsidiary Guarantor or any JV Subsidiary Guarantor (or options, warrants or other rights to acquire such Capital Stock); *provided* that the amount of any such Net Cash Proceeds that are utilized for any such Restricted Payment will be excluded from clause (c)(ii) of the preceding paragraph, *provided however* that any item that has been excluded pursuant to clause (c)(ii) of the preceding paragraph will not be excluded again as a result of the proviso in this clause (3);
- (4) the redemption, repurchase, defeasance or other acquisition or retirement for value of Subordinated Indebtedness of the Company or any of the Subsidiary Guarantors or JV Subsidiary Guarantors in exchange for, or out of the Net Cash Proceeds of, a substantially concurrent capital contribution or sale (other than to a Subsidiary of the Company) of, shares of Capital Stock (other than Disqualified Stock) of the Company or any of the Subsidiary Guarantors or JV Subsidiary Guarantors (or options, warrants or other rights to acquire such Capital Stock); *provided* that the amount of any such Net Cash Proceeds that are utilized for any such Restricted Payment will be excluded from clause (c)(ii) of the preceding paragraph, *provided however* that any item that has been excluded pursuant to clause (c)(ii) of the preceding paragraph will not be excluded again as a result of the proviso in this clause (4);
- (5) the declaration and payment of any dividends or distributions declared, paid or made by a Restricted Subsidiary payable, on a *pro rata* basis or on a basis more favorable to the Company, to all holders of any class of Capital Stock of such Restricted Subsidiary;
- (6) dividends or other distributions paid to, or the purchase of Capital Stock of any Restricted Subsidiary held by, any Trust Company Investor in respect of any Indebtedness or Preferred Stock outstanding on either the

Measurement Date or on the Original Issue Date or permitted to be Incurred or issued under paragraph (2)(p) of the covenant described under the caption “—Limitation on Indebtedness and Preferred Stock”;

- (7) cash payments in lieu of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of the Company, provided, however, that any such cash payments shall not be for the purpose of evading the limitation of this covenant (as determined in good faith by the Board of Directors of the Company);
- (8) the purchase by the Company or a Restricted Subsidiary of Capital Stock of any Restricted Subsidiary that is not Wholly Owned, directly or indirectly, by the Company from an Independent Third Party pursuant to an agreement entered into between/among the Company or any Restricted Subsidiary and such Independent Third Party solely for the purpose of acquiring real property or land use rights, provided that (x) such purchase occurs within 12 months after such Restricted Subsidiary acquires the real property or land use rights it was formed to acquire and (y) the Company delivers to the Trustee a Board Resolution set forth in an Officers’ Certificate confirming that, in the opinion of the Board of Directors, the purchase price of such Capital Stock is less than or equal to the Fair Market Value of such Capital Stock;
- (9) (A) the repurchase, redemption or other acquisition or retirement for value of the Capital Stock of the Company or any Restricted Subsidiary (directly or indirectly, including through any trustee, agent or nominee) in connection with an employee benefit plan, and any corresponding Investment by the Company or any Restricted Subsidiary in any trust or similar arrangements to the extent of such repurchased, redeemed, acquired or retired Capital Stock, (B) the repurchase, redemption or other acquisition or retirement for value of any Capital Stock of the Company or any Restricted Subsidiary held by an employee benefit plan of the Company or any Restricted Subsidiary, any current or former officer, director, consultant, or employee of the Company or any Restricted Subsidiary (or permitted transferees, estates or heirs of any of the foregoing) or (C) payments or declaration of dividend or other distributions on Capital Stock of any Restricted Subsidiary held by any current or former officer, director, consultant or employee of the Company or any Restricted Subsidiary (or permitted transferees, estates or heirs of any of the foregoing) in connection with an employee benefit plan or employee incentive scheme; *provided* that the aggregate consideration paid for all such repurchased, redeemed, acquired or retired Capital Stock or dividends or distributions declared or made in any fiscal year shall not exceed US\$3.0 million (or the Dollar Equivalent thereof using the Original Issue Date as the date of determination);
- (10) repurchases of Capital Stock deemed to occur upon the exercise of stock options if such Capital Stock represents a portion of the exercise price thereof;
- (11) the payment of any dividend or distribution payable or paid in Capital Stock (other than Disqualified Stock or Preferred Stock) of any Unrestricted Subsidiary or in options, warrants or other rights to acquire shares of such Capital Stock;
- (12) the redemption, repurchase or other acquisition of or the declaration and payment of dividends on the Common Stock of the Company by the Company in an aggregate amount not to exceed 25% of profit for year based on the consolidated financial statements of the Company for any fiscal year;
- (13) the distributions or payments of Securitization Fees in connection with Receivable Financing permitted under the Indenture; or
- (14) the purchase of Capital Stock of a Person, and payments made, pursuant to a Minority Interest Staged Acquisition Agreement, provided that on the date that such Minority Staged Acquisition Agreement was entered into, such payments would have complied with clauses (a) and (c) of the preceding paragraph;

*provided* that, in the case of clause (2), (3), (4), or (12) of this paragraph, no Default shall have occurred and be continuing or would occur as a consequence of the actions or payments set forth therein.

Each Restricted Payment made pursuant to clause (1) and clause (14) of the preceding paragraph shall be included in calculating whether the conditions of clause (c) of the first paragraph of this covenant have been met with respect to any subsequent Restricted Payments.

The amount of any Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or the Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The value of any assets or securities that are required to be valued by this covenant will be the Fair Market Value. The Board of Directors' determination of the Fair Market Value of a Restricted Payment or any such assets or securities (other than any Restricted Payments set forth in clauses (5) through (14) above) must be based upon an opinion or appraisal issued by an appraisal or investment banking firm of recognized international standing if the Fair Market Value exceeds US\$10.0 million (or the Dollar Equivalent thereof).

Not later than the date of making any Restricted Payment in excess of US\$10.0 million (or the Dollar Equivalent thereof) (other than any Restricted Payments set forth in clauses (5) through (14) above), the Company will deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this covenant were computed, together with a copy of any fairness opinion or appraisal required by the Indenture.

For purposes of determining compliance with this covenant, in the event that an item of Investment meets the criteria of both the first paragraph of this covenant and paragraph (17) of the definition of "Permitted Investment" at any time, the Company, in its sole discretion, shall classify, and from time to time may reclassify, such item of Investment in either or both of such paragraphs.

### **Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries**

(1) Except as provided below, the Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any encumbrance or restriction on the ability of any Restricted Subsidiary to:

- (a) pay dividends or make any other distributions on any Capital Stock of such Restricted Subsidiary owned by the Company or any other Restricted Subsidiary;
- (b) pay any Indebtedness or other obligation owed to the Company or any other Restricted Subsidiary;
- (c) make loans or advances to the Company or any other Restricted Subsidiary; or
- (d) sell, lease or transfer any of its property or assets to the Company or any other Restricted Subsidiary.

*provided* that for the avoidance of doubt the following shall not be deemed to constitute such an encumbrance or restriction: (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on Common Stock; (ii) the subordination of loans or advances made to the Company or any Restricted Subsidiary to other Indebtedness Incurred by the Company or any Restricted Subsidiary; and (iii) the provisions contained in documentation governing Indebtedness requiring transactions between or among the Company and any Restricted Subsidiary or between or among any Restricted Subsidiary to be on fair and reasonable terms or on an arm's length basis.

(2) The provisions of paragraph (1) do not apply to any encumbrances or restrictions:

- (a) existing in agreements as in effect on the Original Issue Date, or in the Notes, the Subsidiary Guarantees, the JV Subsidiary Guarantees, the Indenture, or under any *Pari Passu* Guarantee, or any Indebtedness of the Company, any Subsidiary Guarantee or any JV Subsidiary Guarantee guaranteed by any *Pari Passu* Guarantee and any extensions, refinancings, renewals or replacements of any of the foregoing agreements; *provided* that the encumbrances and restrictions in any such extension, refinancing, renewal or replacement, taken as a whole, are no more restrictive in any material respect to the Holders than those encumbrances or restrictions that are then in effect and that are being extended, refinanced, renewed or replaced;
- (b) existing under or by reason of applicable law, rule, regulation or order;
- (c) with respect to any Person or the property or assets of such Person acquired by the Company or any Restricted Subsidiary, existing at the time of such acquisition and not incurred in contemplation thereof, which encumbrances or restrictions are not applicable to any Person or the property or assets of any

Person other than such Person or the property or assets of such Person so acquired, and any extensions, refinancings, renewals or replacements thereof; *provided* that the encumbrances and restrictions in any such extension, refinancing, renewal or replacement, taken as a whole, are no more restrictive in any material respect to the Holders than those encumbrances or restrictions that are then in effect and that are being extended, refinanced, renewed or replaced;

- (d) that otherwise would be prohibited by the provision described in clause (1)(d) of this covenant if they arise, or are agreed to, in the ordinary course of business and, that (i) restrict in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease or license, or (ii) exist by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or assets of the Company or any Restricted Subsidiary not otherwise prohibited by the Indenture or (iii) do not relate to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of the property or assets of the Company or any Restricted Subsidiary in any manner material to the Company or any Restricted Subsidiary;
- (e) with respect to a Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock of, or property and assets of, such Restricted Subsidiary that is permitted by the covenants described under the captions “—Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries,” “—Limitation on Indebtedness and Preferred Stock” and “—Limitation on Asset Sales”;
- (f) with respect to any Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the Incurrence of Indebtedness or issuance of Preferred Stock or Disqualified Stock permitted under “—Limitation on Indebtedness and Preferred Stock” if, as determined by the Board of Directors, the encumbrances or restrictions are (i) customary for such types of agreements and (ii) would not, at the time agreed to, be expected to materially and adversely affect the ability of the Company to make required payment on the Notes and, with respect to Indebtedness permitted under “—Limitation on Indebtedness and Preferred Stock”, any extensions, refinancings, renewals or replacements of any of the foregoing agreements; *provided* that the encumbrances and restrictions in any such extension, refinancing, renewal or replacement, taken as a whole, are no more restrictive in any material respect to the Holders than those encumbrances or restrictions that are then in effect and that are being extended, refinanced, renewed or replaced;
- (g) existing in customary provisions in shareholders agreement, joint venture agreements and other similar agreements, to the extent such encumbrance or restriction relates to the activities or assets of a Restricted Subsidiary that is a party to such joint venture and if (as determined in good faith by the Board of Directors) (i) the encumbrances or restrictions are customary for a shareholder, joint venture or similar agreement of that type and (ii) the encumbrances or restrictions would not, at the time agreed to, be expected to materially and adversely affect (x) the ability of the Company to make the required payments on the Notes, or (y) any Subsidiary Guarantor or JV Subsidiary Guarantor to make required payments under its Subsidiary Guarantee or JV Subsidiary Guarantee; or
- (h) existing with respect to any Unrestricted Subsidiary or the property or assets of such Unrestricted Subsidiary that is designated as a Restricted Subsidiary in accordance with the terms of the Indenture at the time of such designation and not incurred in contemplation of such designation, which encumbrances or restrictions are not applicable to any Person or the property or assets of any Person other than such Unrestricted Subsidiary or its subsidiaries or the property or assets of such Unrestricted Subsidiary or its subsidiaries, and any extensions, refinancing, renewals or replacements thereof; *provided* that the encumbrances and restrictions in any such extension, refinancing, renewal or replacement, taken as a whole, are no more restrictive in any material respect to the Holders than those encumbrances or restrictions that are then in effect and that are being extended, refinanced, renewed or replaced.

### **Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries**

The Company will not sell, and will not permit any Restricted Subsidiary, directly or indirectly, to issue or sell any shares of Capital Stock of a Restricted Subsidiary (including options, warrants or other rights to purchase shares of such Capital Stock) except:

- (1) to the Company or a Wholly Owned Restricted Subsidiary or, in the case of a Restricted Subsidiary that is not Wholly Owned, *pro rata* to its shareholders or incorporators or on a basis more favorable to the Company and/or its Restricted Subsidiary;
- (2) to the extent such Capital Stock represents director's qualifying shares or is required by applicable law to be held by a Person other than the Company or a Wholly Owned Restricted Subsidiary;
- (3) the sale or issuance of Capital Stock of a Restricted Subsidiary if, immediately after giving effect to such sale or issuance, such Restricted Subsidiary would no longer constitute a Restricted Subsidiary and any remaining Investment in such Person would have been permitted to be made under the covenant described under the caption "—Limitation on Restricted Payments" if made on the date of such sale or issuance and *provided* that the Company complies with the covenant described under the caption "—Limitation on Asset Sales"; or
- (4) the sale or issuance of Capital Stock of a Restricted Subsidiary (which remains a Restricted Subsidiary after any such sale or issuance); *provided* that the Company or such Restricted Subsidiary applies the Net Cash Proceeds of such sale or issuance in accordance with the covenant described under the caption "—Limitation on Asset Sales."

### **Limitation on Issuances of Guarantees by Restricted Subsidiaries**

The Company will not permit any Restricted Subsidiary which is not a Subsidiary Guarantor or a JV Subsidiary Guarantor, directly or indirectly, to Guarantee any Indebtedness ("Guaranteed Indebtedness") of the Company or any Subsidiary Guarantor or JV Subsidiary Guarantor, unless (1)(a) such Restricted Subsidiary simultaneously executes and delivers a supplemental indenture to the Indenture providing for an unsubordinated Subsidiary Guarantee (in the case of a Subsidiary Guarantor) or JV Subsidiary Guarantee (in the case of a JV Subsidiary Guarantor) of payment of the Notes by such Restricted Subsidiary and (b) such Restricted Subsidiary waives and will not in any manner whatsoever claim, or take the benefit or advantage of, any rights of reimbursement, indemnity or subrogation or any other rights against the Company or any other Restricted Subsidiary as a result of any payment by such Restricted Subsidiary under its Subsidiary Guarantee or JV Subsidiary Guarantee, as the case may be, until the Notes have been paid in full or (2) such Guarantee is permitted by clause (2)(c), (2)(d) or (2)(q) (in the case of clause (2)(q), with respect to the Guarantee provided by the Company or any Restricted Subsidiary through the pledge of bank accounts, deposits or other assets to secure (or the use of any Guarantee, letter of credit or similar instrument to Guarantee), directly or indirectly, any Bank Deposit Secured Indebtedness), under the caption "—Limitation on Indebtedness and Preferred Stock."

If the Guaranteed Indebtedness (1) ranks *pari passu* in right of payment with the Notes, any Subsidiary Guarantee or any JV Subsidiary Guarantee, then the Guarantee of such Guaranteed Indebtedness shall rank *pari passu* in right of payment with, or subordinated to, the Subsidiary Guarantee or the JV Subsidiary Guarantee, as the case may be, or (2) is subordinated in right of payment to the Notes, any Subsidiary Guarantee or any JV Subsidiary Guarantee, then the Guarantee of such Guaranteed Indebtedness shall be subordinated in right of payment to the Subsidiary Guarantee or the JV Subsidiary Guarantee, as the case may be, at least to the extent that the Guaranteed Indebtedness is subordinated to the Notes, the Subsidiary Guarantee or the JV Subsidiary Guarantee.

### **Limitation on Transactions with Shareholders and Affiliates**

The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement (including, without limitation, the purchase, sale, lease or exchange of property or assets, or the rendering of any service) with (x) any holder (or any Affiliate of such holder) of 10% or more of any class of Capital Stock of the Company or (y) any Affiliate of the Company (each an "Affiliate Transaction"), unless:

- (1) the Affiliate Transaction is on fair and reasonable terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable arm's length

transaction by the Company or the relevant Restricted Subsidiary with a Person that is not an Affiliate of the Company; and

(2) the Company delivers to the Trustee:

- (a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of US\$5.0 million (or the Dollar Equivalent thereof), a Board Resolution set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with this covenant and such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors; and
- (b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of US\$10.0 million (or the Dollar Equivalent thereof), in addition to the Board Resolution required in clause 2(a) above, an opinion as to the fairness to the Company or the relevant Restricted Subsidiary of such Affiliate Transaction from a financial point of view or confirming that the terms of such Affiliate Transaction are no less favorable to the Company or the relevant Restricted Subsidiary than terms available to (or from, as applicable) a Person that is not an Affiliate of the Company issued by an accounting, appraisal or investment banking firm of recognized international standing.

The foregoing limitation does not limit, and shall not apply to:

- (1) the payment of reasonable and customary regular fees and other compensation for the service to directors of the Company or any Restricted Subsidiary who are not employees of the Company or any Restricted Subsidiary;
- (2) transactions between or among the Company and any of its Wholly Owned Restricted Subsidiaries or between or among Wholly Owned Restricted Subsidiaries;
- (3) any Restricted Payment of the type described in clause (1), (2) or (3) of the first paragraph of the covenant described under the caption “—Limitation on Restricted Payments” if permitted by that covenant;
- (4) any sale of Capital Stock (other than Disqualified Stock) of the Company;
- (5) the payment of compensation to officers and directors of the Company or any Restricted Subsidiary pursuant to an employee stock or share option or other incentive scheme, so long as such scheme is in compliance with the listing rules of The Hong Kong Stock Exchange Limited, which as of the Original Issue Date require a majority shareholder approval of any such scheme; or
- (6) any employment, consulting, service or termination agreement, or reasonable and customary indemnification arrangements, entered into by the Company or any of its Restricted Subsidiaries with directors, officers, employees and consultants in the ordinary course of business and the payment of compensation pursuant thereto.

In addition, the requirements of clause (2) of the first paragraph of this covenant shall not apply to (i) Investments (including Permitted Investments that are permitted under paragraph (17) of the definition of “Permitted Investments” but otherwise excluding any other Permitted Investments) not prohibited by the covenant described under the caption “—Limitation on Restricted Payments,” (ii) transactions pursuant to agreements in effect on the Original Issue Date and described in the Company's Exchange Offer Memorandum dated November 18, 2022 (as supplemented from time to time), or any amendment or modification or replacement thereof, so long as such amendment, modification or replacement is not more disadvantageous to the Company and its Restricted Subsidiaries than the original agreement in effect on the Original Issue Date, (iii) any transaction (A) between or among the Company, any Wholly Owned Restricted Subsidiary and any Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary, (B) between or among Restricted Subsidiaries that are not Wholly Owned Restricted Subsidiaries, or (C) between or among the Company or a Restricted Subsidiary on the one hand and any Minority Joint Venture or Unrestricted Subsidiary on the other; *provided* that in the case of clause (iii) (a) such transaction is entered into in the ordinary course of business, (b) in the case of a non-Wholly Owned Restricted Subsidiary, none of the shareholders or partners (other than the Company or any Restricted Subsidiary) of or in such Restricted Subsidiary that is not a Wholly Owned Restricted

Subsidiary, Minority Joint Venture or Unrestricted Subsidiary is a Person described in clauses (x) or (y) of the first paragraph of this covenant (other than by reason of such other shareholder or partner being an officer or director of such Restricted Subsidiary, Minority Joint Venture or Unrestricted Subsidiary or by reason of being a Subsidiary or Minority Joint Venture of the Company and (iv) for as long as the Common Stock of the Company remains listed on The Stock Exchange of Hong Kong Limited, any Affiliate Transaction which is conducted in compliance with the applicable listing rules of The Stock Exchange of Hong Kong Limited.

#### **Limitation on Liens**

Subject to the third paragraph of this covenant, the Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, incur, assume or permit to exist any Lien of any nature whatsoever on any of its assets or properties of any kind, whether owned at the Original Issue Date or thereafter acquired, except Permitted Liens, unless the Notes are equally and ratably secured by such Lien.

In the event that one or more Liens (and documents relating thereto) are to be established or maintained to effect equal and ratable security arrangements in respect of the Notes (as contemplated under the preceding paragraph) with regards to Indebtedness proposed to be or previously Incurred by the Company or any Subsidiary Guarantor in compliance with the terms of the Indenture, the Company may instruct the Trustee to directly, or through its Affiliates (in its capacity as Trustee or that of a collateral agent on such terms as it shall require and subject to such terms as it may agree) and without the consent of any Holders, (a) enter into one or more intercreditor agreements, pledge agreements, collateral and security agreements or other arrangements intended to effect the shared security arrangements contemplated by this paragraph among holders of such Indebtedness and (b) facilitate the completion by other parties of filings, registrations or other actions necessary to effect or perfect the relevant Liens or related arrangements.

The Company will not, and will not permit any of its Restricted Subsidiary to, directly or indirectly, incur, assume or permit to exist any Lien on any Specified Assets (other than any existing Lien as of the Original Issue Date), unless such Lien is incurred, assumed or permitted to (i) facilitate a Specified Asset Sale or (ii) secure Indebtedness of such Restricted Subsidiary, provided that in the case of (ii), the aggregate outstanding principal amount of all such Indebtedness secured by Liens on the Specified Assets shall not exceed 70% of the aggregate fair value of all Specified Assets (as measured in accordance with GAAP and reflected in the most recent available consolidated financial statements of the Company (which may be internal consolidated statements)).

#### **Limitation on Sale and Leaseback Transactions**

The Company will not, and will not permit any of its Restricted Subsidiaries to, enter into any Sale and Leaseback Transaction; *provided* that the Company or any Restricted Subsidiary may enter into a Sale and Leaseback Transaction if:

- (1) the Company or such Restricted Subsidiary could have (a) Incurred Indebtedness in an amount equal to the Attributable Indebtedness relating to such Sale and Leaseback Transaction under “—Limitation on Indebtedness and Preferred Stock” and (b) incurred a Lien to secure such Indebtedness pursuant to the covenant described above under the caption “—Limitation on Liens,” in which case, the corresponding Indebtedness and Lien will be deemed incurred pursuant to those provisions;
- (2) the gross cash proceeds of such Sale and Leaseback Transaction are at least equal to the Fair Market Value of the property that is the subject of such Sale and Leaseback Transaction; and
- (3) the transfer of assets in such Sale and Leaseback Transaction is permitted by, and the Company or such Restricted Subsidiary applies the proceeds of such transaction in compliance with, the covenant described below under the caption “—Limitation on Asset Sales.”

#### **Limitation on Asset Sales**

The Company will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale, unless:

- (1) no Default shall have occurred and be continuing or would occur as a result of such Asset Sale;

- (2) the consideration received by the Company or such Restricted Subsidiary, as the case may be, is at least equal to the Fair Market Value of the assets sold or disposed of; and
- (3) at least 75% of the consideration received consists of cash, Temporary Cash Investments or Replacement Assets; *provided* that, in the case of an Asset Sale in which the Company or such Restricted Subsidiary receives Replacement Assets involving aggregate consideration in excess of US\$15.0 million (or the Dollar Equivalent thereof), the Company shall deliver to the Trustee an opinion as to the fairness to the Company or such Restricted Subsidiary of such Asset Sale from a financial point of view issued by an accounting, appraisal or investment banking firm of international standing. For purposes of this provision, each of the following will be deemed to be cash:
  - (a) any liabilities, as shown on the Company's most recent consolidated balance sheet, of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes, any Subsidiary Guarantee or any JV Subsidiary Guarantee) that are assumed by the transferee of any such assets pursuant to a customary assumption, assignment, novation or similar agreement that releases the Company or such Restricted Subsidiary from further liability; and
  - (b) any securities, notes or other obligations received by the Company or any Restricted Subsidiary from such transferee that are promptly, but in any event within 30 days of closing, converted by the Company or such Restricted Subsidiary into cash, to the extent of the cash received in that conversion;

Within 360 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Company (or any Restricted Subsidiary) may apply such Net Cash Proceeds to:

- (1) permanently repay Senior Indebtedness of the Company or a Subsidiary Guarantor or any Indebtedness of a Restricted Subsidiary that is not a Subsidiary Guarantor (and, if such Senior Indebtedness repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto) in each case owing to a Person other than the Company or a Restricted Subsidiary; or
- (2) acquire properties and assets that replace the properties and assets that were the subject of such Asset Sale or in properties or assets (other than current assets that are not land use rights, properties under development or completed property held for sale) that will be used in the Permitted Businesses (including any Capital Stock in a person holding such property or assets that is primarily engaged in a Permitted Business) ("Replacement Assets").

Pending application of such Net Cash Proceeds as set forth in clause (1) or (2) above, the Company or any Restricted Subsidiary may make an Investment in cash or Temporary Cash Investments.

Any Net Cash Proceeds from Asset Sales that are not applied or invested as provided in clauses (1) and (2) in the immediately preceding paragraph will constitute "Excess Proceeds." Excess Proceeds of less than US\$20.0 million (or the Dollar Equivalent thereof) will be carried forward and accumulated. When accumulated Excess Proceeds exceeds US\$20.0 million (or the Dollar Equivalent thereof), within 10 days thereof, the Company must make an Offer to Purchase Notes having a principal amount equal to:

- (1) accumulated Excess Proceeds, multiplied by
- (2) a fraction (x) the numerator of which is equal to the outstanding principal amount of the Notes and (y) the denominator of which is equal to the outstanding principal amount of the Notes and all *pari passu* Indebtedness similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale, rounded down to the nearest US\$1.

The offer price in any Offer to Purchase will be equal to 100% of the principal amount of the Notes plus accrued and unpaid interest to (but not including) the date of purchase, and will be payable in cash.

If any Excess Proceeds remain after consummation of an Offer to Purchase, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of Notes (and any other *pari passu* Indebtedness) tendered into (or required to be prepaid or redeemed in connection with) such Offer

to Purchase exceeds the amount of Excess Proceeds, the Notes (and such other *pari passu* Indebtedness) will be purchased on a *pro rata* basis by lot or such other method the Trustee determines in its sole and absolute discretion. Upon completion of each Offer to Purchase, the amount of Excess Proceeds will be reset at zero.

### **Limitation on Specified Asset Sales**

Upon consummation of any Specified Asset Sale, the Company shall, within three months from and including the later of (x) the date of consummation of such Specified Asset Sale and (y) the date when the aggregate Net Consideration of all Specified Asset Sales as of such date has exceeded RMB500.0 million (such three month period, the “Allocation Period”), allocate, or procure the allocation of 50% of the excess of the Net Consideration over RMB500.0 million derived from such Specified Asset Sale(s) (the “Allocation Amount”) as follows, for so long as the accumulated Allocation Amount exceeds US\$50.0 million:

- (1) pay the principal of, premium, if any, or interest on the Notes, in each case that has become due and payable within the Allocation Period; or
- (2) make an Offer to Purchase the Notes at a purchase price, being the Fair Market Consideration (or better) to all Holders of the then outstanding Notes; or
- (3) repurchase the Notes through tender offers, open market repurchases or otherwise redeem the Notes in accordance with the terms of the Indenture,

to the effect that upon such allocation, such accumulated Allocation Proceeds at such time shall be reduced to zero.

### **Limitation on the Company’s Business Activities**

The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, engage in any business other than Permitted Businesses; provided, however, that the Company or any Restricted Subsidiary may own Capital Stock of an Unrestricted Subsidiary or joint venture or other entity that is engaged in a business other than Permitted Businesses as long as any Investment therein was not prohibited when made by the covenant under the caption “—Limitation on Restricted Payments.”

### **Use of Proceeds**

The Company will not, and will not permit any Restricted Subsidiary to, use the net proceeds from the sale of any Additional Notes, in any amount, for any purpose other than (1) in the approximate amounts and for the purposes specified, including any adjustment in response to changes in acquisition or development plans as contemplated, under the caption “Use of Proceeds” in the offering or other document relating to the sale of such Additional Notes and (2) pending the application of all of such net proceeds in such manner, to invest the portion of such net proceeds not yet so applied in Temporary Cash Investments.

### **Designation of Restricted and Unrestricted Subsidiaries**

The Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary (except for any Restricted Subsidiary that directly owns any Specified Asset); provided that (1) no Default shall have occurred and be continuing at the time of or after giving effect to such designation; (2) neither the Company nor any Restricted Subsidiary provides credit support (other than any credit support in compliance with clause (6) of this paragraph) for the Indebtedness of such Restricted Subsidiary; (3) such Restricted Subsidiary has no outstanding Indebtedness that could trigger a cross-default to the Indebtedness of the Company as a result of such designation; (4) such Restricted Subsidiary does not own any Disqualified Stock of the Company or Disqualified or Preferred Stock of another Restricted Subsidiary or hold any Indebtedness of, or any Lien on any property of, the Company or any Restricted Subsidiary, if such Disqualified or Preferred Stock or Indebtedness could not be Incurred under the covenant described under the caption “—Limitation on Indebtedness and Preferred Stock” or such Lien would violate the covenant described under the caption “—Limitation on Liens”; (5) such Restricted Subsidiary does not own any Voting Stock of another Restricted Subsidiary, and all of its Subsidiaries are Unrestricted Subsidiaries or are being concurrently designated to be Unrestricted Subsidiaries in accordance with this paragraph; and (6) the Investment deemed to have been made thereby in such newly-designated Unrestricted Subsidiary and each other newly-designated Unrestricted

Subsidiary being concurrently redesignated would be permitted to be made by the covenant described under “—Limitation on Restricted Payments.”

The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that (1) no Default shall have occurred and be continuing at the time of or after giving effect to such designation; (2) any Indebtedness of such Unrestricted Subsidiary outstanding at the time of such designation which will be deemed to have been Incurred by such newly-designated Restricted Subsidiary as a result of such designation would be permitted to be Incurred by the covenant described under the caption “—Limitation on Indebtedness and Preferred Stock”; (3) any Lien on the property of such Unrestricted Subsidiary at the time of such designation which will be deemed to have been incurred by such newly-designated Restricted Subsidiary as a result of such designation would be permitted to be incurred by the covenant described under the caption “—Limitation on Liens”; (4) such Unrestricted Subsidiary is not a Subsidiary of another Unrestricted Subsidiary (that is not concurrently being designated as a Restricted Subsidiary); and (5) if such Restricted Subsidiary is not a Non-Guarantor Subsidiary, such Restricted Subsidiary shall upon such designation execute and deliver to the Trustee a supplemental indenture to the Indenture by which such Restricted Subsidiary shall become a Subsidiary Guarantor or a JV Subsidiary Guarantor to the extent required under “—The Subsidiary Guarantees and the JV Subsidiary Guarantees.”

### **Government Approvals and Licenses; Compliance with Law**

The Company will, and will cause each Restricted Subsidiary to, (1) obtain and maintain in full force and effect all governmental approvals, authorizations, consents, permits, concessions and licenses as are necessary to engage in the Permitted Businesses; (2) preserve and maintain good and valid title to its properties and assets (including land-use rights) free and clear of any Liens other than Permitted Liens; and (3) comply with all laws, regulations, orders, judgments and decrees of any governmental body, except to the extent that failure so to obtain, maintain, preserve and comply would not reasonably be expected to have a material adverse effect on (a) the business, results of operations or prospects of the Company and its Restricted Subsidiaries, taken as a whole, or (b) the ability of the Company, any Subsidiary Guarantor or any JV Subsidiary Guarantor to perform its obligations under the Notes, the relevant Subsidiary Guarantee, the relevant JV Subsidiary Guarantee or the Indenture.

The Company has completed the registration of foreign debt in respect of the issuance of the New Notes and obtained a certificate of registration from the NDRC in accordance with the NDRC Notice. The Company will file or cause to be filed with the NDRC or its local branch information of the issuance of the New Notes after the Original Issue Date in accordance with and within the time period prescribed by the NDRC Notice.

### **Anti-Layering**

The Company will not Incur, and will not permit any Subsidiary Guarantor or JV Subsidiary Guarantor to Incur, any Indebtedness if such Indebtedness is contractually subordinated in right of payment to any other Indebtedness of the Company, such Subsidiary Guarantor or such JV Subsidiary Guarantor, as the case may be, unless such Indebtedness is also contractually subordinated in right of payment to the Notes, the applicable Subsidiary Guarantee or the applicable JV Subsidiary Guarantee, on substantially identical terms. This does not apply to distinctions between categories of Indebtedness that exist by reason of any Liens or Guarantees securing or in favor of some but not all of such Indebtedness.

### **Suspension of Certain Covenants**

If, on any date following the date of the Indenture, the Notes have a rating of Investment Grade from both of the Rating Agencies and no Default has occurred and is continuing (a “Suspension Event”), then, beginning on that day and continuing until such time, if any, at which the Notes cease to have a rating of Investment Grade from either of the Rating Agencies, the provisions of the Indenture summarized under the following captions will be suspended:

- (1) “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (2) “—Certain Covenants—Limitation on Restricted Payments”;
- (3) “—Certain Covenants—Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries”;

- (4) “—Certain Covenants—Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries”;
- (5) “—Certain Covenants—Limitation on Issuances of Guarantees by Restricted Subsidiaries”;
- (6) “—Certain Covenants—Limitation on Transactions with Shareholders and Affiliates”;
- (7) “—Certain Covenants—Limitation on the Company’s Business Activities”;
- (8) “—Certain Covenants—Limitation on Sale and Leaseback Transactions”;
- (9) “—Certain Covenants—Limitation on Asset Sales”;
- (10) “—Certain Covenants—Limitation on Specified Asset Sales”; and
- (11) clauses (3), (4) and 5(x) of the first and second paragraphs of “—Consolidation, Merger and Sale of Assets.”

During any period that the foregoing covenants have been suspended, the Board of Directors may not designate any of the Restricted Subsidiaries as Unrestricted Subsidiaries pursuant to the covenant summarized under the caption “—Certain Covenants—Designation of Restricted and Unrestricted Subsidiaries” or the definition of “Unrestricted Subsidiary.”

Such covenants will be reinstated and apply according to their terms as of and from the first day on which a Suspension Event ceases to be in effect. Such covenants will not, however, be of any effect with regard to actions of the Company or any Restricted Subsidiary properly taken in compliance with the provisions of the Indenture during the continuance of the Suspension Event, and following reinstatement the calculations under the covenant summarized under “—Certain Covenants—Limitation on Restricted Payments” will be made as if such covenant had been in effect since the date of the Indenture except that no Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended.

There can be no assurance that the Notes will ever achieve a rating of Investment Grade or that any such rating will be maintained.

### **Provision of Financial Statements and Reports**

- (1) So long as any of the Notes remain outstanding, the Company will file with the Trustee and furnish to the Holders upon request, as soon as they are available but in any event not more than 10 calendar days after they are filed with The Stock Exchange of Hong Kong Limited or any other recognized exchange on which the Company’s ordinary shares are at any time listed for trading, true and correct copies of any financial report in the English language filed with such exchange; *provided* that, if at any time the Common Stock of the Company ceases to be listed for trading on a recognized stock exchange, the Company will file with the Trustee and furnish to the Holders:
  - (a) as soon as they are available, but in any event within 90 calendar days after the end of the fiscal year of the Company, copies of its financial statements (on a consolidated basis and in English language) in respect of such financial year (including a statement of income, balance sheet and cash flow statement) audited by a member firm of an internationally-recognized firm of independent accountants;
  - (b) as soon as they are available, but in any event within 45 calendar days after the end of the second financial quarter of the Company, copies of its financial statements (on a consolidated basis and in English language) in respect of such half-year period (including a statement of income, balance sheet and cash flow statement) reviewed by a member firm of an internationally-recognized firm of independent accountants; and
  - (c) as soon as they are available, but in any event within 45 calendar days after the end of each of the first and third financial quarter of the Company, copies of its unaudited financial statements (on a consolidated basis and in English language), including a statement of income, balance sheet and cash flow statement, prepared on a basis consistent with the audited financial statements of the Company together with a certificate signed by the person then authorized to sign financial statements on behalf of the Company to the effect that such financial statements are true in all material respects and present

fairly the financial position of the Company as at the end of, and the results of its operations for, the relevant quarterly period.

(2) In addition, so long as any of the Notes remain outstanding, the Company will provide to the Trustee (a) within 120 days after the close of each fiscal year ending after the Original Issue Date, an Officers' Certificate stating the Fixed Charge Coverage Ratio with respect to the four most recent fiscal quarters and showing in reasonable detail the calculation of the Fixed Charge Coverage Ratio, including the arithmetic computations of each component of the Fixed Charge Coverage Ratio thereof, with a certificate from the Company's external auditors verifying the accuracy and correctness of the calculation and arithmetic computation; provided that the Company shall not be required to provide such auditor certificate if its external auditors refuse to provide such certificate as a result of a policy of such external auditors not to provide such certificate; and (b) as soon as possible and in any event within 30 days after the Company becomes aware or should reasonably become aware of the occurrence of a Default, an Officers' Certificate setting forth the details of the Default, and the action which the Company proposes to take with respect thereto.

## **EVENTS OF DEFAULT**

The following events will be defined as "Events of Default" in the Indenture:

- (1) default in the payment of principal of (or premium, if any, on) the Notes when the same becomes due and payable at maturity, upon acceleration, redemption or otherwise;
- (2) default in the payment of interest on any Note when the same becomes due and payable, and such default continues for a period of 30 consecutive days;
- (3) default in the performance or breach of the provisions of the covenants described under "—Consolidation, Merger and Sale of Assets" or "—Certain Covenants—Limitation on Specified Asset Sales," the failure by the Company to make or consummate an Offer to Purchase in the manner described under the captions "—Repurchase of Notes upon a Change of Control Triggering Event," "—Mandatory Redemption on Specified Dates," "—Certain Covenants—Limitation on Asset Sales" or "—Certain Covenants—Limitation on Specified Asset Sales";
- (4) the Company or any Restricted Subsidiary defaults in the performance of or breaches any other covenant or agreement in the Indenture or under the Notes (other than a default specified in clause (1), (2) or (3) above) and such default or breach continues for a period of 30 consecutive days after written notice by the Holders of 25% or more in aggregate principal amount of the Notes or by the Trustee at the direction of such Holders;
- (5) there occurs with respect to any Indebtedness of the Company or any Restricted Subsidiary having an outstanding principal amount of US\$30.0 million (or the Dollar Equivalent thereof) or more in the aggregate for all such Indebtedness of all such Persons, whether such Indebtedness now exists or shall hereafter be created, (a) an event of default that has caused the holder thereof to declare such Indebtedness to be due and payable prior to its Stated Maturity and/or (b) the failure to make a principal or interest payment when due, *provided, however,* that such Indebtedness shall not include any Indebtedness with respect to which any default or event of default occurs as a result of any default or event of default under the Excluded Indebtedness;
- (6) one or more final judgments or orders for the payment of money are rendered against the Company or any of its Restricted Subsidiaries and are not paid or discharged, and there is a period of 60 consecutive days following entry of the final judgment or order that causes the aggregate amount for all such final judgments or orders outstanding and not paid or discharged against all such Persons to exceed US\$30.0 million (or the Dollar Equivalent thereof) (in excess of amounts which the Company's insurance carriers have agreed to pay under applicable policies) during which a stay of enforcement, by reason of a pending appeal or otherwise, is not in effect, *provided, however,* that such final judgments or orders for the payment of money shall not include any which is in relation to (x) the Excluded Indebtedness and/or (y) any Indebtedness which occurs as a result of any default or event of default under the Excluded Indebtedness;

- (7) an involuntary case or other proceeding is commenced against the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary) with respect to it or its debts under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect seeking the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary) or for any substantial part of the property and assets of the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary) and such involuntary case or other proceeding remains undismissed and unstayed for a period of 60 consecutive days; or an order for relief is entered against the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary) under any applicable bankruptcy, insolvency or other similar law as now or hereafter in effect, except in each case under this paragraph (7), any proceeding commenced based on any Excluded Indebtedness;
- (8) the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary) (a) commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case under any such law, (b) consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary) or for all or substantially all of the property and assets of the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary) or (c) effects any general assignment for the benefit of creditors (other than, in each case under (b), any of the foregoing that arises from any solvent liquidation or restructuring of a Significant Subsidiary in the ordinary course of business that shall result in the net assets of such Significant Subsidiary being transferred to or otherwise vested in the Company or any Restricted Subsidiary on a *pro rata* basis or on a basis more favorable to the Company); or
- (9) any Subsidiary Guarantor or JV Subsidiary Guarantor denies or disaffirms its obligations under its Subsidiary Guarantee or JV Subsidiary Guarantee or, except as permitted by the Indenture, any Subsidiary Guarantee or JV Subsidiary Guarantee is determined to be unenforceable or invalid or shall for any reason cease to be in full force and effect.

If an Event of Default (other than an Event of Default specified in clause (7) or (8) above) occurs and is continuing under the Indenture, the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, by written notice to the Company (and to the Trustee if such notice is given by the Holders), may, and the Trustee at the written direction of such Holders shall, subject to receiving indemnity and/or security and/or prefunding by the Holders to its satisfaction, declare the principal of, premium, if any, and accrued and unpaid interest on the Notes to be immediately due and payable. Upon a declaration of acceleration, such principal of, premium, if any, and accrued and unpaid interest shall be immediately due and payable. If an Event of Default specified in clause (7) or (8) above occurs with respect to the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary), the principal of, premium, if any, and accrued and unpaid interest on the Notes then outstanding shall automatically become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

The Holders of at least a majority in aggregate principal amount of the outstanding Notes by written notice to the Company and to the Trustee may on behalf of all the Holders of Notes waive any existing Default or Event of Default and its consequences hereunder, (except a Default or Event of Default (i) in respect of the payment of principal, premium or interest, if any; or (ii) in respect of a covenant or provision hereof which under “—Amendments and waiver” cannot be modified, amended or waived without the consent of 75% in principal amount of the outstanding Notes; in each case of (i) and (ii), which may only be waived with the consent of the Holders of at least 75% of the principal amount of the Notes then outstanding) and rescind and annul a declaration of acceleration and its consequences if the rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

Upon such waiver, the Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, but no such waiver will extend to any subsequent or other Default or impair any right consequent thereon.

If an Event of Default occurs and is continuing, the Trustee may, and shall, upon request of Holders of at least 25% in aggregate principal amount of outstanding Notes (subject to receiving indemnity and/or security and/or prefunding) pursue, in its own name or as trustee of an express trust, any available remedy by proceeding at law or in equity to collect the payment of principal of, premium, if any and interest on the Notes or to enforce the performance of any provision of the Notes or the Indenture. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding.

The Holders of at least a majority in aggregate principal amount of the outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, subject to the Trustee being indemnified and/or secured and/or prefunded to its satisfaction in advance of the proceedings. However, the Trustee may refuse to follow any direction that is unclear, conflicting or unequivocal, conflicts with law or the Indenture, that may involve the Trustee in personal liability, or that may be unduly prejudicial to the rights of Holders not joining in the giving of such direction and may take any other action that is not inconsistent with any such direction received from Holders. The Trustee shall not be required to expend its own funds in following such direction if it does not believe that reimbursement or satisfactory indemnification and/or security and/or prefunding is assured to it.

A Holder of Notes may not institute any proceeding, judicial or otherwise, with respect to the Indenture or the Notes, or for the appointment of a receiver or trustee, or for any other remedy under the Indenture or the Notes, unless:

- (1) the Holder has previously given the Trustee written notice of a continuing Event of Default;
- (2) the Holders of at least 25% in aggregate principal amount of outstanding Notes make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer the Trustee indemnity and/or security and/or prefunding satisfactory to the Trustee against any costs, liability or expense to be incurred in compliance with such written request;
- (4) the Trustee does not comply with the request within (x) 60 days after receipt of the written request pursuant to clause (2) above or (y) 60 days after the receipt of the offer of indemnity and/or security and/or prefunding satisfactory to it pursuant to clause (3) above, whichever occurs later; and
- (5) during such 60-day period, the Holders of a majority in aggregate principal amount of the outstanding Notes do not give the Trustee a written direction that is inconsistent with the written request.

However, such limitations do not apply to the right of any Holder to receive payment of the principal of, premium, if any, or interest on, such Note, or to bring suit for the enforcement of any such payment, on or after the due date expressed in the Notes, which right shall not be impaired or affected without the consent of the Holders of not less than 75% in principal amount of the Notes then outstanding, in accordance with the “—Amendments and Waiver” provision.

Officers of the Company must certify to the Trustee in writing, on or before a date not more than 120 days after the end of each fiscal year, that a review has been conducted of the activities of the Company and its Restricted Subsidiaries and the Company’s and its Restricted Subsidiaries’ performance under the Indenture and that the Company and its Restricted Subsidiaries have fulfilled all obligations thereunder, or, if there has been a default in the fulfillment of any such obligation, specifying each such default and the nature and status thereof. The Company will also be obligated to notify the Trustee in writing of any default or defaults in the performance of any covenants or agreements under the Indenture and the Notes. See “—Certain Covenants—Provision of Financial Statements and Reports.”

None of the Trustee or any Agent is obligated to do anything to ascertain whether any Event of Default or Default has occurred or is continuing and will not be responsible to Holders or any other person for any loss arising from any failure by it to do so, and each of the Trustee and the Agents may assume that no such event has occurred and that the Company and the Subsidiary Guarantors are performing all of their obligations under the Indenture and the Notes unless the Trustee has received written notice of the occurrence of such event or facts establishing that a Default or an Event of Default has occurred or that the Company and the Subsidiary Guarantors are not performing all of their

obligations under the Indenture and/or the Notes. The Trustee is entitled to rely on an Officers' Certificate regarding whether an Event of Default has occurred.

## **CONSOLIDATION, MERGER AND SALE OF ASSETS**

The Company will not consolidate with, merge with or into another Person, permit any Person to merge with or into it, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of its and its Restricted Subsidiaries' properties and assets (computed on a consolidated basis) (as an entirety or substantially an entirety in one transaction or a series of related transactions) to another Person, unless:

- (1) the Company shall be the continuing Person, or the Person (if other than it) formed by such consolidation or merger or that acquired or leased such property and assets (the "Surviving Person") shall be a corporation organized and validly existing under the laws of the Cayman Islands, Hong Kong or the British Virgin Islands and shall expressly assume, by a supplemental indenture to the Indenture, executed and delivered to the Trustee, all the obligations of the Company under the Indenture and the Notes, including the obligation to pay Additional Amounts with respect to any jurisdiction in which it is organized or resident for tax purposes or through which it makes payments, and the Indenture and the Notes, as the case may be, shall remain in full force and effect;
- (2) immediately after giving effect to such transaction, no Default shall have occurred and be continuing;
- (3) immediately after giving effect to such transaction on a *pro forma* basis, the Company or the Surviving Person, as the case may be, shall have a Consolidated Net Worth equal to or greater than the Consolidated Net Worth of the Company immediately prior to such transaction;
- (4) immediately after giving effect to such transaction on a *pro forma* basis the Company or the Surviving Person, as the case may be, could incur at least US\$1.00 of Indebtedness under the first paragraph of the covenant described under the caption "—Certain Covenants—Limitation on Indebtedness and Preferred Stock";
- (5) the Company delivers to the Trustee (x) an Officers' Certificate (attaching the arithmetic computations to demonstrate compliance with clauses (3) and (4)) and (y) an Opinion of Counsel, in each case stating that such consolidation, merger or transfer and the relevant supplemental indenture complies with this provision and that all conditions precedent provided for in the Indenture relating to such transaction have been complied with;
- (6) each Subsidiary Guarantor and JV Subsidiary Guarantor, unless such Subsidiary Guarantor or JV Subsidiary Guarantor is the Person with which the Company has entered into a transaction described under this caption, shall execute and deliver a supplemental indenture to the Indenture confirming that its Subsidiary Guarantee or JV Subsidiary Guarantee, as applicable, shall apply to the obligations of the Company or the Surviving Person in accordance with the Notes and the Indenture; and
- (7) provided that the Notes are rated by at least one Rating Agency, no Rating Decline shall have occurred.

No Subsidiary Guarantor or JV Subsidiary Guarantor will consolidate with, merge with or into another Person, permit any Person to merge with or into it, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of its and its Restricted Subsidiaries' properties and assets (computed on a consolidated basis) (as an entirety or substantially an entirety in one transaction or a series of related transactions) to another Person (other than the Company or another Subsidiary Guarantor or, in the case of a JV Subsidiary Guarantor, other than to another JV Subsidiary Guarantor, the Company or a Subsidiary Guarantor), unless:

- (1) such Subsidiary Guarantor or JV Subsidiary Guarantor shall be the continuing Person, or the Person (if other than it) formed by such consolidation or merger or that acquired or leased such property and assets shall be the Company, another Subsidiary Guarantor or shall become a Subsidiary Guarantor concurrently with the transaction (or, in the case of a JV Subsidiary Guarantor, another JV Subsidiary Guarantor, the Company or a Subsidiary Guarantor); and shall expressly assume, by a supplemental indenture to the Indenture, executed and delivered to the Trustee, all the obligations of such Subsidiary Guarantor or JV Subsidiary Guarantor under the Indenture and the Notes, as the case may be, including the obligation to pay Additional Amounts with respect to

any jurisdiction in which it is organized or resident for tax purposes or through which it makes payments, and the Indenture and the Notes, as the case may be, shall remain in full force and effect;

- (2) immediately after giving effect to such transaction, no Default shall have occurred and be continuing;
- (3) immediately after giving effect to such transaction on a *pro forma* basis, the Company shall have a Consolidated Net Worth equal to or greater than the Consolidated Net Worth of the Company immediately prior to such transaction;
- (4) immediately after giving effect to such transaction on a *pro forma* basis, the Company could incur at least US\$1.00 of Indebtedness under the first paragraph of the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (5) the Company delivers to the Trustee (x) an Officers’ Certificate (attaching the arithmetic computations to demonstrate compliance with clauses (3) and (4)) and (y) an Opinion of Counsel, in each case stating that such consolidation, merger or transfer and the relevant supplemental indenture complies with this provision and that all conditions precedent provided for in the Indenture relating to such transaction have been complied with; and
- (6) provided that the Notes are rated by at least one Rating Agency, no Rating Decline shall have occurred;

*provided* that this paragraph shall not apply to any sale or other disposition that complies with the covenant described under the caption “—Certain Covenants—Limitation on Asset Sales” or any Subsidiary Guarantor or JV Subsidiary Guarantor whose Subsidiary Guarantee or JV Subsidiary Guarantee, as the case may be, is unconditionally released in accordance with the provisions described under “—The Subsidiary Guarantees and the JV Subsidiary Guarantees—Release of the Subsidiary Guarantees and the JV Subsidiary Guarantees.”

Although there is a limited body of case law interpreting the phrase “substantially all,” there is no precise established definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty as to whether a particular transaction or series of related transactions would involve “all or substantially all” of the property or assets of a Person.

The foregoing requirements shall not apply to a consolidation or merger of any Subsidiary Guarantor or JV Subsidiary Guarantor with and into the Company or any other Subsidiary Guarantor or JV Subsidiary Guarantor, so long as the Company or such Subsidiary Guarantor or JV Subsidiary Guarantor survives such consolidation or merger.

The foregoing provisions would not necessarily afford Holders protection in the event of highly-leveraged or other transactions involving the Company or any Subsidiary Guarantor or JV Subsidiary Guarantor that may adversely affect Holders.

## **NO PAYMENTS FOR CONSENTS**

The Company will not, and shall not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the Indenture, the Notes, any Subsidiary Guarantee or any JV Subsidiary Guarantee unless such consideration is offered to be paid or is paid to all Holders that consent, waive or agree to amend such term or provision within the time period set forth in the solicitation documents relating to such consent, waiver or amendment.

Notwithstanding the foregoing, in any offer or payment of consideration for, or as an inducement to, any consent, waiver or amendment of any of the terms or provisions of the Indenture or the Notes in connection with an exchange or tender offer, the Company and any Restricted Subsidiary may exclude (i) Holders or beneficial owners of the Notes that are not institutional “accredited investors” as defined in Rule 501 under the Securities Act, and (ii) Holders or beneficial owners of the Notes in any jurisdiction where the inclusion of such Holders or beneficial owners would require the Company or any Restricted Subsidiary to comply with the registration requirements or other similar requirements under any securities laws of such jurisdiction, or the solicitation of such consent, waiver or amendment from, or the granting of such consent or waiver, or the approval of such amendment by, Holders or beneficial owners in such jurisdiction would be unlawful, in each case as determined by the Company in its sole discretion.

## DEFEASANCE

### Defeasance and Discharge

The Indenture will provide that the Company will be deemed to have paid and will be discharged from any and all obligations in respect of the Notes on the 183rd day after the deposit referred to below, and the provisions of the Indenture will no longer be in effect with respect to the Notes (except for, among other matters, certain obligations to register the transfer or exchange of the Notes, to replace stolen, lost or mutilated Notes, to maintain paying agencies, to pay Additional Amounts and to hold monies for payment in trust) if, among other things:

- (1) the Company (a) has deposited with the Trustee (or its agent), in trust, money and/or U.S. Government Obligations or any combination thereof that through the payment of interest and principal in respect thereof in accordance with their terms will provide money in an amount sufficient to pay the principal of, premium, if any, and accrued interest on the Notes on the Stated Maturity for such payments in accordance with the terms of the Indenture and the Notes and (b) delivers to the Trustee an Opinion of Counsel or a certificate of an internationally-recognized firm of independent accountants to the effect that the amount deposited by the Company is sufficient to provide payment for the principal of, premium, if any, and accrued interest on, the Notes on the Stated Maturity for such payment in accordance with the terms of the Indenture;
- (2) the Company has delivered to the Trustee an Opinion of Counsel of recognized international standing to the effect that the creation of the defeasance trust does not violate the U.S. Investment Company Act of 1940, as amended, and after the passage of 123 days following the deposit, the trust fund will not be subject to the effect of Section 547 of the United States Bankruptcy Code or Section 15 of the New York Debtor and Creditor Law; and
- (3) immediately after giving effect to such deposit on a *pro forma* basis, no Event of Default, or event that after the giving of notice or lapse of time or both would become an Event of Default, shall have occurred and be continuing on the date of such deposit or during the period ending on the 183rd day after the date of such deposit, and such defeasance shall not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which the Company or any of its Restricted Subsidiary is a party or by which the Company or any of its Restricted Subsidiary is bound.

In the case of either discharge or defeasance of the Notes the Subsidiary Guarantees and the JV Subsidiary Guarantees will terminate.

### Defeasance of Certain Covenants

The Indenture further will provide that (i) the provisions of the Indenture applicable to the Notes will no longer be in effect with respect to clauses (3), (4), (5)(x) and (7) under the first paragraph, and clauses (3), (4), (5)(x) and (6) under the second paragraph under “—Consolidation, Merger and Sale of Assets” and all the covenants described herein under “—Certain Covenants,” other than as described under “—Certain Covenants—Government Approvals and Licenses; Compliance with Law” and “—Certain Covenants—Anti-Layering,” and (ii) clause (3) under “—Events of Default” with respect to clauses (3), (4), (5)(x) and (7) under the first paragraph, and clauses (3), (4), (5)(x) and (6) under the second paragraph under “—Consolidation, Merger and Sale of Assets” and with respect to the other events set forth in clause (i) above, clause (4) under “—Events of Default” with respect to such other covenants in clause (i) above and clauses (5) and (6) under “Events of Default” shall be deemed not to be Events of Default upon, among other things, the deposit with the Trustee (or its agent), in trust, of money, U.S. Government Obligations or a combination thereof that through the payment of interest and principal in respect thereof in accordance with their terms will provide money in an amount sufficient to pay the principal of, premium, if any, and accrued interest on the Notes on the Stated Maturity of such payments in accordance with the terms of the Indenture and the Notes, the satisfaction of the provisions described in clause (2) of the preceding paragraph.

### Defeasance and Certain Other Events of Default

In the event that the Company exercises its option to omit compliance with certain covenants and provisions of the Indenture as described in the immediately preceding paragraph and the Notes are declared due and payable because of the occurrence of an Event of Default that remains applicable, the amount of money and/or U.S. Government

Obligations on deposit with the Trustee will be sufficient to pay amounts due on the Notes at the time of their Stated Maturity but may not be sufficient to pay amounts due on the Notes at the time of the acceleration resulting from such Event of Default. However, the Company will remain liable for such payments.

## **AMENDMENTS AND WAIVER**

### **Amendments Without Consent of Holders**

The Indenture, the Notes, the Subsidiary Guarantees and the JV Subsidiary Guarantees (if any) may be amended, without the consent of any Holder, to:

- (1) cure any ambiguity, defect, omission or inconsistency in the Indenture or the Notes;
- (2) comply with the provisions described under “—Consolidation, Merger and Sale of Assets”;
- (3) evidence and provide for the acceptance of appointment by a successor Trustee;
- (4) add any Subsidiary Guarantor or JV Subsidiary Guarantor, or any Subsidiary Guarantee or JV Subsidiary Guarantee, or release any Subsidiary Guarantor or JV Subsidiary Guarantor from any Subsidiary Guarantee or JV Subsidiary Guarantee, as the case may be, as provided or permitted by the terms of the Indenture;
- (5) provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture;
- (6) add or release any collateral to secure the Notes, any Subsidiary Guarantee or any JV Subsidiary Guarantee or enter into any intercreditor agreement in accordance with the Indenture;
- (7) in any other case where a supplemental indenture to the Indenture is required or permitted to be entered into pursuant to the provisions of the Indenture without the consent of any Holder;
- (8) effect any changes to the Indenture in a manner necessary to comply with the procedures of Euroclear or Clearstream or any successor securities depositary or clearing system;
- (9) make any other change that does not materially and adversely affect the rights of any Holder; or
- (10) conform the text of the Indenture, the Notes, the Subsidiary Guarantees or the JV Subsidiary Guarantees to any provision of this “Description of the New Notes” to the extent that such provision in this “Description of the New Notes” was intended to be a verbatim recitation of a provision in the Indenture, the Notes, the Subsidiary Guarantees or the JV Subsidiary Guarantees.

### **Amendments With Consent of Holders**

The Indenture, the Notes, the Subsidiary Guarantees and the JV Subsidiary Guarantees (if any) may be amended with the consent of the Holders of not less than a majority in aggregate principal amount of the outstanding Notes, and the Holders of a majority in aggregate principal amount of the outstanding Notes or the Trustee may, acting on instructions of such Holders, amend or waive future compliance by the Company with any provision thereof; *provided, however,* that no such modification, amendment or waiver may, without the consent of Holders holding no less than 75% of the aggregate principal amount of the outstanding Notes at the time of such consent:

- (1) change the Stated Maturity of the principal of, or premium, if any, or any installment of interest on, any Note;
- (2) reduce the principal amount of, or premium, if any, or interest on, any Note;
- (3) change the currency of payment of principal of, or premium, if any, or interest on, any Note;
- (4) impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity (or, in the case of a redemption, on or after the redemption date) of any Note, any Subsidiary Guarantee or any JV Subsidiary Guarantee;
- (5) reduce the above-stated percentage of outstanding Notes the consent of whose Holders is necessary to modify or amend the Indenture;
- (6) waive a default in the payment of principal of, premium, if any, or interest on the Notes;

- (7) release any Subsidiary Guarantor or JV Subsidiary Guarantor from its Subsidiary Guarantee or JV Subsidiary Guarantee, as the case may be, except as provided in the Indenture;
- (8) reduce the percentage or aggregate principal amount of outstanding Notes the consent of whose Holders is necessary for waiver of compliance with certain provisions of the Indenture or for waiver of certain defaults;
- (9) amend, change or modify any Subsidiary Guarantee or JV Subsidiary Guarantee in a manner that adversely affects the Holders;
- (10) reduce the amount payable upon a Change of Control Offer or an Offer to Purchase with the Excess Proceeds from any Asset Sale or the Allocation Amount from any Specified Asset Sale or, change the time or manner by which a Change of Control Offer or an Offer to Purchase with the Excess Proceeds, the Allocation Amount or other proceeds from any Asset Sale or any Specified Asset Sale may be made or by which the Notes must be repurchased pursuant to a Change of Control Offer or an Offer to Purchase with the Excess Proceeds, the Allocation Amount or other proceeds from any Asset Sale or any Specified Asset Sale, whether through an amendment or waiver of provision in the covenants, definitions or otherwise, unless such amendment, waiver or modification shall be in effect prior to the occurrence of a Change of Control Triggering Event or the event giving rise to the repurchase of the Notes under “Certain Covenants—Limitation on Asset Sales” or under “Certain Covenants—Limitation on Specified Asset Sales”;
- (11) change the redemption date or the redemption price of the Notes from that stated under the caption “—Mandatory Redemption on Specified Dates,” “—Optional Redemption” or “—Redemption for Taxation Reasons”;
- (12) amend, change or modify the obligation of the Company, any Subsidiary Guarantor or any JV Subsidiary Guarantor to pay Additional Amounts; or
- (13) amend, change or modify any provision of the Indenture or the related definition affecting the ranking of the Notes, any Subsidiary Guarantee or any JV Subsidiary Guarantee in a manner which materially and adversely affects the Holders.

## **UNCLAIMED MONEY**

Claims against the Company for the payment of principal of, premium, if any, or interest, on the Notes will become void unless presentation for payment is made as required in the Indenture within a period of six years.

## **NO PERSONAL LIABILITY OF INCORPORATORS, SHAREHOLDERS, OFFICERS, DIRECTORS OR EMPLOYEES**

No recourse for the payment of the principal of, premium, if any, or interest on any of the Notes or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company, any of the Subsidiary Guarantors or any of the JV Subsidiary Guarantors in the Indenture, or in any of the Notes, the Subsidiary Guarantees or the JV Subsidiary Guarantees, or because of the creation of any Indebtedness represented thereby, shall be had against any incorporator, shareholder, officer, director, employee or controlling person of the Company, any of the Subsidiary Guarantors or JV Subsidiary Guarantors, or of any successor Person thereof. Each Holder, by accepting the Notes, waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes, the Subsidiary Guarantees and the JV Subsidiary Guarantees. Such waiver may not be effective to waive liabilities under the federal securities laws.

## **CONCERNING THE TRUSTEE AND THE AGENTS**

China Construction Bank (Asia) Corporation Limited has been appointed as Trustee under the Indenture. China Construction Bank (Asia) Corporation Limited has been appointed as note registrar (the “Note Registrar”) and as paying agent (the “Paying Agent”) and transfer agent (the “Transfer Agent”) and, together with the Note Registrar and the Paying Agent, the “Agents”) with regard to the Notes. Except during the continuance of a Default, the Trustee

undertakes to perform such duties and only such duties as are specifically set forth in the Indenture or the Notes, and no implied covenant or obligation shall be read into the Indenture or the Notes against the Trustee. If an Event of Default has occurred and is continuing, the Trustee will use the same degree of care and skill in its exercise of the rights and powers vested in it under the Indenture as a prudent person would exercise under the circumstances in the conduct of such person's own affairs. The Trustee will be under no obligation to exercise any of its rights or powers under the Indenture at the request of any Holder, unless such Holder shall have offered to the Trustee security and/or indemnity and/or pre-funding satisfactory to it against loss, liability or expense. It may not be possible for the Trustee to take certain actions whether in relation to the Notes and accordingly in such circumstances the Trustee will be unable to take such actions, notwithstanding the provision of an indemnity to it, and it will be for Holders to take such actions directly.

The Trustee and the Agents will not be responsible for any loss, liability, cost, claim, actions, demand, expense or inconvenience which may result from the exercise or non-exercise of their discretion. Whenever in the Indenture, the Notes or by law, the Trustee shall have discretion or permissive power, it may decline to exercise the same in the absence of approval by the Holders. In exercising their respective duties, the Trustee and the Agents shall not be responsible for the verification of the accuracy or completeness of any certification or legal opinion submitted to them by the Company and are entitled to rely exclusively on the certification and the opinion, and take action based on the information contained in, the certification or the legal opinion. Notwithstanding anything described herein, the Trustee has no duty to monitor the performance or compliance of the Company and the Subsidiary Guarantors in the fulfilment of its obligations under the Indenture, the Notes and the Subsidiary Guarantees. The Trustee and the Agents shall not be deemed or implied to have any duties or obligations under any documents to which it is a party. Furthermore, the Trustee and the Agents shall not be deemed to have knowledge of any event unless it has been actually notified in writing of such default or event of default.

The Trustee and the Agents shall not be responsible for the performance by any other person appointed by the Company in relation to the Notes and, unless notified in writing to the contrary, shall assume that the same are being duly performed. The Trustee shall not be liable to any Holders or any other person for any action taken by the Trustee in accordance with the instructions of the Holders pursuant to the terms of the Indenture.

The Trustee and the Agents are entitled to rely on all instructions, notices, declarations and certifications received pursuant to the Indenture without investigating or being responsible for the accuracy, authenticity and validity of these instructions, notices, declarations and certifications.

Neither the Trustee nor the Agents will be responsible for making calculations or for verifying calculations performed by the Company or any other persons unless otherwise specified in the Indenture.

The Indenture contains limitations on the rights of the Trustee, should it become a creditor of the Company or any of the Subsidiary Guarantors or JV Subsidiary Guarantors to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claims, as security or otherwise. The Trustee is permitted to engage in other transactions, including normal banking and trustee relationships, with the Company and its Affiliates and shall not be obligated to account for any profits therefrom; *provided, however*, that if it acquires any conflicting interest, it must eliminate such conflict or resign.

The Trustee will not be under any obligation to exercise any rights or powers conferred under the Indenture for the benefit of the Holders, unless such Holders have offered to the Trustee indemnity and/or security and/or pre-funding satisfactory to the Trustee against any loss, liability or expense.

## **BOOK-ENTRY; DELIVERY AND FORM**

The Notes will be represented by a global note in registered form without interest coupons attached (the "Initial Global Note"). On the Original Issue Date, the Global Note will be deposited with a common depositary and registered in the name of the common depositary or its nominee for the accounts of Euroclear and Clearstream. Any Additional Notes will be represented by additional global notes in registered form without interest coupons attached (the "Additional Global Notes" and, together with the Initial Global Note, the "Global Notes").

## **GLOBAL NOTES**

Ownership of beneficial interests in the Global Notes (the “book-entry interests”) will be limited to persons that have accounts with Euroclear and/or Clearstream or persons that may hold interests through such participants. Book-entry interests will be shown on, and transfers thereof will be effected only through, records maintained in book-entry form by Euroclear and Clearstream and their participants.

Except as set forth below under “—Individual Definitive Notes,” the book-entry interests will not be held in definitive form. Instead, Euroclear and/or Clearstream will credit on their respective book-entry registration and transfer systems a participant’s account with the interest beneficially owned by such participant. The laws of some jurisdictions may require that certain purchasers of securities take physical delivery of such securities in definitive form. The foregoing limitations may impair the ability to own, transfer or pledge book-entry interests.

So long as the Notes are held in global form, the common depositary for Euroclear and/or Clearstream (or its nominee) will be considered the sole holder of the Global Notes for all purposes under the Indenture and “holders” of book-entry interests will not be considered the owners or “Holders” of Notes for any purpose. As such, participants must rely on the procedures of Euroclear and Clearstream and indirect participants must rely on the procedures of the participants through which they own book-entry interests in order to transfer their interests in the Notes or to exercise any rights of Holders under the Indenture.

None of the Company, the Subsidiary Guarantors, the JV Subsidiary Guarantors (if any), the Trustee or any of the Agents will have any responsibility or be liable for any aspect of the records relating to the book-entry interests. The Notes are not issuable in bearer form.

## **PAYMENTS ON THE GLOBAL NOTES**

Payments of any amounts owing in respect of the Global Notes (including principal, premium, interest and Additional Amounts) will be made to the Paying Agent in U.S. dollars. The Paying Agent will, in turn, make such payments to the common depositary for Euroclear and Clearstream, which will distribute such payments to participants in accordance with their procedures. Each of the Company, the Subsidiary Guarantors and JV Subsidiary Guarantors (if any) will make payments of all such amounts without deduction or withholding for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature, except as may be required by law, in which case it will pay Additional Amounts to the extent described under “—Additional Amounts.”

Under the terms of the Indenture, the Company, any Subsidiary Guarantor, any JV Subsidiary Guarantor, the Agents and the Trustee will treat the registered holder of the Global Notes (i.e., the common depositary or its nominee) as the owner thereof for the purpose of receiving payments and for all other purposes. Consequently, none of the Company, the Subsidiary Guarantors, the JV Subsidiary Guarantors, the Trustee or any of the Agents has or will have any responsibility or liability for:

- any aspect of the records of Euroclear, Clearstream or any participant or indirect participant relating to or payments made on account of a book-entry interest, for any such payments made by Euroclear, Clearstream or any participant or indirect participants, or for maintaining, supervising or reviewing any of the records of Euroclear, Clearstream or any participant or indirect participant relating to or payments made on account of a book-entry interest; or
- Euroclear, Clearstream or any participant or indirect participant.

Payments by participants to owners of book-entry interests held through participants are the responsibility of such participants.

## **REDEMPTION OF GLOBAL NOTES**

In the event any Global Note, or any portion thereof, is redeemed, the common depositary will distribute the amount received by it in respect of the Global Note so redeemed to Euroclear and/or Clearstream, as applicable, who will distribute such amount to the holders of the book-entry interests in such Global Note. The redemption price payable in

connection with the redemption of such book-entry interests will be equal to the amount received by the common depositary, Euroclear or Clearstream, as applicable, in connection with the redemption of such Global Note (or any portion thereof). The Company understands that under existing practices of Euroclear and Clearstream, if fewer than all of the Notes are to be redeemed at any time, Euroclear and Clearstream will credit their respective participants' accounts on a proportionate basis (with adjustments to prevent fractions) or by lot or on such other basis as they deem fair and appropriate; *provided, however*, that no book-entry interest of US\$150,000 principal amount, or less, as the case may be, will be redeemed in part.

## **ACTION BY OWNERS OF BOOK-ENTRY INTERESTS**

Euroclear and Clearstream have advised that they will take any action permitted to be taken by a Holder of Notes only at the direction of one or more participants to whose account the book-entry interests in a Global Note are credited and only in respect of such portion of the aggregate principal amount of Notes as to which such participant or participants has or have given such direction. Euroclear and Clearstream will not exercise any discretion in the granting of consents, waivers or the taking of any other action in respect of the Global Note. If there is an Event of Default under the Notes, however, each of Euroclear and Clearstream reserves the right to exchange the Global Note for individual definitive notes in certificated form, and to distribute such individual definitive notes to their participants.

## **TRANSFERS**

Transfers between participants in Euroclear and Clearstream will be effected in accordance with Euroclear and Clearstream's rules and will be settled in immediately available funds. If a Holder requires physical delivery of individual definitive notes for any reason, including to sell the Notes to persons in jurisdictions which require physical delivery of such securities or to pledge such securities, such Holder must transfer its interest in the Global Note in accordance with the normal procedures of Euroclear and Clearstream and in accordance with the provisions of the Indenture.

Book-entry interests in the Global Notes will be subject to the restrictions on transfer discussed under "Transfer Restrictions" of the Company's Exchange Offer Memorandum dated November 18, 2022 (as supplemented from time to time).

Any book-entry interest in a Global Note that is transferred to a person who takes delivery in the form of a book-entry interest in another Global Note will, upon transfer, cease to be a book-entry interest in the first-mentioned Global Note and become a book-entry interest in the other Global Note and, accordingly, will thereafter be subject to all transfer restrictions, if any, and other procedures applicable to book-entry interests in such other Global Note for as long as it retains such a book-entry interest.

## **GLOBAL CLEARANCE AND SETTLEMENT UNDER THE BOOK-ENTRY SYSTEM**

Book-entry interests owned through Euroclear or Clearstream accounts will follow the applicable settlement procedures applicable. Book-entry interests will be credited to the securities custody accounts of Euroclear and Clearstream participants on the business day following the settlement date against payment for value on the settlement date.

The book-entry interests will trade through participants of Euroclear or Clearstream, and will settle in same-day funds. Since the purchaser determines the place of delivery, it is important to establish at the time of trading of any book-entry interests where both the purchaser's and seller's accounts are located to ensure that settlement can be made on the desired value date.

## **INFORMATION CONCERNING EUROCLEAR AND CLEARSTREAM**

The Company understands as follows with respect to Euroclear and Clearstream:

Euroclear and Clearstream hold securities for participating organizations and facilitate the clearance and settlement of securities transactions between their respective participants through electronic book-entry changes in accounts of such participants. Euroclear and Clearstream provide to their participants, among other things, services for safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Euroclear and Clearstream interface with domestic securities markets. Euroclear and Clearstream participants are financial institutions, such as underwriters, securities brokers and dealers, banks and trust companies, and certain other organizations. Indirect access to Euroclear or Clearstream is also available to others such as banks, brokers, dealers and trust companies that clear through or maintain a custodian relationship with a Euroclear or Clearstream participant, either directly or indirectly.

Although the foregoing sets out the procedures of Euroclear and Clearstream in order to facilitate the original issue and subsequent transfers of interests in the Notes among participants of Euroclear and Clearstream, neither Euroclear nor Clearstream is under any obligation to perform or continue to perform such procedures, and such procedures may be discontinued at any time.

None of the Company, the Subsidiary Guarantors, the JV Subsidiary Guarantors, the Trustee or any of the Agents will have responsibility for the performance of Euroclear or Clearstream or their respective participants of their respective obligations under the rules and procedures governing their operations, including, without limitation, rules and procedures relating to book-entry interests.

## **INDIVIDUAL DEFINITIVE NOTES**

If (1) the common depositary or any successor to the common depositary is at any time unwilling or unable to continue as a depositary for the reasons described in the Indenture and a successor depositary is not appointed by the Company within 90 days, (2) either Euroclear or Clearstream, or a successor clearing system is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention to permanently cease business or does in fact do so, or (3) any of the Notes has become immediately due and payable in accordance with “—Events of Default” and the Company has received a written request from a Holder, the Company will issue individual definitive notes in registered form in exchange for the Global Note. Upon receipt of such notice from the common depositary, Euroclear, Clearstream or the Trustee, as the case may be, the Company will use its best efforts to make arrangements with the common depositary for the exchange of interests in the Global Notes for individual definitive notes and cause the requested individual definitive notes to be executed and delivered to the Note Registrar in sufficient quantities and authenticated by or on behalf of the Note Registrar for delivery to Holders. Persons exchanging interests in a Global Note for individual definitive notes will be required to provide the Note Registrar, through the relevant clearing system, with written instruction and other information required by the Company and the Note Registrar to complete, execute and deliver such individual definitive notes. In all cases, individual definitive notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by the relevant clearing system.

Individual definitive notes will not be eligible for clearing and settlement through Euroclear or Clearstream.

## **NOTICES**

All notices or demands required or permitted by the terms of the Notes or the Indenture to be given to or by the Holders are required to be in writing and may be given or served by being sent by prepaid courier or mail (if intended for the Company or any Subsidiary Guarantor) addressed to the Company or such Subsidiary Guarantor, (if intended for the Trustee) at the corporate trust office of the Trustee; and (if intended for any Holder) addressed to such Holder at such Holder’s last address as it appears in the Note register.

Any such notice or demand will be deemed to have been sufficiently given or served when so sent or deposited and, if to the Holders, when delivered in accordance with the applicable rules and procedures of Euroclear or Clearstream, as the case may be. Any such notice shall be deemed to have been delivered on the day such notice is delivered to Euroclear or Clearstream, as the case may be, or if by mail, when so sent or deposited.

## **CONSENT TO JURISDICTION; SERVICE OF PROCESS**

The Company and each of the Subsidiary Guarantors will irrevocably (1) submit to the non-exclusive jurisdiction of any U.S. federal or New York state court located in the Borough of Manhattan, The City of New York in connection with any suit, action or proceeding arising out of, or relating to, the Notes, any Subsidiary Guarantee, any JV Subsidiary Guarantee, the Indenture or any transaction contemplated thereby; and (2) designate and appoint Cogency Global Inc. for receipt of service of process in any such suit, action or proceeding.

## **GOVERNING LAW**

Each of the Notes, the Subsidiary Guarantees, the JV Subsidiary Guarantees (if any) and the Indenture provides that such instrument will be governed by, and construed in accordance with, the laws of the State of New York.

## **DEFINITIONS**

Set forth below are defined terms used in the covenants and other provisions of the Indenture. Reference is made to the Indenture for other capitalized terms used in this “Description of the New Notes” for which no definition is provided.

“Acquired Indebtedness” means Indebtedness of a Person existing at the time such Person becomes a Restricted Subsidiary or Indebtedness of a Restricted Subsidiary assumed in connection with an Asset Acquisition by such Restricted Subsidiary whether or not Incurred in connection with, or in contemplation of, the Person merging with or into or becoming a Restricted Subsidiary.

“Affiliate” means, with respect to any Person, any other Person (1) directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person; (2) who is a director or officer of such Person or any Subsidiary of such Person or of any Person referred to in clause (1) of this definition; or (3) who is a spouse or any person cohabiting as a spouse, child or step-child, parent or step-parent, brother, sister, step-brother or step-sister, parent-in-law, grandchild, grandparent, uncle, aunt, nephew or niece of a Person described in clause (1) or (2). For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Asset Acquisition” means (1) an investment by the Company or any of its Restricted Subsidiaries in any other Person pursuant to which such Person shall become a Restricted Subsidiary or shall be merged into or consolidated with the Company or any of its Restricted Subsidiaries; or (2) an acquisition by the Company or any of its Restricted Subsidiaries of the property and assets of any Person other than the Company or any of its Restricted Subsidiaries that constitute substantially all of a division or line of business of such Person.

“Asset Disposition” means the sale or other disposition by the Company or any of its Restricted Subsidiaries (other than to the Company or another Restricted Subsidiary) of (1) all or substantially all of the Capital Stock of any Restricted Subsidiary; or (2) all or substantially all of the assets that constitute a division or line of business of the Company or any of its Restricted Subsidiaries.

“Asset Sale” means any sale, transfer or other disposition (including by way of merger, consolidation or Sale and Leaseback Transaction) of any of its property or assets (including any sale of Capital Stock of a Subsidiary or issuance of Capital Stock by a Restricted Subsidiary) in one transaction or a series of related transactions by the Company or any of its Restricted Subsidiaries to any Person; *provided* that “Asset Sale” shall not include:

- (1) sales or other dispositions of inventory, receivables and other current assets (including properties under development for sale and completed properties for sale) in the ordinary course of business;
- (2) sales, transfers or other dispositions of assets constituting a Permitted Investment or Restricted Payment permitted to be made under the covenant described under the caption “—Certain Covenants—Limitation on Restricted Payments”;

- (3) sales, transfers or other dispositions of assets with a Fair Market Value not in excess of US\$1 million (or the Dollar Equivalent thereof) in any transaction or series of related transactions;
- (4) any sale, transfer, assignment or other disposition of any property, or equipment that has become damaged, worn out, obsolete or otherwise unsuitable for use in connection with the business of the Company or its Restricted Subsidiaries;
- (5) any transfer, assignment or other disposition deemed to occur in connection with creating or granting any Permitted Lien;
- (6) a transaction covered by the covenant described under the caption “—Consolidation, Merger and Sale of Assets”;
- (7) any sale, transfer or other disposition by the Company or any of its Restricted Subsidiaries, including the sale or issuance by the Company or any Restricted Subsidiary of any Capital Stock of any Restricted Subsidiary, to the Company or any Restricted Subsidiary; and
- (8) a transaction covered under the caption “—Limitation on Specified Asset Sales”.

“Attributable Indebtedness” means, in respect of a Sale and Leaseback Transaction, the present value, discounted at the interest rate implicit in the Sale and Leaseback Transaction, of the total obligations of the lessee for rental payments during the remaining term of the lease in the Sale and Leaseback Transaction.

“Average Life” means, at any date of determination with respect to any Indebtedness, the quotient obtained by dividing (1) the sum of the products of (a) the number of years from such date of determination to the dates of each successive scheduled principal payment of such Indebtedness and (b) the amount of such principal payment by (2) the sum of all such principal payments.

“Bank Deposit Secured Indebtedness” means Indebtedness of the Company or any Restricted Subsidiary that is (i) secured by bank accounts, deposits or other assets of the Company or a Restricted Subsidiary or (ii) guaranteed by a guarantee or a letter of credit (or similar instruments) from or arranged by the Company or a Restricted Subsidiary and is used by the Company and its Restricted Subsidiaries to in effect exchange foreign currencies into Renminbi or vice versa or to remit Renminbi or any foreign currency into or outside the PRC.

“Board of Directors” means the board of directors elected or appointed by the shareholders of the Company to manage the business of the Company or any committee of such board duly authorized to take the action purported to be taken by such committee.

“Board Resolution” means any resolution of the Board of Directors taking an action which it is authorized to take and adopted at a meeting duly called and held at which a quorum of disinterested members (if so required) was present and acting throughout or adopted by written resolution executed by every member of the Board of Directors.

“Business Day” means any day which is not a Saturday, Sunday, legal holiday or other day on which banking institutions in The City of New York or Hong Kong (or the place of business of the Paying Agent or in any other place in which payments on the Notes are to be made) are authorized by law or governmental regulation to close.

“Capitalized Lease” means, with respect to any Person, any lease of any property (whether real, personal or mixed) which, in conformity with GAAP, is required to be capitalized on the balance sheet of such Person.

“Capitalized Lease Obligations” means the discounted present value of the rental obligations under a Capitalized Lease.

“Capital Stock” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) in equity of such Person, whether outstanding on the Original Issue Date or issued thereafter, including, without limitation, all Common Stock and Preferred Stock, but excluding debt securities convertible into such equity.

“Change of Control” means the occurrence of one or more of the following events:

- (1) the merger, amalgamation or consolidation of the Company with or into another Person (other than one or more Permitted Holders) or the merger or amalgamation of another Person (other than one or more Permitted Holders) with or into the Company, or the sale of all or substantially all the assets of the Company to another Person (other than one or more Permitted Holders);
- (2) the Permitted Holders are the beneficial owners of less than 50.1% of the total voting power of the Voting Stock of the Company;
- (3) individuals who on the Original Issue Date constituted the board of directors of the Company, together with any new directors whose election by the board of directors was approved by a vote of at least two-thirds of the directors then still in office who were either directors or whose election was previously so approved, cease for any reason to constitute a majority of the board of directors of the Company then in office; or
- (4) the adoption of a plan relating to the liquidation or dissolution of the Company.

“Change of Control Triggering Event” means the occurrence of a Change of Control and, *provided* that the Notes are rated, a Rating Decline.

“Clearstream” means Clearstream Banking S.A.

“Commodity Hedging Agreement” means any spot, forward or option commodity price protection agreements or other similar agreement or arrangement designed to reduce or manage exposure to fluctuations in commodity prices.

“Common Stock” means, with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or non-voting) of such Person’s common stock or ordinary shares, whether or not outstanding at the date of the Indenture, and include, without limitation, all series and classes of such common stock or ordinary shares.

“Comparable Treasury Issue” means the U.S. Treasury security having a maturity comparable to two years from (and including) the Restructuring Effective Date (as defined in the restructuring support agreement dated November 18, 2022 (as such may be amended, supplemented or modified from time to time) by and among the Company, the Subsidiary Guarantors and certain Holders) that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of maturity comparable to two years from (and including) the Restructuring Effective Date (as defined in the restructuring support agreement dated November 18, 2022 (as such may be amended, supplemented or modified from time to time) by and among the Company, the Subsidiary Guarantors and certain Holders).

“Consolidated Assets” means, with respect to any Restricted Subsidiary at any date of determination, the Company and its Restricted Subsidiaries’ proportionate interest in the total consolidated assets of that Restricted Subsidiary and its Restricted Subsidiaries measured in accordance with GAAP as of the last day of the most recent fiscal quarter for which consolidated financial statements of the Company and its Restricted Subsidiaries (which the Company shall use its best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements).

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period plus, to the extent such amount was deducted in calculating such Consolidated Net Income:

- (1) Consolidated Interest Expense,
- (2) income taxes (other than income taxes attributable to extraordinary and non-recurring gains (or losses) or sales of assets), and
- (3) depreciation expense, amortization expense and all other non-cash items reducing Consolidated Net Income (other than non-cash items in a period which reflect cash expenses paid or to be paid in another period and other than losses on Investment Properties arising from fair value adjustments made in conformity with GAAP), less all non-cash items increasing Consolidated Net Income (other than accrual of revenue in the

ordinary course of business and gains on Investment Properties arising from fair value adjustments made in conformity with GAAP),

all as determined on a consolidated basis for the Company and its Restricted Subsidiaries in conformity with GAAP; *provided* that (1) if any Restricted Subsidiary is not a Wholly Owned Restricted Subsidiary, Consolidated EBITDA shall be reduced (to the extent not otherwise reduced in accordance with GAAP) by an amount equal to (A) the amount of the Consolidated Net Income attributable to such Restricted Subsidiary multiplied by (B) the percentage ownership interest in the income of such Restricted Subsidiary not owned on the last day of such period by the Company or any of its Restricted Subsidiaries and (2) in the case of any future PRC CJV (consolidated in accordance with GAAP), Consolidated EBITDA shall be reduced (to the extent not already reduced in accordance with GAAP) by any payments, distributions or amounts (including the Fair Market Value of any non-cash payments, distributions or amounts) required to be made or paid by such PRC CJV to the PRC CJV Partner, or to which the PRC CJV Partner otherwise has a right or is entitled, pursuant to the joint venture agreement governing such PRC CJV.

“Consolidated Fixed Charges” means, for any period, the sum (without duplication) of (1) Consolidated Interest Expense for such period and (2) all cash and non-cash dividends paid, declared, accrued or accumulated during such period on any Disqualified Stock or Preferred Stock of the Company or any Restricted Subsidiary held by Persons other than the Company or any Wholly Owned Restricted Subsidiary, except for dividends payable in the Company’s Capital Stock (other than Disqualified Stock) or paid to the Company or to a Wholly Owned Restricted Subsidiary.

“Consolidated Interest Expense” means, for any period, the amount that would be included in gross interest expense on a consolidated income statement prepared in accordance with GAAP for such period of the Company and its Restricted Subsidiaries, plus, to the extent not included in such gross interest expense, and to the extent incurred, accrued or payable during such period by the Company and its Restricted Subsidiaries, without duplication, (1) interest expense attributable to Capitalized Lease Obligations, (2) amortization of debt issuance costs and original issue discount expense and non-cash interest payments in respect of any Indebtedness, (3) the interest portion of any deferred payment obligation, (4) all commissions, discounts and other fees and charges with respect to letters of credit or similar instruments issued for financing purposes or in respect of any Indebtedness, (5) the net costs associated with Hedging Obligations (including the amortization of fees), (6) interest accruing on Indebtedness of any Person (other than the Company or any Restricted Subsidiary) that is Guaranteed by, or secured by a Lien on any asset of, the Company or any Restricted Subsidiary (other than Pre-Registration Mortgage Guarantees and Liens on any Capital Stock of a Person that is not a Restricted Subsidiary), only to the extent such interest is actually paid by the Company or any Restricted Subsidiary and (7) any capitalized interest; *provided* that interest expense attributable to interest on any Indebtedness bearing a floating interest rate will be computed on a *pro forma* basis as if the rate in effect on the date of determination had been the applicable rate for the entire relevant period.

“Consolidated Net Income” means, with respect to any specified Person for any period, the aggregate of the net income (or loss) of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in conformity with GAAP; *provided* that the following items shall be excluded in computing Consolidated Net Income (without duplication):

- (1) the net income (or loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting except that:
  - (a) subject to the exclusion contained in clause (5) below, the Company’s equity in the net income of any such Person for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution paid to a Restricted Subsidiary, to the limitations contained in clause (3) below); and
  - (b) the Company’s equity in a net loss of any such Person for such period shall be included in determining such Consolidated Net Income to the extent funded with cash or other assets of the Company or Restricted Subsidiaries;

- (2) the net income (or loss) of any Person accrued prior to the date it becomes a Restricted Subsidiary or is merged into or consolidated with the Company or any of its Restricted Subsidiaries or all or substantially all of the property and assets of such Person are acquired by the Company or any of its Restricted Subsidiaries;
- (3) the net income (but not loss) of any Restricted Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of such net income is not at the time permitted by the operation of the terms of its charter, articles of association or other similar constitutive documents, or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Restricted Subsidiary;
- (4) the cumulative effect of a change in accounting principles;
- (5) any net after tax gains realized on the sale or other disposition of (a) any property or assets of the Company or any Restricted Subsidiary which is not sold in the ordinary course of its business or (b) any Capital Stock of any Person (including any gains by the Company realized on sales of Capital Stock of the Company or other Restricted Subsidiaries);
- (6) any translation gains and losses due solely to fluctuations in currency values and related tax effects;
- (7) any gains and losses arising from changes in the fair value of trust loans related derivatives, as determined in conformity with GAAP; and
- (8) any net after-tax extraordinary or non-recurring gains,

*provided that (A) solely for purposes of calculating Consolidated EBITDA and the Fixed Charge Coverage Ratio, any net after tax gains derived from direct or indirect sale by the Company or any Restricted Subsidiary of (i) Capital Stock of a Restricted Subsidiary primarily engaged in the holding of Investment Property or (ii) an interest in any Investment Property arising from the difference between the current book value and the cash sale price shall be added to Consolidated Net Income; (B) for purposes of this Consolidated Net Income calculation (but not for purposes of calculating Consolidated EBITDA and the Fixed Charge Coverage Ratio) any net after tax gains derived from direct or indirect sale by the Company or any Restricted Subsidiary of (i) Capital Stock of a Restricted Subsidiary primarily engaged in the holding of Investment Property or (ii) an interest in any Investment Property arising from the difference between the original cost basis and the cash sale price shall be added to Consolidated Net Income to the extent not already included in the net income for such period as determined in conformity with GAAP and Consolidated Net Income and (C) solely for the purposes of calculating Consolidated EBITDA and the Fixed Charge Coverage Ratio, any net after tax gains on Investment Properties arising from fair value adjustments made in conformity with GAAP shall be added to Consolidated Net Income.*

“Consolidated Net Worth” means, at any date of determination, shareholders’ equity as set forth on the most recently available quarterly, semi-annual or annual consolidated balance sheet (which may be an internal consolidated balance sheet) of the Company and its Restricted Subsidiaries, plus, to the extent not included, any Preferred Stock of the Company, less any amounts attributable to Disqualified Stock or any equity security convertible into or exchangeable for Indebtedness, the cost of treasury stock and the principal amount of any promissory notes receivable from the sale of the Capital Stock of the Company or any of its Restricted Subsidiaries, each item to be determined in conformity with GAAP.

“Contractor Guarantees” means any Guarantee by the Company or any Restricted Subsidiary of Indebtedness of any contractor, builder or other similar Person engaged by the Company or such Restricted Subsidiary in connection with the development, construction or improvement of assets, real or personal property or equipment to be used in a Permitted Business by the Company or any Restricted Subsidiary in the ordinary course of business, which Indebtedness was Incurred by such contractor, builder or other similar Person to finance the cost of such development, construction or improvement.

“Credit Facilities” means one or more of the facilities or arrangements with one or more banks or other lenders or institutions providing for revolving credit loans, term loans, receivables or financings (including without limitation through the sale of receivables or assets to such institutions or to special purpose entities formed to borrow from such

institutions against such receivables or assets or the creation of any Liens in respect of such receivables or assets in favor of such institutions), letters of credit or other Indebtedness, in each case, including all agreements, instruments and documents executed and delivered pursuant to or in connection with any of the foregoing, including but not limited to any notes and letters of credit issued pursuant thereto and any guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other guarantees, pledge agreements, security agreements and collateral documents, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original banks, lenders or institutions or other banks, lenders or institutions or otherwise, and whether provided under any original Credit Facility or one or more other credit agreements, indentures, financing agreements or other Credit Facilities or otherwise). Without limiting the generality of the foregoing, the term “Credit Facility” shall include any agreement (1) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (2) adding Subsidiaries as additional borrowers or guarantors thereunder, (3) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder (provided that such increase is permitted under the covenant described under “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”) or (4) otherwise altering the terms and conditions thereof.

“Currency Agreement” means any foreign exchange forward contract, currency swap agreement or other similar agreement or arrangement designed to reduce or manage exposure to fluctuations in foreign exchange rates.

“December 2020 Notes” means any and all outstanding 9.95% senior notes due 2022 issued by the Company.

“Default” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“Disqualified Stock” means any class or series of Capital Stock of any Person that by its terms or otherwise is (1) required to be redeemed prior to the date that is 183 days after the Stated Maturity of the Notes, (2) redeemable at the option of the holder of such class or series of Capital Stock at any time prior to the date that is 183 days after the Stated Maturity of the Notes or (3) convertible into or exchangeable for Capital Stock referred to in clause (1) or (2) above or Indebtedness having a scheduled maturity prior to the Stated Maturity of the Notes; *provided* that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require such Person to repurchase or redeem such Capital Stock upon the occurrence of an “asset sale” or “change of control” occurring prior to the Stated Maturity of the Notes shall not constitute Disqualified Stock if the “asset sale” or “change of control” provisions applicable to such Capital Stock are no more favorable to the holders of such Capital Stock than the provisions contained in the covenants described under the captions “—Certain Covenants—Limitation on Asset Sales” and “—Repurchase of Notes upon a Change of Control Triggering Event” and such Capital Stock specifically provides that such Person will not repurchase or redeem any such stock pursuant to such provision prior to the Company’s repurchase of such Notes as are required to be repurchased pursuant to the covenants described under the captions “—Certain Covenants—Limitation on Asset Sales” and “—Repurchase of Notes upon a Change of Control Triggering Event.”

“Dollar Equivalent” means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for the determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the base rate for the purchase of U.S. dollars with the applicable foreign currency as quoted by the Federal Reserve Bank of New York on the date of determination.

“Entrusted Loans” means borrowings by a Non-Guarantor Subsidiary from the Company or another Non-Guarantor Subsidiary (whether directly or through or facilitated by a bank or other financial institution), *provided* that, such borrowings are not reflected as borrowings on the consolidated balance sheet of the Company.

“Euroclear” means Euroclear Bank SA/NV.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended.

“Excluded Indebtedness” means any Indebtedness in respect of the Excluded Notes.

“Excluded Notes” means the December 2020 Notes.

“Exempted Subsidiary” means any Restricted Subsidiary organized in any jurisdiction other than the PRC that is prohibited by applicable law or regulation to provide a Subsidiary Guarantee or a JV Subsidiary Guarantee; *provided* that (x) the Company shall have failed, upon using commercially reasonable efforts, to obtain any required governmental or regulatory approval or registration with respect to such Subsidiary Guarantee or JV Subsidiary Guarantee, to the extent that such approval or registration is available under any applicable law or regulation and (y) such Restricted Subsidiary shall cease to be an Exempted Subsidiary immediately upon such prohibition ceasing to be in force or apply to such Restricted Subsidiary or upon the Company having obtained such applicable approval or registration.

“Fair Market Consideration” means, with respect to each Reference Treasury Dealer and any date when an Offer to Purchase is made by the Company in accordance with clause (i) of the covenant under the caption “— Limitation on Specified Asset Sale,” the average as determined by the Company in good faith, of the bid and asked prices for the Notes quoted in writing by such Reference Treasury Dealer at 5:00 p.m. (New York City Time) on the third Business Day preceding such date.

“Fair Market Value” means the price that would be paid in an arm’s-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Board of Directors, whose determination shall be conclusive if evidenced by a Board Resolution, except in the case of a determination of Fair Market Value of total assets for the purposes of determining a JV Entitlement Amount, in which case such price shall be determined by an accounting, appraisal or investment banking firm of recognized international standing appointed by the Company.

“Fitch” means Fitch Ratings Ltd. and its successors.

“Fixed Charge Coverage Ratio” means, on any Transaction Date, the ratio of (1) the aggregate amount of Consolidated EBITDA for the then most recent four fiscal quarter periods prior to such Transaction Date for which consolidated financial statements of the Company (which the Company shall use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements) (the “Four Quarter Period”) to (2) the aggregate Consolidated Fixed Charges during such Four Quarter Period. In making the foregoing calculation:

- (a) *pro forma* effect shall be given to any Indebtedness or Preferred Stock Incurred, repaid or redeemed during the period (the “Reference Period”) commencing on and including the first day of the Four Quarter Period and ending on and including the Transaction Date (other than Indebtedness Incurred or repaid under a revolving credit or similar arrangement (or under any predecessor revolving credit or similar arrangement) in effect on the last day of such Four Quarter Period), in each case as if such Indebtedness or Preferred Stock had been Incurred, repaid or redeemed on the first day of such Reference Period; *provided* that, in the event of any such repayment or redemption, Consolidated EBITDA for such period shall be calculated as if the Company or such Restricted Subsidiary had not earned any interest income actually earned during such period in respect of the funds used to repay or redeem such Indebtedness or Preferred Stock;
- (b) Consolidated Interest Expense attributable to interest on any Indebtedness (whether existing or being Incurred) computed on a *pro forma* basis and bearing a floating interest rate shall be computed as if the rate in effect on the Transaction Date (taking into account any Interest Rate Agreement applicable to such Indebtedness if such Interest Rate Agreement has a remaining term in excess of 12 months or, if shorter, at least equal to the remaining term of such Indebtedness) had been the applicable rate for the entire period;
- (c) *pro forma* effect shall be given to the creation, designation or redesignation of Restricted and Unrestricted Subsidiaries as if such creation, designation or redesignation had occurred on the first day of such Reference Period;
- (d) *pro forma* effect shall be given to Asset Dispositions and Asset Acquisitions (including giving *pro forma* effect to the application of proceeds of any Asset Disposition) that occur during such Reference Period as if they had occurred and such proceeds had been applied on the first day of such Reference Period; and
- (e) *pro forma* effect shall be given to asset dispositions and asset acquisitions (including giving *pro forma* effect to the application of proceeds of any asset disposition) that have been made by any Person that has become a

Restricted Subsidiary or has been merged with or into the Company or any Restricted Subsidiary during such Reference Period and that would have constituted Asset Dispositions or Asset Acquisitions had such transactions occurred when such Person was a Restricted Subsidiary as if such asset dispositions or asset acquisitions were Asset Dispositions or Asset Acquisitions that occurred on the first day of such Reference Period;

*provided* that, to the extent that clause (d) or (e) of this paragraph requires that *pro forma* effect be given to an Asset Acquisition or Asset Disposition (or asset acquisition or asset disposition), such *pro forma* calculation shall be based upon the four full fiscal quarter periods immediately preceding the Transaction Date of the Person, or division or line of business of the Person, that is acquired or disposed for which financial information is available.

“GAAP” means generally accepted accounting principles in Hong Kong as in effect from time to time.

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), *provided* that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The term “Guarantee” used as a verb has a corresponding meaning.

“Hedging Obligation” of any Person means the obligations of such Person pursuant to any Commodity Hedging Agreement, Currency Agreement or Interest Rate Agreement.

“Holder” means the Person in whose name a Note is registered in the Note register.

“Incur” means, with respect to any Indebtedness or Capital Stock, to incur, create, issue, assume, Guarantee or otherwise become liable for or with respect to, or become responsible for, the payment of, contingently or otherwise, such Indebtedness or Capital Stock; *provided* that (1) any Indebtedness and Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (or fails to meet the qualifications necessary to remain an Unrestricted Subsidiary) will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and (2) the accretion of original issue discount, the accrual of interest, the accrual of dividends, the payment of interest in the form of additional Indebtedness and the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock shall not be considered an Incurrence of Indebtedness. The terms “Incurrence,” “Incurred” and “Incurring” have meanings correlative with the foregoing.

“Indebtedness” means, with respect to any Person at any date of determination (without duplication):

- (1) all indebtedness of such Person for borrowed money;
- (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (3) all obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments;
- (4) all obligations of such Person to pay the deferred and unpaid purchase price of property or services, except Trade Payables;
- (5) all Capitalized Lease Obligations and Attributable Indebtedness;
- (6) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided* that the amount of such Indebtedness shall be the lesser of (a) the Fair Market Value of such asset at such date of determination and (b) the amount of such Indebtedness;
- (7) all Indebtedness of other Persons Guaranteed by such Person to the extent such Indebtedness is Guaranteed by such Person;

- (8) to the extent not otherwise included in this definition, Hedging Obligations; and
- (9) all Disqualified Stock issued by such Person valued at the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price plus accrued dividends.

Notwithstanding the foregoing, Indebtedness shall not include (1) any capital commitments, deferred payment obligations, pre-sale receipts in advance from customers or similar obligations Incurred in the ordinary course of business in connection with the acquisition, development, construction or improvement of real or personal property (including land use rights) to be used in a Permitted Business, or (2) Entrusted Loans; *provided* that such Indebtedness is not reflected as borrowings on the consolidated balance sheet of the Company as borrowings or indebtedness (contingent obligations and commitments referred to in a footnote to financial statements and not otherwise reflected as borrowings on the balance sheet will not be deemed to be reflected on such balance sheet).

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation; *provided* that:

- (1) the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with GAAP;
- (2) money borrowed and set aside at the time of the Incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be “Indebtedness” so long as such money is held to secure the payment of such interest; and
- (3) the amount of Indebtedness with respect to any Hedging Obligation shall be: (i) zero if Incurred pursuant to clause (2)(f) of the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock,” and (ii) equal to the net amount payable by such Person if such Hedging Obligation were terminated at that time if not Incurred pursuant to such paragraph.

“Independent Third Party” means any Person that is not an Affiliate of the Company.

“Initial Other Non-Guarantor Subsidiaries” means, Chuangde International Limited (創德國際有限公司) and Createrich Holdings Limited (創富控股有限公司) and their respective Subsidiaries, unless any of such Restricted Subsidiaries has after the Original Issue Date executed a Subsidiary Guarantee or a JV Subsidiary Guarantee in accordance with the terms of the Indenture.

“Interest Rate Agreement” means any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement, option or future contract or other similar agreement or arrangement designed to reduce or manage exposure to fluctuations in interest rates.

“Investment” means:

- (1) any direct or indirect advance, loan or other extension of credit to another Person;
- (2) any capital contribution to another Person (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others);
- (3) any purchase or acquisition of Capital Stock, Indebtedness, bonds, notes, debentures or other similar instruments or securities issued by another Person; or
- (4) any Guarantee of any obligation of another Person.

For the purposes of the provisions of the “Designation of Restricted and Unrestricted Subsidiaries” and “Limitation on Restricted Payments” covenants: (1) the Company will be deemed to have made an Investment in an Unrestricted Subsidiary in an amount equal to the Company’s proportional interest in the Fair Market Value of the assets (net of the Company’s proportionate interest in the liabilities owed to any Person other than the Company or a Restricted Subsidiary and that are not Guaranteed by the Company or a Restricted Subsidiary) of a Restricted Subsidiary that is

designated an Unrestricted Subsidiary at the time of such designation, and (2) any property transferred to or from any Person shall be valued at its Fair Market Value at the time of such transfer, as determined in good faith by the Board of Directors.

“Investment Grade” means a rating of “AAA,” “AA,” “A” or “BBB,” as modified by a “+” or “-” indication, or an equivalent rating representing one of the four highest rating categories, by S&P or any of its successors or assigns, a rating of “Aaa,” or “Aa,” “A” or “Baa,” as modified by a “1,” “2” or “3” indication, or an equivalent rating representing one of the four highest rating categories, by Moody’s or any of its successors or assigns, or a rating of “AAA,” “AA,” “A” or “BBB,” as modified by a “+” or “-” indication, or an equivalent rating representing one of the four highest rating categories, by Fitch or any of its successors or assigns, or the equivalent ratings of any internationally recognized rating agency or agencies, as the case may be, which shall have been designated by the Company as having been substituted for S&P, Moody’s or Fitch or two or three of them, as the case may be.

“Investment Property” means any property that is held by the Company or any Restricted Subsidiary primarily for rental yields or for capital appreciation or both, or any hotel owned or held by the Company or any Restricted Subsidiary from which the Company or any Restricted Subsidiary derives or expects to derive operating income.

“JV Entitlement Amount” means, with respect to any JV Subsidiary Guarantor and its Subsidiaries, an amount that is equal to the product of (i) the Fair Market Value of the total assets of such JV Subsidiary Guarantor and its Subsidiaries, on a consolidated basis (without deducting any Indebtedness or other liabilities of such JV Subsidiary Guarantor and its subsidiaries) as of the date of the last fiscal year end of the Company; and (ii) a percentage equal to the direct equity ownership percentage of the Company and/or its Restricted Subsidiaries in the Capital Stock of such JV Subsidiary Guarantor and its Subsidiaries.

“JV Subsidiary Guarantee” has the meaning set forth under the caption “—The Subsidiary Guarantees and the JV Subsidiary Guarantees.”

“JV Subsidiary Guarantor” means a Restricted Subsidiary that executes a JV Subsidiary Guarantee. “Lien” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including, without limitation, any conditional sale or other title retention agreement or lease in the nature thereof or any agreement to create any mortgage, pledge, security interest, lien, charge, easement or encumbrance of any kind).

“Listed Subsidiary” means any Restricted Subsidiary any class of Voting Stock of which is listed on a Qualified Exchange and any Restricted Subsidiary of a Listed Subsidiary; provided that such Restricted Subsidiary shall cease to be a Listed Subsidiary immediately upon, as applicable, (x) the Voting Stock of such Restricted Subsidiary ceasing to be listed on a Qualified Exchange, or (y) such Restricted Subsidiary ceasing to be a Restricted Subsidiary of a Listed Subsidiary.

“Measurement Date” means August 6, 2019.

“Minimum Principal” means the greater of (a) zero and (b) a principal amount of the Notes calculated as (i) the required principal set forth in the table appearing under the caption “— Mandatory Redemption on Specified Dates” on the relevant Mandatory Redemption Date minus (ii) the aggregate principal amount of the Notes redeemed or repurchased and cancelled on or prior to such Mandatory Redemption Date.

“Minority Interest Staged Acquisition Agreement” means an agreement between the Company and/or any Restricted Subsidiary on the one hand and an Independent Third Party on the other (x) pursuant to which the Company and/or such Restricted Subsidiary agrees to acquire less than a majority of the Capital Stock of a Person for a consideration that is not more than the Fair Market Value of such Capital Stock at the time the Company and/or such Restricted Subsidiary enters into such agreement and (y) which provides that the payment of the purchase price for such Capital Stock is made in more than one installment over a period of time.

“Minority Joint Venture” means any corporation, association or other business entity that is accounted for by the equity method of accounting in accordance with GAAP by the Company or a Restricted Subsidiary and primarily engaged in the Permitted Businesses, and such Minority Joint Venture’s Subsidiaries.

“Moody’s” means Moody’s Investors Service, Inc. and its successors.

“Net Cash Proceeds” means:

- (1) with respect to any Asset Sale, the proceeds of such Asset Sale in the form of cash or cash equivalents, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not interest, component thereof) when received in the form of cash or cash equivalents and proceeds from the conversion of other property received when converted to cash or cash equivalents, net of:
  - (a) brokerage commissions and other fees and expenses (including fees and expenses of counsel and investment banks) related to such Asset Sale;
  - (b) provisions for all taxes (whether or not such taxes will actually be paid or are payable) as a result of such Asset Sale without regard to the consolidated results of operations of the Company and its Restricted Subsidiaries, taken as a whole;
  - (c) payments made to repay Indebtedness or any other obligation outstanding at the time of such Asset Sale that either (x) is secured by a Lien on the property or assets sold or (y) is required to be paid as a result of such sale;
  - (d) appropriate amounts to be provided by the Company or any Restricted Subsidiary as a reserve against any liabilities associated with such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, all as determined in conformity with GAAP; and
- (2) with respect to any issuance or sale of Capital Stock, the proceeds of such issuance or sale in the form of cash or cash equivalents, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not interest, component thereof) when received in the form of cash or cash equivalents and proceeds from the conversion of other property received when converted to cash or cash equivalents, net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, discounts or commissions and brokerage, consultant and other fees incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

“Net Consideration” means with respect to any Specified Asset Sale, the consideration of such Specified Asset Sale, net of:

- (1) actual brokerage commissions and other fees and expenses (including fees and expenses of professional parties) related to such Specified Asset Sale;
- (2) provisions for all taxes (whether or not such taxes will actually be paid or are payable) as a result of such Specified Asset Sale without regard to the consolidated results of operations of the Company and its Restricted Subsidiaries, taken as a whole;
- (3) actual payments made to repay Indebtedness or any other obligation outstanding at the time of such Specified Asset Sale that either (x) is secured by a Lien on the property or assets sold under such Specified Asset Sale or (y) is required to be paid as a result of such sale; and
- (4) appropriate amounts to be provided by the Company or any Restricted Subsidiary as a reserve against any liabilities associated with such Specified Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Specified Asset Sale.

“NDRC” means the National Development and Reform Commission of the PRC.

“NDRC Notice” means the Notice on the Administrative Reform for the Registration of Offshore Debt Issuances (國家發展改革委關於推進企業發行外債備案登記制管理改革的通知) issued by the NDRC on September 14, 2015.

“Offer to Purchase” means an offer to purchase Notes by the Company from the Holders commenced by the Company sending a notice to the Trustee, the Paying Agent and each Holder at its last address appearing in the Note register stating:

- (1) the covenant pursuant to which the offer is being made and that all Notes validly tendered will be accepted for payment on a *pro rata* basis;
- (2) the purchase price and the date of purchase (which shall be a Business Day no earlier than 30 days nor later than 60 days from the date such notice is mailed) (the “Offer to Purchase Payment Date”);
- (3) that any Note not tendered will continue to accrue interest pursuant to its terms;
- (4) that, unless the Company defaults in the payment of the purchase price, any Note accepted for payment pursuant to the Offer to Purchase shall cease to accrue interest on and after the Offer to Purchase Payment Date;
- (5) that Holders electing to have a Note purchased pursuant to the Offer to Purchase will be required to surrender the Note, together with the form entitled “Option of the Holder to Elect Purchase” on the reverse side of the Note completed, to the tender agent (“**Tender Agent**”) at the address specified in the notice prior to the close of business on the Business Day immediately preceding the Offer to Purchase Payment Date;
- (6) that Holders will be entitled to withdraw their election if the Tender Agent receives, not later than the close of business on the third Business Day immediately preceding the Offer to Purchase Payment Date, a facsimile transmission or letter setting forth the name of such Holder, the principal amount of Notes delivered for purchase and a statement that such Holder is withdrawing his election to have such Notes purchased; and
- (7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered; *provided* that each Note purchased and each new Note issued shall be in a principal amount of US\$150,000 or integral multiples of US\$1 in excess thereof.

One Business Day prior to the Offer to Purchase Payment Date, the Company shall deposit with the Tender Agent money sufficient to pay the purchase price of all Notes or portions thereof to be accepted by the Company for payment on the Offer to Purchase. On the Offer to Purchase Payment Date, the Company shall (a) accept for payment on a *pro rata* basis Notes or portions thereof tendered pursuant to an Offer to Purchase; and (b) deliver, or cause to be delivered, to the Trustee all Notes or portions thereof so accepted together with an Officers’ Certificate specifying the Notes or portions thereof accepted for payment by the Company.

The Tender Agent shall as soon as reasonably practicable mail to the Holders of Notes so accepted payment in an amount equal to the purchase price, and, upon receipt of a written order of the Company signed by an Officer, the Trustee or its authenticating agent shall as soon as reasonably practicable authenticate and mail to such Holders a new Note equal in principal amount to any unpurchased portion of the Note surrendered; *provided* that each Note purchased and each new Note issued shall be in a principal amount of US\$150,000 or integral multiples of US\$1 in excess thereof. The Company will publicly announce the results of an Offer to Purchase as soon as practicable after the Offer to Purchase Payment Date. The Company will comply with Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable, in the event that the Company is required to repurchase Notes pursuant to an Offer to Purchase.

To the extent that the provisions of any securities laws or regulations of any jurisdiction conflict with the provisions of the Indenture governing any Offer to Purchase, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Indenture by virtue of such compliance. The Company will not be required to make an Offer to Purchase if a third party makes the Offer to Purchase in compliance with the requirements set forth in the Indenture applicable to an Offer to Purchase made by the Company and purchases all Notes properly tendered and not withdrawn under the Offer to Purchase.

The offer is required to contain or incorporate by reference information concerning the business of the Company and its Subsidiaries which the Company in good faith believes will assist such Holders to make an informed decision with respect to the Offer to Purchase, including a brief description of the events requiring the Company to make the Offer to

Purchase, and any other information required by applicable law to be included therein. The offer is required to contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Offer to Purchase.

“Officer” means one of the executive officers of the Company or, in the case of a Subsidiary Guarantor or JV Subsidiary Guarantor, one of the directors or officers of such Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be.

“Officers’ Certificate” means a certificate signed by two Officers; *provided, however,* with respect to the Officers’ Certificate required to be delivered by any Subsidiary Guarantor under this Indenture, Officers’ Certificate means a certificate signed by one Officer if there is only one Officer in such Subsidiary Guarantor at the time such certificate is required to be delivered.

“Opinion of Counsel” means a written opinion from legal counsel who is reasonably acceptable to the Trustee.

“Original Issue Date” means the date on which the Notes are originally issued under the Indenture, which is the Restructuring Effective Date (as defined in the restructuring support agreement dated November 18, 2022 (as such may be amended, supplemented or modified from time to time) by and among the Company, the Subsidiary Guarantors and certain Holders).

“Pari Passu Guarantee” means a guarantee by the Company, any Subsidiary Guarantor or any JV Subsidiary Guarantor of Indebtedness of the Company (including Additional Notes) or any Subsidiary Guarantor or JV Subsidiary Guarantor; *provided* that (1) the Company, or such Subsidiary Guarantor or JV Subsidiary Guarantor, as the case may be, was permitted to Incur such Indebtedness under the covenant described under the caption “—Limitation on Indebtedness and Preferred Stock” and (2) such guarantee ranks *pari passu* with the Notes, with any outstanding Subsidiary Guarantee of such Subsidiary Guarantor, or with any outstanding JV Subsidiary Guarantee of such JV Subsidiary Guarantor, as the case may be.

“Payment Default” means (1) any default in the payment of interest on any Note when the same becomes due and payable, (2) any default in the payment of principal of (or premium, if any, on) the Notes when the same becomes due and payable at maturity, upon acceleration, redemption or otherwise, (3) the failure by the Company to make or consummate a Change of Control Offer in the manner described under the caption “—Repurchase of Notes upon a Change of Control,” or an Offer to Purchase in the manner described under the caption “—Certain Covenants—Limitation on Asset Sales” or (4) any Event of Default specified in clause (5) of the definition of Events of Default.

“Permitted Businesses” means any business which is the same as or related, ancillary or complementary to any of the businesses of the Company and its Restricted Subsidiaries on the Original Issue Date.

“Permitted Holders” means any or all of the following:

- (1) Mr. Hu Yiping (胡一平) and Mr. Hu Shihao (胡詩豪);
- (2) any Affiliate (other than an Affiliate as defined in clause (2) or (3) of the definition of Affiliate) of the Persons specified in clause (1);
- (3) the estate, trust and any immediate family member of the Persons listed in (1) or the legal representative of any of the foregoing; and
- (4) any Person both the Capital Stock and the Voting Stock of which (or in the case of a trust, the beneficial interests in which) are owned 80% or more by Persons specified in clauses (1), (2) and (3).

“Permitted Investment” means:

- (1) any Investment in the Company or a Restricted Subsidiary, directly or indirectly through one or more other Restricted Subsidiaries, that is primarily engaged in a Permitted Business or a Person which will, upon the making of such Investment, become a Restricted Subsidiary that is primarily engaged, directly or indirectly through one or more other Restricted Subsidiaries, in a Permitted Business or be merged or consolidated with or into or transfer or convey all or substantially all its assets to, the Company or a Restricted Subsidiary that is

primarily engaged, directly or indirectly through one or more other Restricted Subsidiaries, in a Permitted Business;

- (2) any Investment in cash or Temporary Cash Investments;
- (3) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses in accordance with GAAP;
- (4) stock, obligations or securities received in satisfaction of judgments;
- (5) an Investment in an Unrestricted Subsidiary consisting solely of an Investment in another Unrestricted Subsidiary;
- (6) any Investment pursuant to a Hedging Obligation designed to reduce or manage the exposure of the Company or any Restricted Subsidiary to fluctuations in commodity prices, interest rates or foreign currency exchange rates;
- (7) receivables owing to the Company or any Restricted Subsidiary, if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms;
- (8) Investments made by the Company or any Restricted Subsidiary consisting of consideration received in connection with an Asset Sale made in compliance with the covenant under the caption “—Certain Covenants—Limitation on Asset Sales”;
- (9) pledges or deposits (x) with respect to leases or utilities provided to third parties in the ordinary course of business or (y) otherwise described in the definition of “Permitted Liens” or made in connection with Liens permitted under the covenant described under the caption “—Certain Covenants—Limitation on Liens”;
- (10) any Investment pursuant to Pre-Registration Mortgage Guarantees or Contractor Guarantees by the Company or any Restricted Subsidiary otherwise permitted to be Incurred under the Indenture;
- (11) Investments in securities of trade creditors, trade debtors or customers received pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditor, trade debtor or customer;
- (12) advances to contractors and suppliers for the acquisition of assets or consumables or services in the ordinary course of business that are recorded as deposits or prepaid expenses on the Company’s consolidated balance sheet;
- (13) deposits of pre-sale proceeds made in order to secure the completion and delivery of pre-sold properties and issuance of the related land use title in the ordinary course of business;
- (14) deposits made in order to comply with statutory or regulatory obligations to maintain deposits for workers compensation claims and other purposes specified by statute or regulation from time to time in the ordinary course of business;
- (15) deposits made in order to secure the performance of the Company or any of its Restricted Subsidiaries and prepayments made in connection with the direct or indirect acquisition of real property or land use rights or personal property (including without limitation, Capital Stock) by the Company or any of its Restricted Subsidiaries (including, without limitation, by way of acquisition of Capital Stock of a Person), in each case in the ordinary course of business;
- (16) Guarantees permitted under the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (17) any Investment (including any deemed Investment upon the redesignation of a Restricted Subsidiary as an Unrestricted Subsidiary or upon the sale of Capital Stock of a Restricted Subsidiary) by the Company or any Restricted Subsidiary in any Person (other than a Restricted Subsidiary); *provided that:*

- (i) the aggregate of all Investments made under this clause (17) since the Original Issue Date shall not exceed in aggregate an amount equal to 30% of Total Assets.

Such aggregate amount of Investments shall be calculated after deducting an amount equal to the net reduction in all Investments made under this clause (17) since the Original Issue Date resulting from:

- (A) payments of interest on Indebtedness, dividends or repayments of loans or advances made under this clause (17), in each case to the Company or any Restricted Subsidiary (except, in each case, to the extent any such payment or proceeds are included in the calculation of Consolidated Net Income),
- (B) the unconditional release of a Guarantee provided by the Company or a Restricted Subsidiary after the Original Issue Date under this clause of an obligation of any such Person,
- (C) to the extent that an Investment made after the Original Issue Date under this clause (17) is sold or otherwise liquidated or repaid for cash, the lesser of (x) cash return of capital with respect to such Investment (less the cost of disposition, if any) and (y) the initial amount of such Investment,
- (D) redesignations of Unrestricted Subsidiaries as Restricted Subsidiaries not to exceed, in each case, the amount of Investments made pursuant to this clause (17) by the Company or any Restricted Subsidiary after the Original Issue Date in any such Person, or
- (E) any such Person becoming a Restricted Subsidiary (whereupon all Investments made by the Company or any Restricted Subsidiary in such Person since the Original Issue Date shall be deemed to have been made pursuant to clause (1) of this definition),

not to exceed, in each case, the amount of Investments made by the Company or a Restricted Subsidiary after the Original Issue Date in any such Person pursuant to this clause (17),

- (ii) the Person into which such Investment is made is primarily engaged in the Permitted Businesses;
- (iii) if any of the shareholders or partners (other than the Company or any Restricted Subsidiary) in such Person in which such Investment was made pursuant to this clause (17) is a Person described in clause (x) or (y) of the first paragraph of the covenant described under the caption “—Certain Covenants—Limitation on Transactions with Shareholders and Affiliates” (other than by reason of such shareholder or partner being an officer or director of the Company, a Restricted Subsidiary, Minority Joint Venture or Unrestricted Subsidiary or by reason of being a Subsidiary, Minority Joint Venture or Unrestricted Subsidiary of the Company), such Investment shall comply with the requirements set forth under the covenant under the caption “—Certain Covenants—Limitation on Transactions with Shareholders and Affiliates”; and
- (iv) no Default has occurred and is continuing or would occur as a result of such Investment.

For the avoidance of doubt, the value of each Investment made pursuant to this clause (17) shall be valued at the time such Investment is made;

- (18) advances in the ordinary course of business to government authorities or government-affiliated entities in the PRC for the purpose of the development and preparation by such government authority or government affiliated entity of primary land for auction purposes which advances are recorded as deposits or prepaid expenses on the Company’s consolidated balance sheet to the extent each such advance is on normal commercial terms including being subject to repayment from the relevant government authority;
- (19) repurchases of the Notes;
- (20) the purchase of Capital Stock of a Person and payments made pursuant to a Staged Acquisition Agreement;
- (21) acquisition of assets, Capital Stock or other securities by the Company or a Restricted Subsidiary for consideration to the extent such consideration consists solely of Capital Stock of the Company; and

(22) Investment that has been agreed to or is otherwise obligated to be made pursuant to an agreement or similar instrument in existence on the Original Issue Date.

“Permitted Liens” means:

- (1) Liens for taxes, assessments, governmental charges or claims that are being contested in good faith by appropriate legal or administrative proceedings promptly instituted and diligently conducted and for which a reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made;
- (2) statutory and common law Liens of landlords and carriers, warehousemen, mechanics, suppliers, repairmen or other similar Liens arising in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate legal or administrative proceedings promptly instituted and diligently conducted and for which a reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made;
- (3) Liens incurred or deposits made to secure the performance of tenders, bids, leases, statutory or regulatory obligations, bankers' acceptances, surety and appeal bonds, government contracts, performance and return-of-money bonds and other obligations of a similar nature incurred in the ordinary course of business (exclusive of obligations for the payment of borrowed money);
- (4) leases or subleases granted to others that do not materially interfere with the ordinary course of business of the Company and its Restricted Subsidiaries, taken as a whole;
- (5) Liens encumbering property or assets under construction arising from progress or partial payments by a customer of the Company or its Restricted Subsidiaries relating to such property or assets;
- (6) Liens on property of, or on shares of Capital Stock or Indebtedness of, any Person existing at the time such Person becomes, or becomes a part of, any Restricted Subsidiary; *provided* that such Liens do not extend to or cover any property or assets of the Company or any Restricted Subsidiary other than the property or assets acquired; *provided further* that such Liens were not created in contemplation of or in connection with the transactions or series of transactions pursuant to which such Person became a Restricted Subsidiary;
- (7) Liens in favor of the Company or any Restricted Subsidiary;
- (8) Liens arising from the rendering of a final judgment or order against the Company or any Restricted Subsidiary that does not give rise to an Event of Default;
- (9) Liens securing reimbursement obligations with respect to letters of credit that encumber documents and other property relating to such letters of credit and the products and proceeds thereof;
- (10) Liens encumbering customary initial deposits and margin deposits, and other Liens that are within the general parameters customary in the industry, in each case, securing Indebtedness under Hedging Obligations permitted by clause (2)(f) of the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (11) Liens existing on the Original Issue Date;
- (12) Liens securing Indebtedness which is Incurred to refinance secured Indebtedness which is permitted to be Incurred under clause (e) of the second paragraph of the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”; *provided* that such Liens do not extend to or cover any property or assets of the Company or any Restricted Subsidiary other than the property or assets securing the Indebtedness being refinanced;
- (13) any interest or title of a lessor in the property subject to any operating lease;
- (14) Liens securing Indebtedness of the Company or any Restricted Subsidiary under any Pre-Registration Mortgage Guarantee which is permitted to be Incurred under clause (2)(g) of the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;

- (15) easements, rights-of-way, municipal and zoning ordinances or other restrictions as to the use of properties in favor of governmental agencies or utility companies that do not materially adversely affect the value of such properties or materially impair the use for the purposes of which such properties are held by the Company or any Restricted Subsidiary;
- (16) Liens (including extensions and renewals thereof) upon real or personal property; *provided* that, (a) such Lien is created solely for the purpose of securing Indebtedness of the type described under clause (2)(h) of the covenant described under the caption “—Certain Covenants—Limitation on Indebtedness and Preferred Stock” and such Lien is created prior to, at the time of or within 180 days after the later of the acquisition or the completion of development, construction or improvement of such property, (b) the principal amount of the Indebtedness secured by such Lien does not exceed 100% of the cost of such property, development, construction or improvement and (c) such Lien shall not extend to or cover any property or assets other than such item of property and any improvements on such item; *provided* that, in the case of clauses (b) and (c), such Lien may cover other property or assets (instead of or in addition to such item of property or improvements) and the principal amount of Indebtedness secured by such Lien may exceed 100% of such cost if (x) such Lien is incurred in the ordinary course of business and (y) the aggregate book value of property or assets (as reflected in the most recent available consolidated financial statements of the Company (which may be internal consolidated financial statements) or, if any such property or assets have been acquired since the date of such financial statements, the cost of such property or assets) subject to Liens incurred pursuant to this clause (16) does not exceed 130% of the aggregate principal amount of Indebtedness secured by such Liens;
- (17) Liens on deposits of pre-sale proceeds made in order to secure the completion and delivery of pre-sold properties and issuance of the related land use title made in the ordinary course of business and not securing Indebtedness of the Company or any Restricted Subsidiary;
- (18) Liens on deposits made in order to comply with statutory obligations to maintain deposits for workers compensation claims and other purposes specified by statute made in the ordinary course of business and not securing Indebtedness of the Company or any Restricted Subsidiary;
- (19) Liens on deposits made in order to secure the performance of the Company or any of its Restricted Subsidiaries in connection with the acquisition of real property or land use rights or personal property (including without limitation, Capital Stock) by the Company or any of its Restricted Subsidiaries in the ordinary course of business and not securing Indebtedness of the Company or any Restricted Subsidiary;
- (20) Liens granted by the Company or a Restricted Subsidiary in favor of a Trust Company Investor in respect of, and to secure, the Indebtedness permitted under paragraph (2)(p) of the covenant described under “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (21) Liens securing Indebtedness permitted under clause (2)(n) of the covenant described under “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (22) Liens on the Capital Stock of the Person that is to be acquired under the relevant Staged Acquisition Agreement or Minority Interest Staged Acquisition Agreement securing Indebtedness permitted to be Incurred under clause (2)(o) of the covenant described under “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (23) Liens incurred on bank accounts, deposits or other assets made to secure Bank Deposit Secured Indebtedness;
- (24) Liens securing Indebtedness permitted under clause (2)(s), 2(t), (2)(u) or (2)(v) of the covenant described under “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”;
- (25) Liens incurred or deposits made to secure Entrusted Loans; and
- (26) Liens on assets of a Non-Guarantor Subsidiary securing any Permitted Subsidiary Indebtedness of any Non-Guarantor Subsidiary permitted to be Incurred under the proviso in paragraph (1) of the covenant described under “—Certain Covenants—Limitation on Indebtedness and Preferred Stock.”

“Permitted Subsidiary Indebtedness” means Indebtedness of, and all Preferred Stock issued by, the Non-Guarantor Subsidiaries, taken as a whole; *provided* that, on the date of the Incurrence of such Indebtedness and after giving effect thereto and the application of the proceeds thereof, the aggregate principal amount outstanding of all such Indebtedness (excluding any Public Indebtedness and any Indebtedness of any Non-Guarantor Subsidiary permitted under clauses 2(a), (b), (d), (f), (g), (m) and (o) of the covenant described under “—Certain Covenants—Limitation on Indebtedness and Preferred Stock”) does not exceed an amount equal to 15% of Total Assets.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization or government or any agency or political subdivision thereof.

“PRC” means the People’s Republic of China, excluding Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan.

“PRC CJV” means any Subsidiary that is a Sino-foreign cooperative joint venture enterprise with limited liability, established in the PRC pursuant to the Law of the People’s Republic of China on Sino-foreign Cooperative Joint Ventures adopted on April 13, 1988 (amended on November 4, 2017 and superseded by the Foreign Investment Law of the People’s Republic of China adopted on January 1, 2020) and the Detailed Rules for the Implementation of the Law of the People’s Republic of China on Sino-foreign Cooperative Joint Ventures promulgated on September 4, 1995 (amended on November 17, 2017 and superseded by the Regulation for Implementing the Foreign Investment Law of the People’s Republic of China adopted on January 1, 2020).

“PRC CJV Partner” means with respect to a PRC CJV, the other party to the joint venture agreement relating to such PRC CJV with the Company or any Restricted Subsidiary.

“Pre-Registration Mortgage Guarantee” means any Indebtedness of the Company or any Restricted Subsidiary consisting of a guarantee in favor of any bank or other similar financial institutions in the ordinary course of business of secured loans of purchasers of individual units of properties from the Company or any Restricted Subsidiary; *provided* that, any such guarantee shall be released in full on or before the perfection of a security interest in such properties under applicable law in favor of the relevant lender.

“Preferred Stock” as applied to the Capital Stock of any Person means Capital Stock of any class or classes that by its term is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

“Public Indebtedness” means any bonds, debentures, notes or similar debt securities issued in a public offering or a private placement (other than the Notes) to institutional investors.

“Qualified Exchange” means either (1) The New York Stock Exchange, the London Stock Exchange, The Stock Exchange of Hong Kong Limited, the Nasdaq Stock Market, Singapore Exchange Securities Trading Limited, the Shanghai Stock Exchange, the Shenzhen Stock Exchange or the Taiwan Stock Exchange or (2) a national securities exchange (as such term is defined in Section 6 of the U.S. Exchange Act) or a designated offshore securities market (as such term is defined in Rule 902(b) under the U.S. Securities Act).

“Rating Agencies” means (1) S&P and (2) Moody’s, provided that if S&P or Moody’s or both of them shall not make a rating of the Notes publicly available, a nationally recognized securities rating agency or agencies, as the case may be, selected by the Company, which shall be substituted for S&P, Moody’s, or both of them, as the case may be.

“Rating Category” means (1) with respect to S&P, any of the following categories: “BB,” “B,” “CCC,” “CC,” “C” and “D” (or equivalent successor categories); (2) with respect to Moody’s, any of the following categories: “Ba,” “B,” “Caa,” “Ca,” “C” and “D” (or equivalent successor categories); (3) the equivalent of any such category of S&P or Moody’s used by another Rating Agency. In determining whether the rating of the Notes has decreased by one or more gradations, gradations within Rating Categories (“+” and “-” for S&P; “1,” “2” and “3” for Moody’s; or the equivalent gradations for another Rating Agency) shall be taken into account (e.g., with respect to S&P, a decline in a rating from “BB+” to “BB,” as well as from “BB-” to “B+,” will constitute a decrease of one gradation).

“Rating Date” means (1) in connection with a Change of Control Triggering Event, that date which is 90 days prior to the earlier of (x) a Change of Control Triggering Event and (y) a public notice of the occurrence of a Change of

Control Triggering Event or of the intention by the Company or any other Person or Persons to effect a Change of Control Triggering Event or (2) in connection with actions contemplated under the caption “—Consolidation, Merger and Sale of Assets,” that date which is 90 days prior to the earlier of (x) the occurrence of any such actions as set forth therein and (y) a public notice of the occurrence of any such actions.

“Rating Decline” means, so long as the Notes are rated by at least one Rating Agency, (1) in connection with a Change of Control Triggering Event, that date which is 90 days prior to the earlier of (x) a Change of Control Triggering Event and (y) a public notice of the occurrence of a Change of Control Triggering Event or of the intention by the Company or any other Person or Persons to effect a Change of Control Triggering Event or (2) in connection with actions contemplated under the caption “—Consolidation, Merger and Sale of Assets,” the notification by any of the Rating Agencies that such proposed actions will result in any of the events listed below:

- (a) in the event the Notes are rated by both of the Rating Agencies on the Rating Date as Investment Grade, the rating of the Notes by either of the Rating Agencies shall be below Investment Grade;
- (b) in the event the Notes are rated by either, but not both, of the Rating Agencies on the Rating Date as Investment Grade, the rating of the Notes by such Rating Agency shall be below Investment Grade; or
- (c) in the event the Notes are rated below Investment Grade by both Rating Agencies on the Rating Date, the rating of the Notes by either Rating Agency shall be decreased by one or more gradations (including gradations within Rating Categories as well as between Rating Categories).

“Receivable Financing” means any financing transaction or series of financing transactions that have been or may be entered into by the Company or any Restricted Subsidiary pursuant to which the Company or any Restricted Subsidiary may sell, convey or otherwise transfer to another Person, or may grant a security interest in, any of its receivables, mortgages, royalty, other revenue streams, assets or interests therein (including without limitation, all security interests in goods financed thereby (including equipment and property), the proceeds of such receivables, and other assets which are customarily sold or in respect of which security interests are customarily granted in connection with securitization or factoring transactions involving such assets) for credit or liquidity management purposes (including discounting, securitization or factoring transactions) either (i) in the ordinary course of business or (ii) by way of selling securities by such other Person that are, or are capable of being, listed on any stock exchange or in any securities market and are offered using an offering memorandum or similar offering document.

“Receivable Financing Assets” means assets that are underlying and are sold, conveyed or otherwise transferred or pledged in a Receivable Financing.

“Reference Treasury Dealer” means each of any three investment banks of recognized standing that is a primary U.S. Government securities dealer in The City of New York, selected by the Company in good faith.

“Reference Treasury Dealer Quotations” means, with respect to each Reference Treasury Dealer and any redemption date, the average as determined by the Company in good faith of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Company by such Reference Treasury Dealer at 5:00 p.m. (New York City time) on the third Business Day preceding such redemption date.

“Restricted Subsidiary” means any Subsidiary of the Company other than an Unrestricted Subsidiary. “S&P” means Standard & Poor’s Ratings Services and its affiliates.

“Sale and Leaseback Transaction” means any direct or indirect arrangement relating to property (whether real, personal or mixed), now owned or hereafter acquired whereby the Company or any Restricted Subsidiary transfers such property to another Person and the Company or any Restricted Subsidiary leases it from such Person.

“Securities Act” means the U.S. Securities Act of 1933, as amended.

“Securitization Fees” means distributions or payments made directly or by means of discounts with respect to any Receivable Financing Asset or participation interest therein issued or sold in connection with and other fees paid to a Person that is not a Restricted Subsidiary in connection with any Receivable Financing.

“Senior Indebtedness” of the Company or a Restricted Subsidiary, as the case may be, means all Indebtedness of the Company or the Restricted Subsidiary, as relevant, whether outstanding on the Original Issue Date or thereafter created, except for Indebtedness which, in the instrument creating or evidencing the same, is expressly stated to be subordinated in right of payment to (a) in respect of the Company, the Notes, (b) in respect of any Restricted Subsidiary that is a Subsidiary Guarantor, its Subsidiary Guarantee, or (c) in respect of any Restricted Subsidiary that is a JV Subsidiary Guarantor, its JV Subsidiary Guarantee; *provided* that Senior Indebtedness does not include (1) any obligation to the Company or any Restricted Subsidiary, (2) trade payables or (3) Indebtedness Incurred in violation of the Indenture.

“Significant Subsidiary” means a Restricted Subsidiary, when consolidated with its Restricted Subsidiaries, that would be a “significant subsidiary” using the conditions specified in the definition of significant subsidiary in Article 1, Rule 1-02(w) of Regulation S-X, promulgated pursuant to the U.S. Securities Act, as such Regulation is in effect on the date of the Indenture, if any of the conditions exceeds 5%.

“Specified Assets” means:

- (1) the available portion (after deducting with the pre-sold but not yet delivered portion) (the “Available Portion”) of land lot 杭政储出[2020]77号, which has a remaining saleable GFA of approximately 120,126 square meters as of November 18, 2022 and is the subject of Project Hangzhou Huayunchunjing (杭州花芸春境项目), as well as any buildings and work-in-progress construction on such Available Portion;
- (2) the Available Portion of land lot 萧政储出[2021]35号, which has a remaining saleable GFA of approximately 127,526 square meters as of November 18, 2022 and is the subject of Project Hangzhou Wenchenwangfu (杭州文宸望府项目), as well as any buildings and work-in-progress construction on such Available Portion;
- (3) the Available Portion of land lot NO.2020G41, which has a remaining saleable GFA of approximately 203,111 square meters as of November 18, 2022 and is the subject of Project Nanjing Xingchenjinyuan (南京星宸锦园项目), as well as any buildings and work-in-progress construction on such Available Portion;
- (4) the Available Portion of land lot 城东 2105 号宗地, which has a remaining saleable GFA of approximately 173,642 square meters as of November 18, 2022 and is the subject of Project Wuhu Jinlinfu (蕪湖金麟府项目), as well as any buildings and work-in-progress construction on such Available Portion;
- (5) the Available Portion of land lot P (2020) 187号东西湖地块, which has a remaining saleable GFA of approximately 184,543 square meters as of November 18, 2022 and is the subject of Project Wuhan Shiguangzhichen (武汉时光之宸项目), as well as any buildings and work-in-progress construction on such Available Portion; and
- (6) the Available Portion of land lot NO.溧水 2021G09, which has a remaining saleable GFA of approximately 149,990 square meters as of November 18, 2022 and is the subject of Project Lishui Jiuchenfu (溧水玖宸府项目), as well as any buildings and work-in-progress construction on such Available Portion.

“Specified Asset Sale” means any sale, transfer or other disposition of one or more Specified Assets on or after the Original Issue Date, including by way of issuance or sale of Capital Stock of a Restricted Subsidiary that directly or indirectly owns the Specified Asset.

“Staged Acquisition Agreement” means an agreement between the Company or a Restricted Subsidiary and an Independent Third Party (x) pursuant to which the Company or such Restricted Subsidiary agrees to acquire not less than a majority of the Capital Stock of a Person for a consideration that is not more than the Fair Market Value of such Capital Stock of such Person at the time the Company or such Restricted Subsidiary enters into such agreement and (y) which provides that the payment of the purchase price for such Capital Stock is made in more than one installment over a period of time.

“Stated Maturity” means, (1) with respect to any Indebtedness, the date specified in such debt security as the fixed date on which the final installment of principal of such Indebtedness is due and payable as set forth in the documentation

governing such Indebtedness and (2) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Indebtedness.

“Subordinated Indebtedness” means any Indebtedness of the Company, any Subsidiary Guarantor or any JV Subsidiary Guarantor which is contractually subordinated or junior in right of payment to the Notes, any Subsidiary Guarantee or any JV Subsidiary Guarantee, as applicable, pursuant to a written agreement to such effect.

“Subordinated Shareholder Loan” means any unsecured Indebtedness for borrowed money Incurred by the Company or any Restricted Subsidiary from but only so long as such Indebtedness is owed to any Permitted Holder which (i) is expressly made subordinate to the prior payment in full of the Notes, by its terms or by the terms of any agreement or instrument pursuant to which such Indebtedness is issued, created or remains outstanding, with respect to the payment of principal and any other payment obligations in respect of such Indebtedness, (ii) by its terms (and by the terms of any security into which it is convertible or for which it is exchangeable) does not mature and is not required to be repaid, redeemed, repurchased or otherwise retired, pursuant to a sinking fund obligation, event of default or otherwise, in whole or in part, on or prior to the date that is one year after the Stated Maturity of the Notes and (iii) by its terms, does not provide for any cash payment of interest (or premium, if any).

“Subsidiary” means, with respect to any Person, any corporation, association or other business entity (i) of which more than 50% of the voting power of the outstanding Voting Stock is owned, directly or indirectly, by such Person and one or more other Subsidiaries of such Person or (ii) of which 50% or less of the voting power of the outstanding Voting Stock is owned, directly or indirectly, by such Person and one or more other Subsidiaries of such Person and, in each case of (i) and (ii) which is “controlled” and consolidated by such Person in accordance with GAAP; *provided, however*, that with respect to clause (ii), the occurrence of any event (other than the issuance or sale of Capital Stock) as a result of which such corporation, association or other business entity ceases to be “controlled” by such Person under the GAAP and to constitute a Subsidiary of such Person shall be deemed to be an Investment by such Person in such entity.

“Subsidiary Guarantee” means any Guarantee of the obligations of the Company under the Indenture and the Notes by any Subsidiary Guarantor.

“Subsidiary Guarantor” means any initial Subsidiary Guarantor named herein and any other Restricted Subsidiary which guarantees the payment of the Notes pursuant to the Indenture and the Notes; provided that Subsidiary Guarantor will not include (a) any Person whose Subsidiary Guarantee has been released in accordance with the Indenture and the Notes or (b) any JV Subsidiary Guarantor.

“Temporary Cash Investment” means any of the following:

- (1) direct obligations of the United States of America, the United Kingdom, any state of the European Economic Area, the People’s Republic of China and Hong Kong or any agency of any of the foregoing or obligations fully and unconditionally Guaranteed by the United States of America, the United Kingdom, any state of the European Economic Area, the People’s Republic of China and Hong Kong or any agency of any of the foregoing, in each case maturing within one year, which in the case of obligations of, or obligations Guaranteed by, the United Kingdom, any state of the European Economic Area, shall be rated at least “A” by S&P, Moody’s or Fitch;
- (2) demand or time deposit accounts, certificates of deposit and money market deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company which is organized under the laws of the United States of America, any state thereof, the United Kingdom, any state of the European Economic Area or Hong Kong, and which bank or trust company has capital, surplus and undivided profits aggregating in excess of US\$100 million (or the Dollar Equivalent thereof) and has outstanding debt which is rated “A” (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Section 3(a)(62) of the Exchange Act) or any money market fund sponsored by a registered broker dealer or mutual fund distributor;

- (3) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (1) above entered into with a bank or trust company meeting the qualifications described in clause (2) above;
- (4) commercial paper, maturing not more than 180 days after the date of acquisition thereof, issued by a corporation (other than an Affiliate of the Company) organized and in existence under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of “P-1” (or higher) according to Moody’s or “A-1” (or higher) according to S&P or Fitch;
- (5) securities, maturing within one year of the date of acquisition thereof, issued or fully and unconditionally Guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least “A” by S&P, Moody’s or Fitch;
- (6) any money market fund that has at least 95% of its assets continuously invested in investments of the types described in clauses (1) through (5) above;
- (7) demand or time deposit accounts, certificates of deposit, overnight or call deposits, money market deposits with any bank, trust company or financial institution organized under the laws of the PRC, Hong Kong or any other jurisdiction where the Company or any Restricted Subsidiary conducts business; and
- (8) structured deposit products that are principal protected with any bank or financial institution organized under the laws of the PRC, Hong Kong or anywhere the Company or any Restricted Subsidiary conducts business operations if held to maturity (which shall not be more than one year) and can be withdrawn at any time with no more than six months’ notice.

“Total Assets” means, as of any date, the total consolidated assets of the Company and its Restricted Subsidiaries measured in accordance with GAAP as of the last day of the most recent fiscal quarter for which consolidated financial statements of the Company (which the Company shall use its best efforts to compile on a timely manner) are available (which may be internal consolidated financial statements); *provided* that:

- (1) only with respect to clause (2)(h) of the covenant described under the caption “—Certain Covenants— Limitation on Indebtedness and Preferred Stock” covenant and the definition of “Permitted Subsidiary Indebtedness,” Total Assets shall be calculated after giving *pro forma* effect to include the cumulative value of all of the real or personal property or equipment the acquisition, development, construction or improvement of which requires or required the Incurrence of Indebtedness and calculation of Total Assets thereunder, as measured by the purchase price or cost therefor or budgeted cost provided in good faith by the Company or any of its Restricted Subsidiaries to the bank or other similar financial institutional lender providing such Indebtedness;
- (2) only with respect to clause (2)(t) of the covenant described under the caption “—Certain Covenants— Limitation on Indebtedness and Preferred Stock” covenant, with respect to the Incurrence of any Acquired Indebtedness as a result of any Person becoming a Restricted Subsidiary, Total Assets shall be calculated after giving *pro forma* effect to include the consolidated assets of such Restricted Subsidiary and any other change to the consolidated assets of the Company as a result of such Person becoming a Restricted Subsidiary; and
- (3) only with respect to any Person becoming a New Non-Guarantor Subsidiary, *pro forma* effect shall at such time be given to the consolidated assets of such New Non-Guarantor Subsidiary (including giving *pro forma* effect to any other change to the consolidated assets of the Company, in each case as a result of such Person becoming a New Non-Guarantor Subsidiary).

“Trade Payables” means, with respect to any Person, any accounts payable or any other indebtedness or monetary obligation to trade creditors created, assumed or Guaranteed by such Person or any of its Subsidiaries arising in the ordinary course of business in connection with the acquisition of goods or services.

“Transaction Date” means, with respect to the Incurrence of any Indebtedness, the date such Indebtedness is to be Incurred and, with respect to any Restricted Payment, the date such Restricted Payment is to be made.

“Trust Company Investor” means an Independent Third Party that is a bank, financial institution, insurance company, trust company, fund management company, asset management company organized under the laws of the PRC, Hong Kong Special Administrative Region, Macau Special Administrative Region or any overseas countries or territories or an Affiliate thereof, that Invests in any Capital Stock of a Restricted Subsidiary.

“Unrestricted Subsidiary” means any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors in the manner provided in the Indenture; and any Subsidiary of an Unrestricted Subsidiary.

“U.S. Government Obligations” means securities that are (1) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally Guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof at any time prior to the Stated Maturity of the Notes, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such U.S. Government Obligation or a specific payment of interest on or principal of any such U.S. Government Obligation held by such custodian for the account of the holder of a depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of interest on or principal of the U.S. Government Obligation evidenced by such depository receipt.

“Voting Stock” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

“Wholly Owned” means, with respect to any Subsidiary of any Person, the ownership of all of the outstanding Capital Stock of such Subsidiary (other than any director’s qualifying shares or Investments by foreign nationals mandated by applicable law) by such Person or one or more Wholly Owned Subsidiaries of such Person; *provided* that Subsidiaries that are PRC CJVs shall not be considered Wholly Owned Subsidiaries unless such Person or one or more Wholly Owned Subsidiaries of such Person is entitled to 95% or more of the economic benefits distributable by such Subsidiary.

**SCHEDULE 5**  
**NOTICE DETAILS**

The addresses for service of notice for purposes of Clause 10 are:

1. in the case of **Dexin China Holdings Company Limited** (德信中國控股有限公司), **Tak Yick International Limited** (德益國際有限公司), **DAXIN International Limited** (達信國際有限公司), **Dexin Holding (Hong Kong) Limited** (德信控股(香港)有限公司) and **Yinxin Holding (Hong Kong) Limited** (銀鑫控股(香港)有限公司):

Address: Room 2813, 28/F., The Center, 99 Queen's Road Central, Central, Hong Kong  
For the attention of: Mr. Leo Li; Mr. Jason Wong  
Telephone: +852 3150 9927; +852 3150 9913  
Email: [liweixiang@dexingroup.com](mailto:liweixiang@dexingroup.com); [huanghaozhang@dexingroup.com](mailto:huanghaozhang@dexingroup.com)

2. in the case of the **Information and Exchange Agent**:

In London:	In Hong Kong:
103 Wigmore Street W1U 1QS London United Kingdom	The Hive 33–35 Hillier Street Sheung Wan Hong Kong
Telephone: +44 20 4513 6933	Telephone: +852 2319 4130

Email: [dexin@investor.morrowsodali.com](mailto:dexin@investor.morrowsodali.com)  
Exchange Website: <https://projects.morrowsodali.com/dexin>  
RSA Accession Portal: <https://portal.morrowsodali.com/dexin>  
RSA Transfer Portal: <https://portal.morrowsodali.com/dexinTRANSFER>