



電影貸款保證基金
FILM GUARANTEE FUND

To 受文人: The Government of the Hong Kong Special Administrative Region
as represented by the Head of Create Hong Kong (Note 1)
香港特別行政區政府創意香港總監代收(註1)

Film Guarantee Fund Scheme 電影貸款保證基金計劃
FGF-4

Acceptance of Conditions for the Issue of a Guarantee 接受貸款保證條件書 (Note 2 註2)

Applicant (the Borrower)

申請人(借款人) : _____

Business Registration No.

商業登記號碼 : _____

Name of Film Project

影片計劃名稱 : _____

UNDERTAKING & INDEMNITY (“this agreement”) 承諾及彌償(「本協議」)

If the Government of the Hong Kong Special Administrative Region (HKSARG) issues a Guarantee in favour of _____
(the Lender) at the Borrower's request in connection with the application for guarantee (the Application) submitted by the Borrower on _____, the Borrower (including its lawful assigns and successors) hereby agrees to be bound by the following terms and conditions in addition to those stated in the Application:

倘香港特別行政區政府(香港特區政府)根據借款人於_____年_____月
_____日遞交的貸款保證申請書(申請書)的要求，向_____

_____(貸款機構名稱)提供貸款保證，借款人(包括其合法受讓人及繼任人)謹此同意，借款人除受申請書所載的條款及條件約束外，同時得受下列條款及條件約束：

1. The Borrower shall use the facility to be made available to the Borrower by the Lender under the Film Guarantee Fund Scheme (“the Facility”) for the sole purpose of producing the Film Project as specified in the Guarantee issued by HKSARG.

借款人只會將貸款機構根據電影貸款保證基金計劃向借款人提供的貸款(「該貸款」)，用於製作香港特區政府發出的貸款保證所指明的影片計劃。

2. Upon HKSARG's request, the Borrower shall allow HKSARG or HKSARG's appointed agents to inspect the books, records, accounts and any other information relating to the Borrower's business, whether on paper, or kept electronically or by any other form or medium.
在接獲香港特區政府的要求時，借款人須容許香港特區政府或香港特區政府委派的代理人查閱簿冊、記錄、帳目，以及任何其他與借款人業務有關的資料，不論該等資料是記錄在紙張上，或以電子或任何其他形式或媒介保存。
3. The Borrower shall irrevocably and unconditionally indemnify and hold HKSARG harmless, on demand, from and against all actual or alleged liabilities, claims, demands, losses, damages, taxes, costs, charges and expenses of any kind (including, without limitation, legal fees on a full indemnity basis) which may be incurred or suffered by HKSARG, and all actions and proceedings which may be brought by or against HKSARG in connection with or arising out of the Guarantee.
若香港特區政府因提供該貸款保證而招致或蒙受任何實際或指稱的債務、申索、索求、損失、索償、稅項、費用、收費和各種開支（包括但不限於按十足彌償基準計算的法律費用），以及因該貸款保證而採取或引致他人對香港特區政府採取任何行動和程序，則借款人得應要求不可撤回及無條件地作出彌償，使香港特區政府無須負責。
4. Any request or demand made upon HKSARG by or on behalf of the Lender in favour of whom the Guarantee has been or will be issued for payment of any sum under the Guarantee shall be conclusive evidence as between the Borrower and HKSARG that HKSARG's liability under the Guarantee has accrued and shall constitute conclusive authority for HKSARG to make such payment to the Lender and the Borrower shall be liable to HKSARG for such payment. HKSARG shall be entitled to make such payment to the Lender or any person as the Lender may direct without inquiring into the validity or justification of the request or demand irrespective of notice or knowledge of any dispute between the Borrower and the Lender and the Borrower shall not challenge HKSARG's propriety or authority in making such payment to the Lender.
若已得到或將得到貸款保證的貸款機構或其代表請求或要求香港特區政府按該貸款保證支付任何款項，則這類請求或要求即成為借款人與香港特區政府之間的确證，證明香港特區政府因作出該貸款保證而承擔的債務已經產生，並構成香港特區政府向貸款機構支付這筆款項的確切權力依據，而借款人亦須為該筆付款向香港特區政府負責。即使香港特區政府獲知會或獲悉借款人與貸款機構之間出現任何爭議，香港特區政府仍有權向貸款機構或其指定的任何人士支付該筆款項，而無須查究該項請求或要求是否有效或有理；借款人亦不得質疑香港特區政府付款予貸款機構的做法是否適當或是否有權力依據。
5. A demand accompanied by a certificate of balance signed by any of HKSARG's duly authorized officers shall be conclusive evidence against the Borrower of the Borrower's obligations to pay under this agreement or the Guarantee and of the amount payable.
付款要求附以獲香港特區政府正式授權的人員簽署的結欠證明書，即成為確證，證明借款人有責任按本協議或該貸款保證支付應付的款項。
6. Payments by the Borrower shall be made to Lender without any set-off, counterclaim or condition and shall be free and clear of all present and future taxes, withholdings or deductions of any nature except that, if the Borrower is compelled by law to make such withholding, the sum payable by the Borrower shall be increased so that the amount actually received by Lender is the amount Lender would have received if there had been no withholding.
借款人付給貸款機構的款項，不得有任何抵銷、反索償或條件，並且在現時及日後均無須

繳稅，也不得作任何性質的保留或扣減；除非借款人必須依法扣起部分款項，則借款人應付的款項得予增補，使貸款機構實際收到的數額相等於扣款前貸款機構本應收到的款額。

7. No payment to HKSARG under this agreement or the Guarantee pursuant to any judgement, court order or otherwise shall discharge the Borrower's obligation in respect of which it was made unless and until payment in full has been received by HKSARG in the currency in which it is payable and, to the extent that the amount of any such payment shall, on actual conversion into such currency, fall short of the amount of the Borrower's obligation expressed in that currency, the Borrower shall be liable for the shortfall.

就本協議或該貸款保證而言，依據任何判決、法庭命令或在其他情況下向香港特區政府付款，並不能解除借款人該項付款責任，除非並直至香港特區政府已全數收到該筆以應付貨幣支付給香港特區政府的款項；倘該等款項的款額在實際兌換成該種貨幣時少於以該種貨幣計算借款人應付之數，則借款人得補回該不足之數。

8. If any moneys paid to HKSARG pursuant to this agreement or the Guarantee are required to be repaid by virtue of any law relating to insolvency, bankruptcy or liquidation or for any other reason, HKSARG shall be entitled to enforce the indemnity as if such moneys had not been paid.

就本協議或該貸款保證而言，若基於任何有關無力償債、破產或清盤的法例或任何其他原因，已支付給香港特區政府的款項須予退回，則香港特區政府有權強制執行此彌償，猶如該等款項從未支付給香港特區政府一樣。

9. The indemnity given herein is a continuing indemnity and will remain in full force and effect until HKSARG shall have confirmed in writing that the Borrower has been absolutely released and discharged from the Borrower's liabilities in connection to such indemnity.

此彌償乃持續性質的彌償，將維持十足效力及作用，直至香港特區政府以書面確認借款人已獲完全免除和解除與此彌償有關的法律責任為止。

10. The Borrower's liability to indemnify hereunder shall not be discharged or otherwise affected by any of the following reasons:

借款人據此須負的彌償責任不得基於下列任何原因而解除或受到影響：

- (a) that HKSARG waives a condition under or in connection with the Guarantee or any other documents relating to it;

香港特區政府免除該貸款保證上訂明的，或與該貸款保證有關的，或任何其他與該貸款保證有關的文件上的條件；

- (b) that HKSARG waives any compliance by the Lender of any of its obligations under or in connection with the Guarantee;

香港特區政府免除貸款機構遵守該貸款保證所訂或與該貸款保證有關的任何責任；

- (c) that HKSARG varies the Guarantee or enters into any agreement or arrangement with the Lender or any other person or by reason of any legal limitation, disability or incapacity or any other act, omission or circumstance which, but for this provision, would discharge the Borrower to any extent; or

香港特區政府更改該貸款保證；或與貸款機構或任何其他人士訂立任何協議或安排；或基於任何法律上的限制或無行為能力或任何其他作為、不作為或情況，若非因本條文，便會在某程度上解除借款人的責任；或

- (d) that time or indulgence shall have been granted to the Borrower by the Lender or HKSARG in connection with any of the Borrower's obligations to the Lender or HKSARG.

貸款機構或香港特區政府已就借款人須對貸款機構或香港特區政府履行的任何責任，給予借款人期限或延期安排。

11. The indemnity hereunder shall be in addition to and not in substitution for and shall not be prejudiced or affected by any other indemnities or securities given by the Borrower or any other person which HKSARG may now or hereafter hold in respect of the Guarantee. Any release, variation, exchange or abstain from perfecting of any other indemnities or securities now held or hereafter may be held by HKSARG in respect of the Guarantee shall not affect such indemnity. Any restriction on the right of consolidating securities shall not apply to such indemnity.
此彌償得附加於而非取代香港特區政府現時或以後可能就該貸款保證持有，由借款人或任何其他人士作出的任何其他彌償或抵押，也不受這些彌償或抵押妨害或影響。香港特區政府現時就該貸款保證所持有或以後可能持有的任何其他彌償或抵押，如有任何免除、更改、更換或不予落實的情況，也不得影響上述彌償。對合併抵押權利所作的任何限制，均不適用於上述彌償。
12. The indemnity hereunder shall be binding on the Borrower's heirs, legal representatives, successors and assigns.
此彌償對借款人的繼承人、法律代表、繼任人及受讓人均具約束力。
13. Each of the provisions in this agreement is severable and distinct from the other and, if one or more of such provisions is or becomes illegal, invalid or unenforceable, the remaining provisions shall not be affected in any way.
本協議內每項條文均可與其他條文劃分成獨立的條文；假如其中一條或更多條文乃屬或變成違法、無效或不能強制執行，餘下的條文不受任何影響。
14. The Borrower shall pay to HKSARG, upon demand, interest on all amounts payable by the Borrower to HKSARG under this agreement. For the purpose of this agreement or the Guarantee, interest shall accrue on a day to day basis and be calculated on each amount due to HKSARG at the interest rate certified by HKSARG to be HKSARG's cost of funds in relation to that amount and shall be payable from the day on which such amount becomes due until (and including) the day it is received by HKSARG.
借款人在接獲香港特區政府的要求時，得支付借款人根據本協議須支付的所有款項的利息。就本協議或該貸款保證而言，每筆到期應向香港特區政府繳付的款項均須繳納利息，並逐日累算，而息率以經香港特區政府核實為該筆款項的資金成本為準，利息由款項到期日起計至香港特區政府收訖款項之日(當日包括在內)止。
15. At HKSARG's request, the Borrower shall execute such documents and take such action which HKSARG may consider necessary or convenient to give effect to HKSARG's rights and in connection with the exercise of HKSARG's powers under this agreement, in each case within a reasonable time after HKSARG's request.
若香港特區政府認為某些文件及行動是必需或有助香港特區政府行使權利，而且是與香港特區政府行使本協議所賦予的權力有關的，借款人必須在香港特區政府每次提出要求後的一段合理時間內，簽立該等文件及採取該等行動。

16. No act or omission by HKSARG pursuant to this agreement, the Guarantee or any other document relating to them shall affect HKSARG's rights, powers and remedies in connection with them or any further or other exercise of such rights, powers and remedies.
香港特區政府以本協議、該貸款保證或任何與本協議或該貸款保證有關的其他文件作為依據的任何作為或不作為，均不會影響與這些文件有關，屬於香港特區政府的權利、權力及補救，或香港特區政府對這些權利、權力及補救的進一步或其他行使權。
17. The Borrower shall not assign any of the Borrower's rights and obligations, in whole or in part, under this agreement, the Guarantee, the Facility or any documents relating to any of them without HKSARG's prior written consent. HKSARG may assign any of HKSARG's rights under this document to any person without the Borrower's prior written consent.
事前未得到香港特區政府的書面同意，借款人不得轉讓本協議、該貸款保證、該貸款或任何與本協議、該貸款保證或該貸款有關的其他文件所賦予借款人的全部或部分權利和責任。香港特區政府可把本文件賦予香港特區政府的任何權利轉給任何人，事前無須得到借款人的書面同意。
18. This agreement and the rights and obligations of the parties hereunder is governed by and shall be construed in accordance with the laws of Hong Kong Special Administrative Region. The Borrower shall submit to the non-exclusive jurisdiction of the Courts of the Hong Kong Special Administrative Region but this agreement may be enforced in the Courts of any competent jurisdiction.
本協議及協議各方的權利和責任受香港特別行政區（香港特區）的法律管限，並須根據香港特區的法律解釋。借款人得受香港特區法院的非專屬司法管轄權管轄，但本協議亦可由任何具司法管轄權的法院執行。
19. The Borrower shall not do or permit to be done anything which would prejudice or jeopardize the rights of the Lender or HKSARG, in respect of the Facility and the Film Project for which the Facility is to be made available to the Borrower by the Lender under the Film Guarantee Fund Scheme.
借款人不得作出或准許作出任何事情，損害或危及貸款機構或香港特區政府就該貸款及借款人將獲貸款機構根據電影貸款保證基金計劃提供該貸款進行的影片計劃所享有的權利。
20. The Borrower shall not create, or permit to be created, any subsequent charges or encumbrances ranking in priority to or pari passu with any security that may be given to or held by the Lender for the Facility.
借款人不得訂立或准許訂立任何隨後的押記或產權負擔，而該等押記或產權負擔享有的權益優先於或同等於貸款機構就該貸款獲給予或持有的抵押。
21. The Borrower shall not sell, sub-lease, charge, part with possession of or otherwise deal with the film covered by the Film Project for which the Facility is to be made available, whether in whole or in part, without the prior written consent of the Lender, or permit or authorise any person to do the same.
借款人事前未獲貸款機構給予書面同意，不得出售、分租、抵押、放棄管有或以其他方式處置將獲提供該貸款的影片計劃所涉及的全部或部分影片，或准許或授權任何人作出同樣的事情。

22. In any occurrence of an event referred to in 19, 20 or 21 above, the Borrower shall pay all the proceeds and sums realized or generated as a result direct to the Lender for payment towards the outstanding principal of the Facility.
若發生上文第19、20或21段所述的事情，借款人須將其引起的所有收益或變現或產生的款項直接繳交貸款機構，用作支付該貸款的未償還本金。
23. The Borrower shall use the separate account or sub-account opened exclusively for the Facility to handle all transactions relating to the Film Project for which the Facility is to be made available.
借款人須利用專為該貸款開立的獨立帳戶或附屬帳戶，處理與將獲提供該貸款的影片計劃有關的所有交易。
24. The Borrower acknowledges that HKSARG's approval to grant a guarantee shall automatically lapse if the drawdown of the Facility cannot be effected within 90 days from the date when HKSARG issues a guarantee for any reasons and that the Borrower has no recourse of whatever kind against HKSARG therefor.
借款人明白，不論因何理由，若借款人沒有在香港特區政府發出貸款保證日期起計九十天內提取該貸款，香港特區政府就貸款保證申請所作的批准即自動失效，借款人不得就此對香港特區政府提出任何追索。
25. The Borrower shall inter alia, assign to the Lender all the receivables, proceeds and benefits arising from the Film Project for which the Facility is to be made available under the Film Guarantee Fund Scheme.
借款人特別須把根據電影貸款保證基金計劃獲提供該貸款所進行的影片計劃帶來的所有應收款項、收入和得益，轉讓予貸款機構。
26. The Borrower shall ensure that proper and effective provisions are included in each and every service agreement and contract relating to the Film Project to protect the Lender and HKSARG from any injunctive action in relation to the Film Project.
借款人須確保每份與影片計劃有關的服務協議和合約均載有適當及有效條文，保障貸款機構和香港特區政府，使其不受任何與影片計劃有關的禁制行動所影響。
27. The Borrower shall obtain the Lender's prior approval for making any prints or authorising another person or company to make any prints in relation to the film covered by the Film Project for which the Facility is to be made available under the Film Guarantee Fund Scheme.
借款人在製作與根據電影貸款保證基金計劃將獲提供該貸款的影片有關的任何拷貝之前，或授權另一人士或公司製作任何有關的拷貝之前，須事先取得貸款機構的批准。
28. The Borrower agrees that the Lender and HKSARG shall have first call on any receivables, proceeds or income derived from the film to repay the outstanding principal of the Facility and that loss, if any, arising from the Film Project will first be accrued to the equity provided by the Borrower.
借款人同意貸款機構和香港特區政府有優先權把得自影片的任何應收款項、收入或收益用作支付該貸款的未償還本金，亦同意影片計劃產生的任何虧損先由借款人提供的股本彌償。

29. The Borrower shall report to the Lender within seven working days if any of the information supplied by the Borrower in connection with the Application is no longer valid, in particular, the following in respect of the Film Project:

若借款人就申請提供的任何資料已不再真確，借款人須於七個工作天內向貸款機構報告，尤以下列與影片計劃有關的項目為然：

- (a) addition, deletion or replacement of any producer;
增加、取消或撤換監製；
- (b) addition, deletion or replacement of any film director;
增加、取消或撤換電影導演；
- (c) addition, deletion or replacement of any company director; or
增加、取消或撤換公司董事；或
- (d) any change to the estimated total expenditure.
更改預算總開支。

30. The Borrower shall repay in full all the outstanding principal of the Facility together with the related interests and fees, within such time as may be specified by notice in writing by HKSARG or the Lender, if the Guarantee is for whatever reason terminated or if any information the Borrower supplied in connection with the Application is false, no longer valid, found to be false or found to be no longer valid. The Borrower acknowledges that HKSARG and the Lender reserve the right to take any legal action against the Borrower for any breach of the terms and conditions of the Facility or this agreement. The Borrower further acknowledges that HKSARG may set off any of the outstanding amounts owed by the Borrower under the Facility or this agreement from any sums that may be due from HKSARG to the Borrower or any of the Borrower's associates.

若貸款保證因任何原因而被中止或借款人就本申請提供的任何資料屬於虛假、不再真確、被發現屬於虛假或被發現不再真確，借款人須於香港特區政府或貸款機構可能在書面通知指定的時限內，全數歸還該貸款的所有未償還本金連同相關利息及費用。借款人明白如違反該貸款或本協議的任何條款及條件，香港特區政府及貸款機構保留權利，向借款人採取任何法律行動。借款人亦明白，香港特區政府可從應付予借款人或借款人的任何相聯者的款項中，抵銷借款人在該貸款或本協議下尚未清還的款額。

Signed for the Borrower by,
代表借款人簽署:

(Signature 簽署)

(Name 姓名) (Print 請用正楷填寫)

(Position 職位)

(Company Chop 公司印章)

(Date 日期)

Note 備註

Note 1: Completed form should be submitted in duplicate to the Lender by post or in person. The Lender will retain the copy and forward the original together with the application form (FGF-1) to the Head of Create Hong Kong at the following address-

Create Hong Kong
40/F, Revenue Tower,
5 Gloucester Road, Wan Chai, Hong Kong

註1: 填妥的表格應一式兩份以郵遞或專人派送的方式遞交貸款機構。貸款機構將保留副本，然後把正本連申請書(FGF-1)一併送交創意香港總監，地址是：

香港灣仔告士打道5號
稅務大樓40樓
創意香港

Note 2: Please note that the Chinese version is for reference only and that the English version prevails over the Chinese version in the event of any inconsistency or contradiction

註2: 本協議中文本僅供參考之用，如中英文本文義有所抵觸或不符，概以英文本為準，敬請留意。