

BOCI FINANCIAL PRODUCTS LIMITED

and

CHINA MENGNIU DAIRY COMPANY LIMITED

AMENDED AND RESTATED SECURITIES LENDING AGREEMENT

originally dated 18 May 2017, as amended and restated on 5 June 2020

Linklaters

Linklaters
11th Floor, Alexandra House
Chater Road
Hong Kong

Telephone (+852) 2842 4888
Facsimile (+852) 2810 8133/2810 1695

Ref: L-298382

Contents

Paragraph	Heading	Page
1	APPLICABILITY	2
2	INTERPRETATION	3
3	LOAN OF SECURITIES	6
4	LENDING FEE	6
5	DELIVERY	7
6	DISTRIBUTIONS AND CORPORATE ACTIONS.....	7
7	REDELIVERY OF EQUIVALENT SECURITIES AND SATISFACTION OF THE LOAN(S) ..	9
8	FAILURE TO DELIVER OR REDELIVER	10
9	ACCELERATION UPON AND COSTS, EXPENSES AND INTEREST PAYABLE IN CONSEQUENCE OF AN EVENT OF DEFAULT	10
10	STAMP DUTY AND FILINGS	11
11	GROSS-UP	12
12	THE LENDER'S WARRANTIES.....	13
13	THE BORROWER'S WARRANTIES.....	13
14	EVENTS OF DEFAULT	14
15	INTEREST ON OUTSTANDING PAYMENTS	15
16	SEVERANCE	15
17	SPECIFIC PERFORMANCE	15
18	NOTICES	15
19	ASSIGNMENT	16
20	NON-WAIVER	16
21	GOVERNING LAW AND JURISDICTION	16
22	TIME.....	17
23	WAIVER OF IMMUNITY	17
24	MISCELLANEOUS	17

THIS AGREEMENT IS ORIGINALLY DATED 18 MAY 2017 (THE “ORIGINAL DATE”) AND AMENDED AND RESTATED ON 5 JUNE 2020 AND IS MADE BETWEEN (THIS “AGREEMENT”):

- (1) **BOCI FINANCIAL PRODUCTS LIMITED** (the “**Borrower**”), a company incorporated in the British Virgin Islands with limited liability whose registered office is at 20/F, Bank of China Tower, 1 Garden Road, Central, Hong Kong; and
- (2) **CHINA MENGNIU DAIRY COMPANY LIMITED** (the “**Lender**”), a company incorporated in the Cayman Islands with limited liability whose registered office is at Maples Corporate Services Limited, P.O. Box 309, Ugland House, Grand Cayman KY1-1104 and a registered non-Hong Kong company with its principal office at Suites 801–2, 8th Floor, COFCO Tower, 262 Gloucester Road, Causeway Bay, Hong Kong and whose shares are listed on the Main Board of the Hong Kong Stock Exchange, being a shareholder of China Modern Dairy Holdings Ltd. (the “**Company**”).

1 APPLICABILITY

- 1.1 Pursuant to, among other things, the issue by the Lender of US\$194,800,000 Zero Coupon Exchangeable Bonds due 2022 (the “**Bonds**”) exchangeable into ordinary shares of the Company, the Parties had entered into one or more transactions whereby the Lender will transfer to the Borrower a certain number of Shares from time to time as specified in one or more Borrowing Request(s), which the Parties acknowledge will not, together with (x) such number of all other Shares previously transferred to the Borrower and not returned to and received by the Lender and (y) such number of all other Shares specified in any Borrowing Request delivered by the Borrower in relation to which the proposed Settlement Date has not occurred, be in excess of 689,438,782 Shares, with a simultaneous agreement by the Borrower to transfer to the Lender securities equivalent to the Loaned Securities in accordance with the terms of this Agreement. As of the date of this Agreement, a total of 689,438,782 Shares has been lent by the Lender to the Borrower, constituting the Loaned Securities.
- 1.2 As of the date of this Agreement, the Lender has redeemed all of the outstanding Bonds. The Lender proposes to issue up to US\$200,000,000 Zero Coupon Exchangeable Bonds due 2023 (the “**New Bonds**”) exchangeable into ordinary shares of the Company on or before 5 August 2020. Notwithstanding the redemption of the Bonds, the Lender and the Borrower wish to make certain amendments to the terms of the Original Agreement, including extending the Call Date and other related amendments to reflect the redemption of the Bonds.
- 1.3 Nothing in paragraph 1.1 shall oblige the Borrower or any Borrower Affiliate to do anything which would or could in its reasonable opinion constitute a breach of any applicable law or regulation, fiduciary duty or duty of confidentiality.
- 1.4 Each such transaction shall be referred to in this Agreement as a “**Loan**” and shall be governed by the terms of this Agreement, as amended or supplemented from time to time.
- 1.5 Either Party may perform its obligations under this Agreement either directly or through a Nominee.

- 1.6 In consideration of the premises and covenants set out in this Agreement, the mutual promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Party enters into this Agreement to provide for changes to the Call Date and effect other amendments and the Original Agreement is hereby amended and restated in its entirety in the manner as follows with immediate effect.

2 INTERPRETATION

- 2.1 In this Agreement:

“**Act of Insolvency**” means in relation to either Party:

- (a) its making a general assignment for the benefit of, or entering into a reorganisation, arrangement, or composition with creditors; or
- (b) its stating in writing that it is unable to pay its debts as they become due; or
- (c) its seeking, consenting to or acquiescing in the appointment of any trustee, administrator, receiver or liquidator or analogous officer of it or any material part of its property; or
- (d) the presentation or filing of a petition in respect of it (other than by the other Party in respect of any obligation under this Agreement) in any court of competent jurisdiction or before any agency alleging or for the bankruptcy, winding-up or insolvency of the Borrower (or any analogous proceeding) or seeking any reorganisation, arrangement, composition, re-adjustment, administration, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such petition not having been stayed or dismissed within 30 days of its filing; or
- (e) the appointment of a receiver, administrator, liquidator or trustee or analogous officer over all or any material part of the Borrower’s property; or
- (f) the convening of any meeting of its creditors for the purpose of considering a voluntary arrangement as referred to in Section 3 of the Insolvency Act 1986 (or any analogous proceeding);

“**Borrower Affiliate**” means an affiliate of the Borrower;

“**Borrowing Request**” means a request in writing (including without limitation, via email or Bloomberg notice), or confirmed in writing made by the Borrower to the Lender in respect of a proposed borrowing of Shares pursuant to paragraph 3 specifying the amount of the Shares proposed to be borrowed by the Borrower and the proposed Settlement Date;

“**Business Day**” means any day on which banks and securities markets are open for business generally in Hong Kong and, in relation to a delivery or redelivery in relation to a Loan, in the place(s) where the relevant Loaned Securities or Equivalent Securities are to be delivered;

“**CCASS**” means the Central Clearing and Settlement System established and operated by Hong Kong Securities Clearing Company Limited;

“**Close of Business**” means the time at which the relevant banks, securities exchanges, securities settlement systems or depositaries close in the business centre in which any payment is to be made pursuant to this Agreement or Loaned Securities or Equivalent Securities are to be delivered;

“Collector” means the Collector of Stamp Revenue appointed under section 3 of the Ordinance;

“Defaulting Party” shall have the meaning given in paragraph 9;

“Equivalent Securities” or **“equivalent to”** in relation to any Loaned Securities means securities of an identical type, nominal value, description and amount to the Loaned Securities. If and to the extent that such Loaned Securities consist of securities that are partly paid or have been converted, subdivided, consolidated, or made the subject of a takeover, or carry rights of pre-emption, rights to receive securities or a certificate which may at a future date be exchanged for securities, the expression shall include such securities or other assets to which the Lender is entitled following the occurrence of the relevant event, and, if appropriate, the giving of the relevant notice in accordance with paragraph 6.4 and provided that the Lender has paid to the Borrower all and any sums due in respect thereof. In the event that such Loaned Securities have been redeemed, are partly paid, are the subject of a capitalisation issue or are subject to an event similar to any of the foregoing events described in this paragraph, the expression shall have the following meanings:

- (a) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
- (b) in the case of a call on partly paid securities, securities equivalent to the Loaned Securities, provided that the Lender shall have paid the Borrower, in respect of the Loaned Securities, an amount of money equal to the sum due in respect of the call;
- (c) in the case of a capitalisation issue, securities equivalent to the relevant Loaned Securities together with the securities allotted by way of bonus thereon;
- (d) in the case of a takeover, a sum of money or securities, being the consideration or alternative consideration; and
- (e) in the case of any event similar to any of the foregoing events described in this paragraph, securities equivalent to the Loaned Securities together with or replaced by a sum of money or securities or other property equivalent to that received in respect of such Loaned Securities resulting from such event;

“Event of Default” shall have the meaning given in paragraph 14;

“Hong Kong” means the Hong Kong Special Administrative Region of the People’s Republic of China;

“Hong Kong Stock” has the meaning set out in section 2 of the Ordinance;

“Income” means any interest, dividends or other distributions of any kind whatsoever with respect to any Loaned Securities;

“Income Payment Date” means in the case of the Loaned Securities, the date by reference to which particular registered holders are identified as being entitled to payment of Income;

“Loaned Securities” means the Shares which are the subject of an outstanding Loan(s);

“Market Value” means, on any day in relation to the valuation of the Loaned Securities:

- (a) such price as quoted as the closing price of the Loaned Securities on the Stock Exchange; or

- (b) if the value as specified under (a) above is unavailable, the market value thereof as derived from the prices or rates bid by a reputable dealer for the Loaned Securities reasonably chosen in good faith by the Borrower (after consultation with the Lender),

in each case at Close of Business on the previous Business Day or, at the option of either Party where in its reasonable opinion there has been an exceptional movement in the price of the Loaned Securities in question since such time, the latest available price; plus (in each case)

- (c) the aggregate amount of Income which has accrued but not yet been paid in respect of the Loaned Securities to the extent not included in such price,

provided that the price of the Loaned Securities that are suspended shall be the price of such Loaned Securities as of Close of Business on the dealing day in the relevant market last preceding the date of suspension or a commercially reasonable price agreed between the Parties or absent agreement, the price provided by a third party dealer agreed between the Parties;

"Nominee" means an agent or a nominee appointed by either Party to accept delivery of, hold or deliver the Loaned Securities and/or Equivalent Securities or to receive or make payments on its behalf and whose appointment has been notified to the other party;

"Non-Defaulting Party" means the Party which is not the Defaulting Party;

"On-Loan" means a loan of the Loaned Securities by the Borrower to any other persons pursuant to any stock lending facilities between the Borrower (as lender) and such persons (as borrowers).

"On-Loaned Securities" means the number of Loaned Securities which are in turn subject to an outstanding On-Loan.

"On-Loan Settlement Date" means each date upon which all or some of the Loaned Securities are delivered by the Borrower to any other persons pursuant to any stock lending facilities between the Borrower and such persons.

"Ordinance" means the Stamp Duty Ordinance (Chapter 117 of the Laws of Hong Kong);

"Original Agreement" means the original securities lending agreement dated the Original Date between the Borrower and the Lender.

"Parties" means the Lender and the Borrower and **"Party"** shall be construed accordingly;

"Rules" means the rules for the time being of, or issued or promulgated by, the Securities and Futures Commission of Hong Kong, the Stock Exchange and/or other regulatory authority whose rules and regulations shall from time to time affect the activities of the Parties pursuant to this Agreement including but not limited to regulations and guidance notes relating to stock lending for the time being in force in Hong Kong and any associated procedures required pursuant thereto;

"Settlement Date" means the date specified in a Borrowing Request on which Shares proposed to be borrowed under such Borrower Request are due to be delivered to the Borrower in accordance with this Agreement;

"Shares" means fully paid ordinary shares of par value of HK\$0.10 each in the capital of the Company and all other (if any) shares or stock resulting from any subdivision, consolidation or reclassification of those shares which, as between themselves, have no

preference in respect of dividends or amounts payable in the event of any voluntary or involuntary liquidation or winding-up of the Company;

“**Stock Exchange**” means The Stock Exchange of Hong Kong Limited; and

“**Tax**” means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) imposed by any government or other taxing authority.

2.2 Headings

All headings appear for convenience only and shall not affect the interpretation of this Agreement.

2.3 Market terminology

Notwithstanding the use of expressions such as “borrow”, “lend”, “redeliver” etc. which are used to reflect terminology used in the market for transactions of the kind provided for in this Agreement, title to the Loaned Securities “borrowed” or “lent” shall pass from the Lender to the Borrower (including any voting rights in relation to the Loaned Securities) as provided for in this Agreement, the Borrower obtaining such title being obliged to redeliver Equivalent Securities.

2.4 Modifications etc to legislation

Any reference in this Agreement to an act, ordinance, regulation or other legislation shall include a reference to any statutory modification or re-enactment thereof for the time being in force.

3 LOAN OF SECURITIES

3.1 Subject to paragraph 1.1 and paragraph 1.2, the Lender hereby agrees to lend the number of Shares specified in a Borrowing Request to the Borrower and the Borrower shall borrow such number of Shares from the Lender on the relevant Settlement Date set out in such Borrowing Request. The Lender shall procure the delivery of the Shares proposed to be borrowed under a Borrowing Request to the following account of the Borrower:

CCASS ID: B01130

Account Name: BOCI Securities Limited in favour of BOCI Financial Products Limited

4 LENDING FEE

In consideration of the Lender lending the Loaned Securities to the Borrower under this Agreement, the Borrower shall pay the Lender lending fees in such sums calculated by applying the rate of 0.5 per cent. per annum of the daily Market Value of the On-Loaned Securities (the “Lending Fee”). Such Lending Fee shall accrue daily in respect of the period commencing on and inclusive of the relevant On-Loan Settlement Date and terminating on and exclusive of the Business Day upon which Equivalent Securities of such On-Loaned Securities are redelivered or ceased to be On-Loaned Securities, and shall be paid in arrear by the Borrower no later than 10 Business Days after the last Business Day of the calendar month to which the Lending Fee relates. For the avoidance of doubt, no Lending Fee shall accrue or be payable by the Borrower to the Lender in respect of any Loaned Securities which are not On-Loaned Securities.

5 DELIVERY

5.1 Delivery of the Shares subject to a Borrowing Request

The Lender shall deliver or procure the delivery of the number of Shares specified in a Borrowing Request to the Borrower on or before the Settlement Date by:

- (a) causing such Shares to remain in or be credited to the Borrower's nominated account as provided pursuant to paragraph 3 herein and debited from the Lender's account with CCASS or at any appropriate clearing or settlement system or depository as may be agreed by the Parties and such crediting and debiting shall result in notice of the transaction being given to the Borrower; or
- (b) any other method of delivery as shall be agreed upon by the Parties,

and on the happening of any of such event, such Shares shall be deemed to have been "delivered" to the Borrower in accordance with this Agreement.

5.2 Requirements to effect delivery

The Parties shall execute and deliver all necessary documents and give all necessary instructions to procure that all rights, title and interest in:

- (a) any Shares borrowed pursuant to paragraph 3;
- (b) any Equivalent Securities redelivered pursuant to paragraph 7;

shall pass from one Party to the other subject to the terms and conditions set out in this Agreement, on delivery or redelivery of the same in accordance with this Agreement with full title guarantee, free from all liens, charges and encumbrances. In the case of the Shares or Equivalent Securities title to which is registered in a computer based system which provides for the recording and transfer of title to the same by way of book entries, delivery and transfer of title shall take place in accordance with the rules and procedures of such system as in force from time to time. The Party acquiring such right, title and interest shall have no obligation to return or redeliver any of the assets so acquired but, in so far as any Loaned Securities are borrowed, such Party shall be obliged, to redeliver Equivalent Securities in accordance with the terms of this Agreement.

5.3 Deliveries of Income

In respect of Income being paid in relation to any Loaned Securities, the Borrower shall provide to the Lender such endorsements or assignments as shall be customary and appropriate to effect the delivery to the Lender of money or property equivalent to the type and amount of such Income to the Lender, irrespective of whether the Borrower received the same in respect of the Loaned Securities.

6 DISTRIBUTIONS AND CORPORATE ACTIONS

6.1 Manufactured Payments

Where Income is paid in relation to any of the Loaned Securities on or by reference to an Income Payment Date which occurs between the date of delivery of the Loaned Securities by the Lender to the Borrower and the date of the redelivery to the Lender of Equivalent Securities in respect of any such Loaned Securities by the Borrower, the Borrower shall, no later than three Business Days after the date on which the Income is paid by the Company

to holders of its Shares, or on such other date as the Parties may from time to time agree (the “**Relevant Payment Date**”), pay and deliver to the Lender a sum of money or property equivalent to the type and amount of such Income that the Lender would have been entitled to receive had such Loaned Securities not been loaned to Borrower and had been retained by the Lender on the Income Payment Date without any deduction (the “**Manufactured Dividend**”) subject to paragraph 6.2 below.

The payment of any Manufactured Dividend shall be made to the following account of the Lender (the “**Lender’s Account**”), or otherwise advised by the Lender prior to payment no less than two Business Days prior to payment:

Bank:	Standard Chartered Bank (Hong Kong) Limited
Name of Account:	China Mengniu Dairy Company Limited
Account No.:	447-1-121042-2

6.2 Income in the form of securities

Where Income, in the form of securities, is paid in relation to any Loaned Securities, such securities shall be added to such Loaned Securities (and shall constitute Loaned Securities and be part of the relevant Loan) and will not be delivered to the Lender, until the end of the relevant Loan.

6.3 Exercise of voting rights

The Lender hereby acknowledges that it does not retain any voting rights in any Loaned Securities and for the avoidance of doubt, where any voting rights fall to be exercised in relation to the Loaned Securities, the Borrower shall be entitled to arrange for voting rights of that kind to be exercised in such manner as determined in its sole and absolute discretion without regard to the instructions of the Lender.

6.4 Corporate actions

Where, in respect of any Loaned Securities, any rights relating to conversion, sub-division, consolidation, pre-emption, rights arising under a takeover offer, rights to receive securities or a certificate which may at a future date be exchanged for securities or other rights, including those requiring election by the holder for the time being of such Loaned Securities, become exercisable prior to the redelivery of Equivalent Securities, then the Lender may, within a reasonable time before the latest time for the exercise of the right or option give written notice to the Borrower that on redelivery of Equivalent Securities, it wishes to receive Equivalent Securities in such form as will arise if the right is exercised or, in the case of a right which may be exercised in more than one manner, is exercised as is specified in such written notice. Subject to the Borrower receiving such written notice within a reasonable time before the latest time for exercise, the Borrower shall procure that such right be exercised in accordance with the Lender’s written notice, provided that the Lender shall have paid the Borrower an amount of money equal to any sum due in respect of the exercise of such right or shall have satisfied all liabilities and obligations to be satisfied by the holder of any Loaned Securities while on loan to the Borrower under this Agreement and which the Lender would have been liable to satisfy but for the lending of the Loaned Securities to the Borrower. The Lender shall indemnify the Borrower for any sum, liabilities and obligations in respect of the exercise of such right.

7 REDELIVERY OF EQUIVALENT SECURITIES AND SATISFACTION OF THE LOAN(S)

7.1 Delivery of Equivalent Securities

The Borrower shall procure the redelivery of Equivalent Securities or redeliver Equivalent Securities in accordance with this Agreement. Such Equivalent Securities shall be deemed to have been delivered by the Borrower to the Lender upon their delivery to the Lender or its agent or upon the issuance of effective instructions by the Borrower to its agent which result in such Equivalent Securities being deposited in the Lender's account as advised by the Lender prior to the redelivery.

7.2 Lender's right to terminate the Loan(s)

(a) Subject to sub-paragraph (b) below and paragraph 9.1, the Lender shall not be entitled to terminate any Loan and to call for the redelivery of all or any Equivalent Securities until the earlier of:

- (i) the date on which the Parties enter into a new securities lending agreement in relation to, among other things, the New Bonds (the "**New SLA Date**"); or
- (ii) until the date falling three months after the date of this Agreement (the "**Call Date**").

On or after the New SLA Date or the Call Date, as the case may be, the Lender may terminate the Loan(s) or any part thereof and call for the delivery of Equivalent Securities by giving not less than one Business Day's advance notice (or such other notice period as mutually agreed between the Lender and the Borrower) to the Borrower. The Borrower shall redeliver such Equivalent Securities not later than one Business Day (or such other date as mutually agreed between the Lender and the Borrower) after such notice is delivered.

(b) Immediately prior to the New SLA Date, subject to paragraph 1.1, the Borrower may continue to deliver Borrowing Requests in accordance with this Agreement. On and following the New SLA Date, the Borrower shall not be entitled to deliver any Borrowing Request.

7.3 Borrower's right to terminate the Loan(s)

(a) Subject to paragraph 9.1 below, the Borrower shall not be entitled to terminate any Loan or to redeliver any Equivalent Securities due and outstanding to the Lender until the earlier of (x) the Call Date and (y) the New SLA Date (the earlier of the Call Date and the New SLA Date being the "**Put Date**").

(b) On or after the Put Date, without prejudice to the Borrower's right to borrow the Shares from time to time pursuant to this Agreement, the Borrower shall be entitled to terminate the Loan(s) or any part thereof by giving one Business Day's advance notice (or such other notice period as mutually agreed between the Lender and the Borrower) to the Lender and to redeliver all and any Equivalent Securities due and outstanding to the Lender in accordance with the Lender's instructions and the Lender shall accept such redelivery.

The Borrower shall notify the Lender of the delivery of Equivalent Securities on the day the order for such delivery is given by the Borrower.

8 FAILURE TO DELIVER OR REDELIVER

8.1 Failure to deliver

In the event that the Lender fails to meet a delivery obligation by the relevant Settlement Date, then in addition to the Borrower's rights under the general law and this Agreement, where the Borrower incurs interest, overdraft or similar costs and expenses, the Lender agrees to pay on demand and hold harmless the Borrower with respect to all such costs and expenses which arise directly from such failure excluding (i) such costs and expenses which arise from the negligence or willful default of the Borrower and (ii) any indirect or consequential losses of the Borrower.

In the event that as a result of the failure of the Lender to fulfill its delivery obligations the Borrower purchases or borrows securities from a third party to satisfy or extinguish its obligations to any other party in respect of such Loaned Securities or securities equivalent to such Loaned Securities, then the Lender shall account to the Borrower for the total costs and expenses (including, without limitation, any taxes) properly incurred by the Borrower in connection with such purchase.

8.2 Failure to redeliver

Without limiting in any way the Borrower's obligation to redeliver Equivalent Securities immediately on termination of the Loan(s), or the remedies under general law and this Agreement available to the Lender in the event of a failure to meet that obligation, this provision applies in the event that the Borrower fails to meet a redelivery obligation in accordance with paragraph 7.2 above. In such situation, in addition to the Lender's rights under the general law and this Agreement where the Lender incurs interest, overdraft or similar costs and expenses the Borrower agrees to pay on demand and hold harmless the Lender with respect to all such costs and expenses which arise directly from such failure excluding (i) such costs and expenses which arise from the negligence or willful default of the Lender and (ii) any indirect or consequential losses of the Lender.

In the event that as a result of the failure of the Borrower to fulfill its redelivery obligations the Lender purchases securities from a third party to satisfy or extinguish its obligations to any other party in respect of such Loaned Securities, then the Borrower shall account to the Lender for the total costs and expenses (including, without limitation, any taxes) properly incurred by the Lender in connection with such purchase.

9 ACCELERATION UPON AND COSTS, EXPENSES AND INTEREST PAYABLE IN CONSEQUENCE OF AN EVENT OF DEFAULT

9.1 If an Event of Default occurs in relation to either Party (such Party in respect of whom an Event of Default occurs, the "**Defaulting Party**"), the Non-Defaulting Party may, by notice to the Defaulting Party, provide that the Defaulting Party's delivery and payment obligations (if any) (and any other obligations it has under this Agreement) shall be accelerated so as to require performance thereof no later than two Business Days after the date of such notice.

9.2 The Defaulting Party shall be liable to the Non-Defaulting Party for the amount of all reasonable legal and other professional expenses incurred by the Non-Defaulting Party in connection with or as a consequence of an Event of Default, together with interest thereon at the one-month Hong Kong Inter Bank Offered Rate as quoted on a reputable financial

information service (“**HIBOR**”) as of 11.00 am, Hong Kong time, on the date on which it is to be determined or, in the case of an expense attributable to a particular transaction and where the parties have previously agreed a rate of interest for the transaction, that rate of interest if it is greater than HIBOR. The rate of HIBOR applicable to each month or part thereof that any sum payable pursuant to this paragraph 9 remains outstanding is the rate of HIBOR determined on the first Business Day of any such period of one month or any part thereof. Interest will accrue daily on a compound basis and will be calculated according to the actual number of days elapsed.

- 9.3** Any amount payable to one Party (the “**Payee**”) by the other Party (the “**Payer**”) under paragraph 9.1 or 9.2 may, at the option of the Non-Defaulting Party, be reduced by its set off against any amount payable (whether at such time or in the future or upon the occurrence of a contingency) by the Payee to the Payer (irrespective of the currency, place of payment or booking office of the obligation) under any other agreement between the Payee and the Payer or instrument or undertaking issued or executed by one Party to, or in favour of, the other Party. If an obligation is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and set off in respect of the estimate, subject to accounting to the other Party when the obligation is ascertained. Nothing in this paragraph shall be effective to create a charge or other security interest. This paragraph shall be without prejudice and in addition to any right of set off, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

10 STAMP DUTY AND FILINGS

- 10.1** The borrowing of Shares by the Borrower under this Agreement will be effected in accordance with the Rules. Without prejudice to the Lender’s undertaking in paragraph 10.4, the Borrower shall:

- (a) before the expiry of 30 days after the first Loan is effected under this Agreement, provide the Collector with: (i) a duly executed copy and a certified true copy of this Agreement or two certified true copies of this Agreement (or in such other form thereof as may be acceptable to the Collector), (ii) such fees and duties as may be specified from time to time by the Financial Secretary for Hong Kong for the purpose of the Ordinance in respect of borrowings of Hong Kong Stock; and (iii) such other document, particulars and information in the possession of the Borrower as the Collector may require (including a duly completed Stock Borrowing and Lending Agreement Registration Form in duplicate);
- (b) provide to the Lender such documents promptly as the Lender may reasonably request in respect of the Borrower’s compliance with this paragraph; and
- (c) promptly comply with all filing and reporting obligations and do all other acts and things as may be required to be performed by the Borrower from time to time by the Collector, the Ordinance and any applicable rules and regulations for the time being in force.

- 10.2** In the event that the Borrower is in breach of its undertaking under paragraph 10.1 above, the Lender may submit this Agreement, pay such fee and provide such other documents, particulars and information to the Collector, and do all other acts and things in relation thereto, as the Lender may consider necessary or desirable, at the cost and expense of,

and on behalf of, the Borrower (provided such cost or expense is reasonably incurred), without prejudice to the provisions of this Agreement. Notwithstanding the first sentence of this paragraph 10.2, the Borrower agrees and acknowledges that the Lender may advise the Collector in writing in respect of the execution of this Agreement at any time on or after the date of this Agreement.

- 10.3** The Borrower shall, as appropriate, comply with the provisions of the Ordinance in relation to borrowing of Loaned Securities, in particular as to its obligation to make a stock return as defined in section 19 of the Ordinance in accordance with the terms of this Agreement.
- 10.4** The Lender hereby undertakes promptly to pay and account for any transfer or similar duties or taxes chargeable in connection with any transaction effected pursuant to or contemplated by this Agreement, and shall indemnify and keep indemnified the Borrower against any liability arising in respect thereof as a result of the Lender's failure to do so. For the avoidance of doubt, (i) the Borrower shall not be liable to pay or account for any transfer or similar duties or taxes chargeable in connection with any transaction effected pursuant to or contemplated by this Agreement, including any transfer or similar duties or taxes arising from any breach of the Borrower's obligation under paragraphs 10.1 and 10.3 and (ii) this paragraph 10.4 shall not apply to any transfer of Shares or Equivalent Securities between the Borrower and any Borrower Affiliate(s) and any intermediary(ies).

11 GROSS-UP

- 11.1** All payments under this Agreement shall be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law.
- 11.2** Except as otherwise agreed, if the paying Party is so required to deduct or withhold, then that Party (the "**Payer**") shall:
- (a) promptly notify the other Party (the "**Recipient**") of such requirement;
 - (b) pay or otherwise account for the full amount required to be deducted or withheld to the relevant authority;
 - (c) upon written demand of the Recipient, forward to the Recipient documentation reasonably acceptable to the Recipient, evidencing such payment to such authorities; and
 - (d) in addition to the payment to which the Recipient is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the amount actually received by the Recipient (after taking account of such withholding or deduction) will equal the amount the Recipient would have received had no such deduction or withholding been required.
- 11.3** Each Party agrees that it will upon written demand of the other Party deliver to such other Party (or to any government or other taxing authority as such other Party directs), any form or document and provide such other cooperation or assistance as may (in either case) reasonably be required in order to allow such other Party to make a payment under this Agreement without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document, or the provision of such cooperation or assistance,

would not materially prejudice the legal or commercial position of the Party in receipt of such demand). Any such form or document shall be accurate and completed in a manner reasonably satisfactory to such other Party and shall be executed and delivered with any reasonably required certification by such date as is agreed between the Parties or, failing such agreement, as soon as reasonably practicable.

12 THE LENDER'S WARRANTIES

The Lender warrants and undertakes to the Borrower on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that:

- (a) it is duly authorised and empowered to perform its duties and obligations under this Agreement;
- (b) it is not restricted under the terms of its constitution or in any other manner from delivering the Shares the subject of a Borrowing Request in accordance with this Agreement or from otherwise performing its obligations hereunder;
- (c) it is absolutely entitled to pass full legal and beneficial ownership of all Shares the subject of a Borrowing Request provided by it hereunder to the Borrower free from all liens, charges and encumbrances;
- (d) this Agreement constitutes its legal, valid and binding obligations, enforceable in accordance with its terms;
- (e) there is no income or other tax imposed by withholding or otherwise on any payment to be made by or to the Lender with respect to this Agreement;
- (f) it is acting as principal in respect of this Agreement; and
- (g) the execution, delivery and performance by it of this Agreement will comply with all applicable laws, rules and regulations including but not limited to those of Hong Kong.

13 THE BORROWER'S WARRANTIES

The Borrower warrants and undertakes to the Lender on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that:

- (a) it has all necessary licenses and approvals, and is duly authorised and empowered, to perform its duties and obligations under this Agreement and will do nothing prejudicial to the continuation of such authorisation, licences or approvals;
- (b) it is not restricted under the terms of its constitution or in any other manner from receiving the Shares it proposes to borrow under a Borrowing Request or delivering the Equivalent Securities in accordance with this Agreement or from otherwise performing its obligations hereunder;
- (c) the Equivalent Securities will be redelivered free and clear of all liens, charges and other encumbrances;
- (d) this Agreement constitutes its legal, valid and binding obligations, enforceable in accordance with its terms;

- (e) it is acting as principal in respect of this Agreement;
- (f) the Loaned Securities (or any part thereof) and the Equivalent Securities will not be used for a purpose other than a specified purpose (as defined in section 19(16) of the Ordinance); and
- (g) the execution, delivery and performance by it of this Agreement will comply with all applicable laws, rules and regulations including but not limited to those of Hong Kong.

14 EVENTS OF DEFAULT

14.1 If the Lender has not (a) on the third Business Day following the date on which a notice was given to the Lender by the Borrower under sub-paragraph (b) to paragraph 7.3, or on the redelivery date as required under paragraph 7.2, received the Equivalent Securities or (b) on the eighth Business Day after the date on which Income is paid by the Company to holders of its Shares, received the cash or other property pursuant to paragraph 6.1, as relevant, the Lender shall notify the Borrower in writing (the “**Remedy Notice**”). If, on the second Business Day after the Remedy Notice is given to the Borrower, the Borrower has continued to fail to comply with its obligations under paragraph 6.1, or paragraphs 7.2 and 7.3, as applicable, and provided that such failure to redeliver under paragraphs 7.2 and 7.3 is not due to an operational or technical issue beyond the control of the Borrower, such failure shall be an Event of Default for the purposes of paragraph 9.

14.2 Each of the following events occurring in relation to either Party shall also be an Event of Default for the purposes of paragraph 9:

- (a) an Act of Insolvency occurring;
- (b) the Lender failed to deliver or procure delivery of the Shares the subject of a Borrowing Request to the Borrower in accordance with paragraph 5.1;
- (c) any representation or warranty made by the Lender or the Borrower being incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated;
- (d) the Lender or the Borrower admitting to the other Party that it is unable to, or it intends not to, perform any of its obligations under this Agreement and/or in respect of any Loan where such failure to perform would with the service of notice or lapse of time constitute an Event of Default; or
- (e) the Lender or the Borrower failing to perform any other of its obligations under this Agreement and not remedying such failure within 30 days after the Non-Defaulting Party serves written notice requiring it to remedy such failure.

14.3 Each Party shall notify the other Party (in writing) if an Event of Default or an event which, with the passage of time and/or upon the serving of a written notice as referred to above, would be an Event of Default, occurs in relation to it.

14.4 The provisions of this Agreement constitute a complete statement of the remedies available to each Party in respect of any Event of Default.

14.5 Subject to paragraphs 8 and 9, neither Party may claim any sum by way of consequential loss or damage in the event of failure by the other Party to perform any of its obligations under this Agreement.

15 INTEREST ON OUTSTANDING PAYMENTS

In the event of either Party failing to remit sums in accordance with this Agreement such Party hereby undertakes to pay to the other Party upon demand interest (before as well as after judgment) on the net balance due and outstanding, for the period commencing on and inclusive of the original due date for payment to (but excluding) the date of actual payment, in the same currency as the principal sum and at the rate referred to in paragraph 9. Interest will accrue daily on a compound basis and will be calculated according to the actual number of days elapsed. No interest shall be payable under this paragraph in respect of any day on which one Party endeavours to make a payment to the other Party but the other Party is unable to receive it.

16 SEVERANCE

If any provision of this Agreement is declared by any judicial or other competent authority to be void or otherwise unenforceable, that provision shall be severed from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect. The Agreement shall, however, thereafter be amended by the Parties in such reasonable manner so as to achieve as far as possible, without illegality, the intention of the Parties with respect to that severed provision.

17 SPECIFIC PERFORMANCE

Each Party agrees that in relation to legal proceedings it will not seek specific performance of the other Party's obligation to deliver or redeliver any Loaned Securities or Equivalent Securities but without prejudice to any other rights it may have.

18 NOTICES

18.1 Any notice or other communication in respect of this Agreement may be given in any manner set forth below to the address or number or in accordance with the electronic messaging system details set out below:

Address for notices or communications to the Borrower:

Address: 20/F, Bank of China Tower
1 Garden Road
Central
Hong Kong
Attention: Head of Debt Capital Markets
Telephone No: +852 3988 6333
Email: hk.dcm@bocigroup.com

Address for notices or communications to the Lender:

Address: Suites 801–2, 8th Floor,
COFCO Tower
262 Gloucester Road

Causeway Bay, Hong Kong
Attention: Chris Kwok
Facsimile No: +852 2180 9039
Telephone No: +852 3988 6939
Email: chriskwokwc@gmail.com

and will be deemed effective as indicated:

- (a) if in writing and delivered in person or by courier, on the date it is delivered;
- (b) if sent by telex, on the date the recipient's answerback is received;
- (c) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (d) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (e) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or the receipt, as applicable, is not a Business Day or that communication is delivered (or attempted) or received, as applicable, after the Close of Business on a Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Business Day.

- 18.2** Either Party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it and may also give notice that it is temporarily unable to receive notices or other communications in a particular manner specified in paragraph 18.1 above, in which case the other Party will use other methods of communication until such Party is able to receive notices or other communications in that particular manner.

19 ASSIGNMENT

Neither Party may charge, assign or transfer all or any of its rights or obligations hereunder without the prior consent of the other Party.

20 NON-WAIVER

No failure or delay by either Party (whether by course of conduct or otherwise) to exercise any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege as herein provided.

21 GOVERNING LAW AND JURISDICTION

- 21.1** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and shall be construed in accordance with, English law.

- 21.2** The courts of Hong Kong have exclusive jurisdiction to hear and decide any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement (respectively, “**Proceedings**” and “**Disputes**”) and, for these purposes, each Party irrevocably submits to the jurisdiction of the courts of Hong Kong.
- 21.3** The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to hear and decide any Proceedings and to settle any Disputes and, accordingly, that they will not argue to the contrary.
- 21.4** Each Party irrevocably waives any objection which it might at any time have to the courts of Hong Kong being nominated as the forum to hear and decide any Proceedings and to settle any Disputes and agrees not to claim that the courts of Hong Kong are not a convenient or appropriate forum.
- 21.5** The Lender irrevocably agrees to receive service at its usual business address at Suites 801–2, 8th Floor, COFCO Tower 262, Gloucester Road, Causeway Bay, Hong Kong. Nothing in this Agreement shall affect the right to serve process in any other manner permitted by law.

22 TIME

Time shall be of the essence of the Agreement.

23 WAIVER OF IMMUNITY

Each Party hereby waives all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, attachment (both before and after judgment) and execution to which it might otherwise be entitled in any action or proceeding in the courts of Hong Kong or of any other country or jurisdiction relating in any way to this Agreement and agrees that it will not raise, claim or cause to be pleaded any such immunity at or in respect of any such action or proceeding.

24 MISCELLANEOUS

- 24.1** This Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- 24.2** No amendment in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the Parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- 24.3** This Agreement shall be effective for the period commencing on the date hereof and, except for the warranties contained in paragraphs 12 and 13 which shall survive termination of this Agreement for so long as any obligations of either of the Parties pursuant to this Agreement remain outstanding, will terminate upon redelivery of all Equivalent Securities due and outstanding to the Lender in accordance with paragraph 7 of this Agreement.

- 24.4** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- 24.5** Each Party agrees that in taking any action that may be required in accordance with this Agreement, it shall observe strictly the procedures and timetable applied by the Rules and any agreement (oral or otherwise) as to the time for delivery or redelivery of any Shares that are the subject of a Borrowing Request or Equivalent Securities entered into pursuant to this Agreement.
- 24.6** This Agreement may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same agreement. In relation to each counterpart, upon confirmation by or on behalf of a party that such party authorises the attachment of its counterpart signature page to the final text of this Agreement, such counterpart signature page shall take effect, together with such final text, as a complete authoritative counterpart.
- 24.7** A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

EXECUTED by the PARTIES

SIGNED BY

DULY AUTHORISED FOR AND
ON BEHALF OF
BOCI FINANCIAL PRODUCTS LIMITED

)
)
)
)
)



Samson K.M. Lee
Managing Director,
Head of Financial Products Division

SIGNED BY

A handwritten signature in black ink, consisting of several loops and a long vertical stroke extending downwards.

)
)
)
)
)
)

CHINA MENGNIU DAIRY COMPANY LIMITED)