

Appendix B 附件 B

Confidentiality Undertaking 附件 B 保密承諾

Please initial on the bottom right corner 請在右下角每頁簡簽

To: Galaxy (defined below) 致：銀河（定義見下文）

With respect to your intention to engage and utilize our company as a vendor ("Business Engagement"), "you" or "Galaxy" (which expressions shall, where applicable, mean and include, respectively or jointly, Galaxy Hotel Management Company Limited, its holding companies, subsidiaries and affiliates) will furnish us and/or our subsidiaries or affiliates or directors (collectively referred to as "us" or "our") with Confidential Material (as defined in paragraph no.1 below) relating to Galaxy, its shareholders, its subsidiaries, its holding company, the subsidiaries of its holding company, their respective directors, financial matters, trade practice, trade prospects, proposals, businesses, projects, plans and other matters.

就貴公司擬委聘及任用本公司作為供應商(或賣方)（「業務委聘」），「貴公司」或「銀河」（該表述在適用的情況下分別及共同指及包括銀河酒店管理有限公司、其控股公司、附屬公司及關聯公司）將向本公司及 / 或本公司之附屬公司或關聯公司或董事（統稱為「本公司」或「本公司的」）提供有關銀河、其股東、其附屬公司、其控股公司、其控股公司之附屬公司、其各自之董事、財務事項、貿易慣例、貿易前景、建議、業務、項目、計劃及其他事項的保密材料（定義見下文第 1 段）。

In consideration of your contemplation of your possible engagement of us for the Business Engagement (and if appropriate, actually appointing us); or our possible engagement to provide Galaxy with advice and assistance in relation to the Business Engagement and in consequence of your furnishing us with the Confidential Material, we hereby UNDERTAKE and AGREE that:

以貴公司可能聘任本公司為業務委聘供應商（及如適用，實際委任本公司；或本公司可能就有關業務委聘受僱向銀河提供意見及協助，及由於貴公司向本公司提供保密材料，本公司茲此承諾並同意：

1. The term "Confidential Material," as used in this undertaking, shall mean all information, materials and documents, whether in written, electronic or oral form, which are furnished by Galaxy, or any director, officer, employee, representative, advisor or agent of Galaxy's (collectively referred to herein as "your Representatives"), to us or any of our Representatives (as defined in paragraph no.2 below), whether furnished or otherwise disclosed before or after the date of this undertaking, together with all analyses, compilations, studies or other documents, records or data prepared by us or any of our representatives which contain or otherwise reflect or are generated from such information and documents. The term "Confidential Material" does not include any information which (i) was known to us prior to your disclosure of such information to us, (ii) at the time of disclosure is generally available to and known by the public (other than as a result of a disclosure directly or indirectly by us or any of our Representatives, which disclosure was not permitted by this undertaking), or (iii) was available to us on a non-confidential basis from a source (other than you or your Representatives) that is not known by us to be prohibited from transmitting or disclosing the information by a contractual, legal or fiduciary obligation.

本承諾書中所用的「保密材料」一詞是指銀河或銀河的任何董事、高級職員、僱員、代表、顧問或代理（於本承諾書中統稱為「貴公司代表」）向本公司或本公司任何代表（定義見下文第 2 段）提供的所有資料、材料及文件，不論是以書面、電子或口頭的方式，不論是在本承諾書日期之前或之後提供或以其他方式披露，連同本公司或本公司任何代表預備之所有當中載有、或以其他方式反映保密材料及文件，或以保密材料及文件製成的分析、彙編、研究或其他文件、記錄或數據。「保密材料」一詞並不包括以下任何資料：（i）於貴公司向本公司披露該等資料前，本公司已知的資料，（ii）於披露時已為公眾一般可取得及知悉的資料（因本公司或本公司任何代表直接或間接洩露本承諾書所禁止內容而導致的保密材料披露除外），或（iii）在非保密的基礎上，本公司在不知情的情況下從某些資料提供者（貴公司或貴公司代表除外）獲得根據合約、法律或受信義務而不得傳送或披露的保密材料。

2. Except as otherwise explicitly provided in this undertaking, the Confidential Material will be kept strictly confidential and shall not, without Galaxy's prior written consent, be disclosed by us, in whole or in part, to any person, in any manner whatsoever, and shall not be used by us for any purpose other than in connection with the Business Engagement; provided, however, that we may disclose the Confidential Material only to those of our officers, directors, employees, representatives, advisors, and agents who need to know the Confidential Material for the purpose of the Business Engagement, who are informed by us of the confidential nature of the Confidential Material for Galaxy's benefit, to act in accordance with the terms and conditions of this undertaking. We shall diligently monitor our Representatives who have had access to the Confidential Material. We shall be responsible in full as principal for any breach of this undertaking by our Representatives. (As used in this undertaking, the term (i) "person" shall mean any natural person and any corporation, partnership, association, firm or other entity or organization of any kind whatsoever, and (ii) "affiliate" as applied to any designated person, shall mean any other person that (directly or indirectly) controls, controlled by, or is under common control with, such designated person. The persons to whom such disclosure is permissible and duly authorized by us shall be collectively called "our Representatives").

除非本承諾書另有明確規定，否則須對保密材料嚴格保密。未經銀河事先書面同意，本公司不得以任何方式向任何人士披露保密材料之全部或部分；且除與業務委聘相關者外，本公司不得將保密材料作任何其他用途。但是，對於因業務委聘之目的而有需要知道保密材料的本公司之高級職員、董事、僱員、代表、顧問及代理，本公司可向其披露保密材料；惟本公司已為銀河之利益而告知該等人士有關保密材料之保密性質，並提醒他們必須根據本承諾書的條款及條件行事。本公司須認真監督可獲取保密材料的本公司代表。本公司代表如有任何違反本承諾書，本公司須作為主事人承擔全部責任。（本承諾書中所用的（i）「人士」一詞是指任何自然人及任何類型的公司、合夥、協會、商號或其他實體或組織，及（ii）適用於任何指定人士的「關聯方」一詞，是指（直接或間

接) 控制該指定人士、受其控制或受其共同控制的任何其他人士。本公司允許並正式授權作出該等披露的人士統稱為「本公司代表」)。

3. Without Galaxy's prior written consent, we and/or our Representatives shall not disclose to any person the fact that the Confidential Material has been made available to us, or make any announcement of the Business Engagement or that discussions or negotiations are taking place or have taken place concerning the Business Engagement or any of the terms, conditions or other facts with respect to it, including without limitation, the status thereof.

未經銀河事先書面同意，本公司及 / 或本公司代表不得向任何人士披露已向本公司提供保密材料之事實，或作出任何有關業務委聘，或正在進行或已進行有關業務委聘的討論或談判，或與之相關的任何條款、條件或其他事實 (包括但不限於其狀況) 之公告。

4. If Galaxy determines not to proceed with, suspend or terminate the Business Engagement, you shall promptly inform us and/or our Representatives and we shall promptly, either (i) destroy all copies of the written Confidential Material in our or their possession or under our or their custody or control (including that which is stored in any computer, word processor or similar device) and such destruction shall be certified to Galaxy in writing by an authorized officer supervising such destruction or (ii) return to Galaxy all copies of the Confidential Material in our possession or in the possession of our Representatives. Oral Confidential Material will continue to be held subject to the terms of this undertaking (which shall remain fully extant notwithstanding the expiration or termination of this undertaking).

倘銀河決定不進行、暫停或終止業務委聘，貴公司須及時告知本公司及 / 或本公司代表，而本公司須 (i) 銷毀本公司或其管有或本公司或其託管或控制 (包括儲存於任何電腦、文字處理器或類似設備) 的所有書面保密材料之副本；並須由一名負責監督銷毀的獲授權高級職員以書面向銀河證實已進行此銷毀，或 (ii) 向銀河退還本公司管有或本公司代表管有的保密材料之所有副本。口頭保密材料將繼續根據本承諾書之條款 (儘管本承諾書屆滿或終止後仍維持十足效力) 得以保存。

5. In the event that we or any of our Representatives become legally obliged to disclose any of the Confidential Material, only to the extent prohibited by applicable law, we shall provide Galaxy with prompt notice of not less than 7 days so that Galaxy may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this undertaking and we shall take all steps necessary to co-operate. In the event that such protective order, other remedy and/or waiver is not obtained, we shall furnish only that portion of the Confidential Material to the extent required by applicable law.

倘本公司或任何本公司代表根據法律須披露任何保密材料，僅在適用法律禁止的範圍內，本公司須向銀河提供不少於 7 日的及時通知，以便銀河尋求保護令或其他適當濟助及 / 或豁免遵守本承諾書的規定，且本公司須採取一切必要措施以作配合。倘未能取得該等保護令、其他濟助及 / 或豁免，則本公司只須提供適用法律所要求的保密材料部分。

6. We understand that Galaxy does not make any representation or warranty as to the accuracy or completeness of the Confidential Material. We agree that, without prejudice to Galaxy's right under this undertaking, neither Galaxy nor any of your Representatives shall have any liability to us or any of our Representatives resulting from the use of the Confidential Material by us or our Representatives.

本公司理解，銀河並無就保密材料之準確性或完整性作出任何陳述或保證。本公司同意，在無損銀河於本承諾書項下權利的前提下，銀河或任何貴公司代表均無須向本公司或任何本公司代表承擔由於本公司或本公司代表使用保密材料而引致之任何責任。

7. We acknowledge and agree that the Confidential Material is Galaxy's proprietary material and confidential business information containing valuable trade secrets and the title to and ownership of all patents, copyrights, trade secrets and other proprietary rights in all Confidential Material and in all analyses, compilations, studies, plans, drawings, mock-ups, models, records, data and other materials using, incorporating or derived from Confidential Material will be and remain Galaxy's exclusive property. Except for the sole purpose of the Business engagement, we shall not make, develop, manufacture, produce, advertise, promote or sell for any purpose any products or provide any services using, incorporating or derived from the Confidential Material.

本公司確認並同意，保密材料屬銀河的專有材料及保密業務資料，載有寶貴的貿易秘密；以及對於所有保密材料和所有分析、彙編、研究、計劃、製圖、實物模型、模型、記錄、數據及其他使用、包含或來自保密材料的其他資料，本公司均擁有當中的專利、版權、貿易秘密及其他專有權利，並將一直為銀河之獨家財產。除為業務委聘之唯一目的外，本公司不得為其他任何目的，就使用、含有或來自保密材料之任何產品而作出開發、製造、生產、宣傳、推廣或出售或提供任何相關服務。

8. We acknowledge and agree that the unauthorized disclosure and/or use of the Confidential Material would cause Galaxy irreparable harm. We further acknowledge that damages and remedies at law are inadequate protection and compensation against any actual breach of this undertaking by us or our Representatives. Accordingly, in the event of breach, Galaxy shall be entitled to equitable relief, including but not limited to interim and permanent injunctive relief and specific performance. Such remedies shall not be the exclusive remedies for the breach of this undertaking, but shall be in addition to all other remedies available at law or in equity. If any legal action is brought for the enforcement of this undertaking, or because of an alleged dispute arising in connection with any of the provisions of this undertaking, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs incurred in such legal action, in addition to any other relief to which it may be entitled.

本公司確認並同意，未經授權披露及 / 或使用保密材料會對銀河造成無法彌補的傷害。本公司進一步確認，法律上的損害賠償及濟助並不能就本公司或本公司代表任何實際違反本承諾書作出足夠保障及補償。因此，在違約的情況下，銀河有權獲得衡平法補救，包括但不限於臨時和永久禁令補救及特定履行。該等濟助並非違反本承諾書之排他濟助，而應外加於法律上或衡平法上的所有其他補救措施。倘為強制執行本承諾書而起致任何法律訴訟，或由於有關本承諾書任何規定所產生的指稱爭議，勝訴方除有權獲得任何其他濟助以外，還有權取回其於該法律訴訟中的合理律師費及其他費用。

9. No Confidential Material and any information made available to us shall constitute an offer or invitation or form the basis of any contract. Galaxy shall be entitled at any time to decline to provide or to continue to provide any Confidential Material and/or information to us.

向本公司提供的保密材料及任何資料不構成要約或邀請或構成任何合約之基礎。銀河有權於任何時間拒絕向本公司提供或繼續提供任何保密材料及 / 或資料。

10. Any failure or delay in exercising any of Galaxy's rights under this undertaking shall not operate as a waiver or release of such rights, nor will any single or partial exercise thereof affect in any way the further exercise of such rights and/or the exercise of any of Galaxy's other rights hereunder.

未能或延遲行使銀河於本承諾書項下的任何權利，不得成為該等權利之放棄或解除；而任何單一或部分行使該等權利，不得以任何方式影響該等權利之進一步行使及 / 或銀河於本承諾書項下任何其他權利之行使。

11. This undertaking shall enure to the benefit of, and be enforceable by, Galaxy's successors and assigns and we agree to procure that its terms are observed by any successors and assigns of our business or interests or any part thereof as if they had signed this undertaking.

銀河的繼承人及承讓人享有本承諾書之利益，並可強制執行其條款。本公司同意促使本公司業務或權益(或其任何部分)之任何繼承人及承讓人遵守本承諾書之條款，猶如其已簽署本承諾書。

12. This undertaking is governed by and construed in accordance with the laws of the Macau Special Administrative Region ("Macau"), without regard to principles of conflicts of laws.

本承諾書受澳門特別行政區（「澳門」）法律管轄並據此解釋，亦符合法律的原則。

13. The provisions of this undertaking shall be severable in the event that any of the provisions hereof are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

倘本承諾書任何規定被有管轄權的法院判定為無效、廢除或不可強制執行，則本承諾書之相關規定應予以分割；而其餘規定在法律允許的最大程度上仍可強制執行。

14. We submit to the non-exclusive jurisdiction of the Macau courts.

本公司接受澳門法院非專屬管轄。

15. Save as otherwise stipulated, this undertaking shall continue so long as the Business Engagement continues. This undertaking may be modified only by a separate agreement duly executed by both Galaxy and us. Our obligations respecting use, confidentiality, and return or destruction of Confidential Material, shall survive termination or expiration of this undertaking.

除非另有規定，否則本承諾書應於業務委聘持續期間持續生效。銀河及本公司可通過正式簽署獨立協議文件以修訂本承諾書。本公司有關使用、保密及退還或銷毀保密材料之義務於本承諾書終止或屆滿後仍然有效。

16. All our communications regarding the Business Engagement and this undertaking shall be directed (until further notice) to Galaxy's Procurement Department in writing.

有關業務委聘及本承諾書的所有本公司之通訊，應以書面作出並發送至銀河採購部，直至另行通知為止。

17. In case of any discrepancy between the English and Chinese versions of these terms and conditions in this document, the English version shall prevail.

如本條款及細則之中、英文版本有任何歧義，一概以英文版本為準。

Very truly yours,

for and on behalf of

[]

Authorized Signature and Company Chop

簽署及公司蓋章

Name 姓名:

Position in Company 職位:

Date 日期: