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## **BONDHOLDERS' REPRESENTATIVE APPOINTMENT AGREEMENT**

in relation to

The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 1 due B.E. 2570 (2027)

The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 2 due B.E. 2572 (2029)

The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 3 due B.E. 2574 (2031)

and

The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 4 due B.E. 2577 (2034)

**Dated [●] 2024**

**VONGSAYAM KORSANG CO., LTD.**

as Issuer

and

**DAOL SECURITIES (THAILAND) PUBLIC COMPANY LIMITED**

as Bondholders' Representative

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This Agreement is made on [●] 2024.

**Between:**

- (1) **VONGSAYAM KORSANG CO., LTD.**, a limited company registered under the laws of Thailand (company registration number 0105519003571) whose registered office is located at 111 Phahon Yothin 8, Phahon Yothin Road, Sam Sen Nai, Phaya Thai, Bangkok, 10400, Thailand (in its capacity as Issuer) (the “**Issuer**”); and
- (2) **DAOL Securities (Thailand) Public Company Limited**, a public company limited registered under the laws of Thailand whose principal office is located at 87/2 CRC Tower, 9<sup>th</sup>, 18<sup>th</sup>, 39<sup>th</sup> and 52<sup>nd</sup> Floor, All Seasons Place, Wireless Road, Lumpini, Pathumwan, Bangkok 10330, Thailand (in its capacity as Bondholders’ Representative, which expression shall include such person and all other persons acting as the Bondholders’ Representative from time to time pursuant to this Agreement and the Conditions) (“**Bondholders’ Representative**”);

together the “**Parties**” and each individually a “**Party**” to this Agreement.

**Whereas:**

- (A) By virtue of the resolutions of the board of directors of the Issuer No. [3/2566 held on 27 June 2023], the Issuer proposes to issue the unsubordinated and guaranteed bonds in the aggregate total principal amount of Baht 2,200,000,000 (two billion two hundred million Baht), divided into 4 tranches, namely: (i) The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 1 due B.E.2570 (2027) (ii) The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 2 due B.E. 2572 (2029); and (iii) The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 3 due B.E. 2574 (2031); and (iv) The Guaranteed Bonds of Vongsayam Korsang Co., Ltd. No. 1/2567 (2024) Tranche 4 due B.E. 2577 (2034).

The Issuer is approved by the SEC Office pursuant to the Notification of the Capital Market Supervisory Board No. TorChor. 16/2565 re: Application for and Approval of Offer for Sale of Newly Issued Debt Securities in a Private Placement and Offer for Sale of Convertible Bonds to Certain Specified Persons dated 23 September 2022 (as may be amended, supplemented or replaced) to offer the Bonds to investors being qualified as “**Institutional Investors**” or “**High Net Worth Investors**” as defined in clause 3(2)(a) or clause 3(2)(c) of the Notification of the Securities and Exchange Commission No. KorChor. 5/2552 re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Debt Securities dated 13 March 2009 (as may be amended, supplemented or replaced) and in accordance with the categories and characteristics as defined in clause 5 or clause 7 of the Notification of the Securities and Exchange Commission No. KorChor. 39/2564 re: Determination of the Definitions of Institutional Investors, Ultra-high Net Worth Investors and High Net Worth Investors dated 24 December 2021 (as may be amended, supplemented or replaced) (the “**Qualified Investors**”), and the Issuer has registered a transfer restriction with the SEC Office to limit any transfer of the Bonds to be within the group of Qualified Investors, as required under the applicable laws and regulations.

- (B) Credit Guarantee and Investment Facility, a trust fund of the Asian Development Bank (the “**Guarantor**” or “**CGIF**”), where the Asian Development Bank (“**ADB**”) acts as trustee of CGIF, has agreed to unconditionally guarantee the punctual payment by the Issuer of the principal and interest in respect of the Bonds in accordance with and subject to the terms and conditions of the CGIF Guarantee Agreement (as defined in the Conditions).

- (C) Bondholders' Representative has all the qualifications required by the Notification of the Capital Market Supervisory Board No. TorChor. 37/2552 re: Qualifications of Bondholders' Representative and Conducts in accordance with Authorities and Duties of Bondholders' Representative dated 3 August 2009 (as may be amended, supplemented or replaced) and other relevant laws and regulations in order to act as bondholders' representative for the Bonds and has obtained an approval from the SEC Office in respect thereof.
- (D) Bondholders' Representative agrees to perform the duties of the Bondholders' Representative for the benefit of all Bondholders (as defined in the Conditions) in accordance with the terms of the Transaction Documents (as defined in Clause 1.1) and all applicable laws.
- (E) The Parties propose to enter into this Agreement to set out the terms and conditions of the appointment of the Bondholders' Representative in respect of the Bonds.

It is agreed as follows:

## 1 Definitions and Interpretation

- 1.1 Unless otherwise defined in this Agreement or the context otherwise requires, capitalised terms shall have the same meanings given to them in the Conditions (as defined below) and the following terms shall have the following meanings:

**"Bondholders' Representative Fee"** has the meaning given to it in Clause 6.1;

**"Bondholders' Representative Indemnified Persons"** has the meaning given to it in Clause 7.2;

**"Bondholders' Representative's Losses"** has the meaning given to it in Clause 7.2;

**"Conditions"** means the terms and conditions setting out the rights and obligations of the Issuer and the Bondholders in respect of the Bonds, in the form set out in Schedule 1 hereto, as may be supplemented, amended or modified in accordance with the terms specified therein;

**"Documents"** has the meaning given to it in Clause 9.3.1;

**"Issuer Indemnified Persons"** has the meaning given to it in Clause 7.1;

**"Issuer's Losses"** has the meaning given to it in Clause 7.1;

**"Personal Data"** has the meaning given to it in Clause 15;

**"SEC Act"** means the Securities and Exchange Act B.E. 2535 including rules and regulations or laws issued by virtue of the SEC Act and all amendments thereto;

**"Successor Bondholders' Representative"** has the meaning given to it in Clause 9.3.1; and

**"Transaction Documents"** means the Bonds, the Conditions, the CGIF Guarantee Agreement and this Agreement.

- 1.2 The headings in this Agreement are for convenience only and shall not affect its interpretation.
- 1.3 References to any Schedule are to a schedule to this Agreement and the Schedules shall form part of and shall be deemed to be incorporated in this Agreement.

- 1.4 Where the context so requires, references in this Agreement to the singular include references to the plural and vice versa and references to the masculine gender include the feminine gender.
- 1.5 Any reference to an enactment is a reference to it as already amended and includes a reference to any repealed enactment that it may re-enact, with or without amendment, and to any re-enactment and/or amendment of it whether taking effect before or after the date hereof.
- 1.6 References to “person” shall be construed so as to include any individual, firm, corporation, company, government state or agency of a state or any joint venture, association, partnership or unincorporated association (whether or not having separate legal personality).
- 1.7 Any reference to a “company” shall be construed so as to include any company, corporation or other body corporate, whenever and however incorporated or established.
- 1.8 Unless otherwise specified herein, any reference to date and time is a reference to calendar date and time in Bangkok, Thailand.
- 1.9 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

## **2 Appointment**

- 2.1 The Issuer hereby appoints the Bondholders’ Representative and the Bondholders’ Representative hereby accepts such appointment and agrees to act as such for and on behalf of the Bondholders in accordance with the Transaction Documents and all applicable laws and regulations.
- 2.2 Notwithstanding anything to the contrary, the Bondholders’ Representative agrees:
  - (i) to perform and to comply with all duties and obligations of the Bondholders’ Representative as set out in the Transaction Documents and all applicable laws in good faith and with such level of duty and care as can be expected from a professional entity acting as bondholders’ representative;
  - (ii) to have and to exercise all rights and powers of the Bondholders’ Representative set out in the Transaction Documents and all applicable laws; and
  - (iii) if applicable, to accept and enforce the money, guarantee or any security for and on behalf of the Bondholders.
- 2.3 If the Bondholders’ Representative accepts deposits from, lends money to or engages in any banking or other businesses with the Issuer, any part and all of such money or assets received from the Issuer pursuant to such relationship shall be excluded and held separately from the assets held on behalf of the Bondholders in its capacity of the Bondholders’ Representative hereunder.

## **3 Powers and Duties of the Bondholders’ Representative**

### **3.1 Appointment of Advisers**

- 3.1.1 The Bondholders’ Representative may act on the opinion or advice of any lawyers, accountants and other advisers of good reputation appointed or selected by the Bondholders’ Representative or the Issuer. In case where such adviser is appointed

by the Bondholders' Representative, the Bondholders' Representative shall, as soon as practicable, notify the Issuer of such engagement and any cost and expense which may be incurred and the Bondholders' Representative shall incur no liability in respect of any action taken or omitted to be taken in accordance with such advice in good faith, except where it acts, or omits to act, with gross negligence, fraud, wilful misconduct or breach of the Transaction Documents or applicable law, provided that such engagement of advisers shall be in respect of:

- (i) any issue in relation to compliance with and/or enforcement of any provisions of the Transaction Documents;
- (ii) any actual or proposed amendment, waiver or consent requested by the Issuer relating to the Transaction Documents;
- (iii) any Event of Default or breach of or default under, the Bonds or any Transaction Documents or any issue or dispute that may arise in connection with the Transaction Documents; or
- (iv) the performance by the Bondholders' Representative of any obligations of the Issuer under the Transaction Documents which the Issuer has failed or refused to perform.

**3.1.2** The Issuer shall bear any actual, reasonable and documented fees, costs or expenses incurred by the Bondholders' Representative in engaging any such lawyers or other experts pursuant to Clause 3.1.1 above, provided that:

- (i) such fees and expenses have not been incurred by the Bondholders Representative as a result of its gross negligence, fraud, wilful misconduct or breach of the Transaction Documents or applicable law; and
- (ii) the Bondholders' Representative shall have obtained a prior written approval thereof from the Issuer which shall not be unreasonably withheld or delayed.

## **3.2 Performance of Duties**

Without prejudice to the generality of Clause 2.2, the Bondholders' Representative shall:

- (i) take, maintain, enforce, release, discharge, amend, substitute or increase the guarantee under CGIF Guarantee Agreement and/or any Security given or to be given by the Issuer or any other person for the benefit and best interest of the Bondholders in accordance with the Transaction Documents;
- (ii) promptly notify each Bondholder of the occurrence of any Event of Default or any breach of, or default under, the Transaction Documents of which it has actual knowledge, together with the details of any actions taken by the Bondholders' Representative due to such occurrence;
- (iii) co-ordinate in relation to all communications with and between the Issuer, the Registrar, the Guarantor and the Bondholders that are contemplated by, or necessary pursuant to the terms of, the Transaction Documents;
- (iv) distribute to the Bondholders in proportion to their respective holding of the Bonds as set forth in the Register Book provided by the Registrar, the proceeds received from or recovered as a result of claims made against the Issuer, the Guarantor and/or relevant parties, as the case may be, in respect of the enforcement of the Bond Rights under the Transaction Documents;

- (v) maintain adequate records of all steps taken by it to enforce any of the Transaction Documents and recover proceeds or obtain other relief for the Bondholders;
- (vi) exercise the degree of honesty and care necessary to protect the interests of the Bondholders in accordance with the standards of an entity acting as a professional bondholders' representative and to act at all times in good faith;
- (vii) promptly: (a) notify the Registrar in writing of the date, time, place and agenda of any meeting of the Bondholders called by the Bondholders' Representative itself, in accordance with the Conditions; and (b) instruct the Registrar in writing to deliver a notice of Bondholders' meeting to each of the Bondholders, the Issuer and the Guarantor in accordance with the terms of the Transaction Documents; for the avoidance of doubt, any notices to the Issuer and the Guarantor, shall be delivered to their addresses as set out in Clause 10 or any other address which has been notified to the Bondholders' Representative;
- (viii) if it has received any payment from the Guarantor pursuant to a Demand, promptly notify the Issuer and the Registrar in writing of its receipt of such payment; and
- (ix) comply with its duties and obligations under the Transaction Documents, including but not limited to, the duties to convene the Bondholders' meeting, attend and provide opinions in its capacity as the bondholders' representative at such meeting, pursuant to the Conditions, and with all laws and regulations applicable to the Bonds or the Bondholders' Representative.

### **3.3 Ratification**

Any action taken by the Bondholders' Representative in accordance with its duties and responsibilities under this Agreement, either done prior to the effective date of this Agreement pursuant to Clause 18 or thereafter, shall be deemed to be ratified by the Bondholders as effective and legally binding upon and done in the name of the Bondholders. Such action includes, but not limited to, the entry into the CGIF Guarantee Agreement (whether the execution of the CGIF Guarantee Agreement takes place before or after the effective date of this Agreement).

### **3.4 Reliance**

Except as otherwise provided in the Transaction Documents, in the absence of its actual knowledge or express notice to the contrary, the Bondholders' Representative, acting in good faith with such level of duty and care as can be expected from a professional entity acting as a bondholders' representative, shall be entitled to:

- (i) assume without investigation that the Issuer is duly performing and observing all the covenants and provisions contained in or arising from each of the Transaction Documents and that, on the date hereof and on the Issue Date, no Event of Default, and no event which, with the lapse of time and/or upon the giving of notice, would constitute an Event of Default, has occurred;
- (ii) rely upon the contents of any written communication or document reasonably believed by it to be genuine; and
- (iii) rely upon any facts and materials provided to it in writing by any authorised directors of, or other authorised persons representing, the Issuer.

### 3.5 Liabilities

**3.5.1** The Bondholders' Representative shall not be liable to any person for any damage incurred as a result of its reliance on or compliance with any resolution of the Bondholders' meeting convened and conducted in accordance with the Conditions even though it is subsequently found that there was defect in the calling or the quorum of the meeting or the passing of such resolution, or that such resolution is not valid or binding upon the Bondholders, except where such defect was due to the Bondholders' Representative's gross negligence, wilful misconduct or failure to act in accordance with its professional standard;

**3.5.2** In connection with the performance by the Bondholders' Representative of its obligations under the Transaction Documents, the Bondholders' Representative:

- (i) shall not have any responsibility or liability in respect of any failure or delay by the Issuer or any other person in performing its obligations under the Transaction Documents, or other agreements relating to the Transaction Documents, except where such failure or delay occurs due to the Bondholders' Representative's gross negligence, fraud or wilful misconduct or its failure to act in accordance with its professional standard or to perform its duties in accordance with the Transaction Documents or any applicable laws;
- (ii) shall not have any liability in respect of the execution, effectiveness, enforceability, sufficiency, legality, validity, genuineness or suitability of the Transaction Documents or the agreements and documents referred to in such Transaction Documents, or of any certificate, report, document of title or other document delivered under the Transaction Documents, any statement of the Issuer or any other person in the Transaction Documents, or the accuracy or completeness of any information which was or is circulated to the Bondholders' Representative, or any obligation or right created or purported to be created thereby or pursuant thereto or the priority thereof constituted or purported to be constituted thereby or pursuant thereto, nor shall it be responsible or liable to any person because of any invalidity of any provision of such documents or the unenforceability thereof, whether arising from statute, law or decisions of any court, provided that: (a) the Bondholders' Representative shall have acted in good faith without any knowledge as to any inaccuracy, incompleteness, invalidity or unenforceability thereof and without any gross negligence, wilful misconduct or failure to act in accordance with its professional standard and (b) where there is any doubt as to such inaccuracy, incompleteness, invalidity or unenforceability, the Bondholders' Representative shall have carried out reasonable enquiries and investigation which the Bondholders' Representative would normally make and act in accordance with its professional judgment;
- (iii) shall not be liable to the Issuer or any Bondholders by reason of, in good faith and without any gross negligence, wilful misconduct or failure to act in accordance with its professional standard, having accepted as valid or not having rejected any Bond Certificate purporting to be such and subsequently found to be forged, stolen or not authentic; and

- (iv) does not assume, nor shall the Bondholders' Representative be obliged to perform, any obligations of the Issuer or any other person, except as set out in the Transaction Documents and applicable laws and regulations.

### **3.6 Enforcement of Transaction Documents**

**3.6.1** The Bondholders' Representative shall take action or relevant proceedings to enforce its rights (for and on its behalf or on behalf of the Bondholders) under the Transaction Documents in order to receive payments and compensation (if any) under the Bonds and the CGIF Guarantee Agreement, according to the terms thereof.

**3.6.2** Upon the Bondholders' Representative's receipt of any payments owed to the Bondholders in connection with the Bonds, such payments shall be applied in the order of priority specified in the Conditions.

## **4 Representations and Warranties**

### **4.1 Representations and Warranties by the Bondholders' Representative**

The Bondholders' Representative represents and warrants to the Issuer and the Bondholders that, as at the date hereof and as of the Issue Date:

- (i) it has been established and is in existence in accordance with the laws of Thailand, and has the full power and authority to execute and perform its duties and obligations hereunder;
- (ii) all actions, conditions and things required by the laws of Thailand to be taken, fulfilled and done (including the obtaining of any necessary shareholder, corporate, governmental, ministerial or other consents, approvals and licences) in order to enable it to lawfully enter into, exercise its rights and perform and comply with its obligations under this Agreement or other Transaction Documents to which it is a party have been taken, fulfilled and done;
- (iii) its entry into, exercise of its rights and/or performance of or compliance with its obligations under the Transaction Documents to which it is a party do not and will not violate (a) any law to which it is subject or (b) its articles of incorporation, by-laws or other constitutional documents and any laws by which it is bound;
- (iv) its obligations under the Transaction Documents to which it is a party are legal, valid, binding and enforceable upon it in accordance with their respective terms; and
- (v) it is not in liquidation or bankruptcy and has not taken any corporate action, nor have any other steps been taken or legal proceedings commenced against it, for its winding-up, bankruptcy, dissolution, reorganisation, composition or for the appointment of a receiver, liquidator, trustee, examiner or similar officer of it or of all or any of its assets or revenues.

### **4.2 Representations and Warranties by the Issuer**

The Issuer represents and warrants to the Bondholders' Representative that as at the date hereof and as of the Issue Date:

- (i) it is a private company duly incorporated with limited liability in Thailand and validly existing under the laws of Thailand with full power and authority to own its property and conduct its business;

- (ii) the issue, the offering and the execution of the Bonds and the issue, entry into or delivery by the Issuer of each of the Transaction Documents to which it is a party and the performance of the obligations expressed to be assumed by it thereunder have been duly authorised by all necessary corporate or other actions of the Issuer as required by applicable laws and are still in full force and effect;
- (iii) the Bonds and each of the Transaction Documents to which it is a party, when executed and delivered as contemplated therein, will constitute legal, valid, binding and enforceable obligations of the Issuer, except to the extent that the enforcement thereof may be limited by provisions of applicable laws;
- (iv) no event has occurred or circumstance arisen which, had the Bonds already been issued, would constitute an Event of Default under the Conditions;
- (v) all consents, approvals, authorizations or other orders of all regulatory authorities required for or in connection with the execution by the Issuer of the Transaction Documents to which it is a party have been duly obtained and are in full force and effect;
- (vi) except as disclosed in the prospectus for the Bonds, the Issuer is not involved in any litigation, arbitration or other proceedings nor, so far as the Issuer is aware of, any such litigation, arbitration or other proceeding pending or threatened which, if determined adversely to the Issuer, would individually or in aggregate have a material adverse effect on the condition (financial or other), prospects, results of operations, general affairs of the Issuer or on the ability of the Issuer to perform its obligations under the Bonds or the Transaction Documents to which it is a party, or which are otherwise material in the context of the offering of the Bonds; and
- (vii) it is not under liquidation or bankruptcy proceedings and has not taken any corporate action, nor has any other action been taken or legal proceedings commenced or threatened against it, for its winding-up, rehabilitation, bankruptcy, dissolution, reorganisation, composition or for the appointment of a receiver, liquidator, trustee, examiner or similar officer of it or of all or any of its material assets or revenues.

## 5 Issuer's Covenants

The Issuer shall comply with its duties and obligations under the Conditions, and cooperate with and give all reasonable support to the Bondholders' Representative in providing any relevant document or information as reasonably requested by the Bondholders' Representative so as to enable the Bondholders' Representative to perform its duties under the Transaction Documents and all applicable laws.

## 6 Fees and Expenses

- 6.1 The Issuer shall pay the Bondholders' Representative an annual fee in consideration for its performance of duties under this Agreement (the "**Bondholders' Representative Fee**") in a fixed fee of Baht [●] ([●]) (exclusive of value added tax), by transferring such amount into the following account details and providing a copy of evidence of such fund transfer by email to [●] within [[●] ([●]) days] after the Issue Date for the first payment and thereafter annually on each anniversary of the Issue Date throughout the terms of the Bonds. If any due date of payment of the Bondholders' Representative Fee falls on a day that is not a Business Day, such payment shall be made on the following Business Day:

**Account Name:** [●]

**Account Bank:** [●]

**Account Type:** [●]

**Account Number:** [●]

- 6.2** All payments responsible by the Issuer to the Bondholders' Representative under this Agreement shall be made in full without any deduction or withholding in respect of tax or otherwise unless the deduction or withholding is required by applicable law.
- 6.3** If the Issuer requests the Bondholders' Representative to perform or do any acts beyond the scope of the powers, duties and responsibilities of the Bondholders' Representative under the Transaction Documents and applicable laws, the Bondholders' Representative shall not be obliged to perform or do such acts. Nonetheless if the Bondholders' Representative agrees to perform or do any such acts at the request of the Issuer, the Issuer agrees to pay additional fees in the amount mutually agreed in writing between the parties, and such agreement shall form an integral part of this Agreement.
- 6.4** The Issuer shall be responsible to pay any value added tax (VAT) applicable in respect of the fees and expenses set out in this Agreement.
- 6.5** Subject to Clauses 3.1.2 and 6.6 where the Issuer's prior approval is required, all actual and reasonable cost and expenses incurred to the extent necessary for the performance of the Bondholders' Representative's duties and payments made by it in the lawful performance of its duties and functions, in accordance with the Transaction Documents (including but not limited to actual and reasonable legal and travelling expenses, out-of-pocket costs, charges and expenses), shall be payable or reimbursable by the Issuer without any interest thereon within [30 (thirty)] days from the Issuer's receipt of the notice thereof together with all relevant invoices and evidence thereof from the Bondholders' Representative.
- 6.6** Without prejudice to Clause 3.1.2, in cases where any cost and expenses payable or reimbursable by the Issuer pursuant to Clause 6.5 exceed Baht [●] per transaction, the Bondholders' Representative shall obtain a prior written approval thereof from the Issuer. The Bondholders' Representative may proceed to incur the said cost and expenses without the Issuer's prior written approval if such approval is unreasonably withheld or not given by the Issuer in a timely manner provided that the Bondholders' Representative shall promptly notify the Issuer in writing of such incurred cost and/or expenses.
- 6.7** The Bondholders' Representative shall not have any right of set-off, lien or counterclaim in respect of any fees, expenses, other kinds of debts or other amounts (if any) due or payable to it under any of the Transaction Documents or any other transactions against amounts (if any) held by it on behalf of the Bondholders, and all payments made or to be made by the Bondholders' Representative to the Bondholders shall be made free and clear of and without any deduction for or on account of any set-off or counterclaim.
- 6.8** Any and all amounts payable under this Clause 6 shall be made in Baht.

- 6.9 In the case where the Bondholders' Representative is replaced during the term of the Bonds, the Issuer agrees to pay the remuneration to the Bondholders' Representative for actual period of service until the effective date of the termination of such service, provided that the Bondholders' Representative shall hand over all assets, information and documents currently held by it to the Successor Bondholders' Representative or evidences held by it in relation to its appointment to the Successor Bondholders' Representative pursuant to Clause 9.3.1.

## 7 Indemnity

- 7.1 The Bondholders' Representative shall indemnify the Issuer and its directors, agents, managers, officers or employees (the "**Issuer Indemnified Persons**") against any liability, loss, cost, damages, charge, expense, action, proceedings, claim or demand (including, without limitation, any legal fees, all costs and expenses actually and reasonably incurred in disputing, investigating, determining or defending any of the aforementioned on a full indemnity basis) (collectively, "**Issuer's Losses**") which any Issuer Indemnified Person may suffer as a result of or in connection with any wilful misconduct, fraud or gross negligence or any breach of the terms and conditions of any of the Transaction Documents and applicable law by the Bondholders' Representative or by any of its directors, agents, managers, officers and employees, except to the extent any such Issuer's Losses are due to any wilful misconduct, fraud, or gross negligence of the Issuer.
- 7.2 The Issuer shall indemnify the Bondholders' Representative and its directors, agents, managers, officers or employees (the "**Bondholders' Representative Indemnified Persons**") against any liability, loss, cost, damages, charge, expense, action, proceedings, claim or demand (including, without limitation, any legal fees, all costs and expenses actually and reasonably incurred in disputing, investigating, determining or defending any of the aforementioned on a full indemnity basis) (the "**Bondholders' Representative's Losses**") which any Bondholders' Representative Indemnified Person may suffer as a result of any wilful misconduct, fraud or gross negligence or any breach of the terms and conditions of any of the Transaction Documents and applicable law by the Issuer or by any of its directors, agents, managers, officers and employees, except to the extent any such Bondholders' Representative's Losses are due to failure to act in accordance with the Bondholders' Representative's professional standard, or any wilful misconduct, fraud, or gross negligence of by the Bondholders' Representative or any of the Bondholders' Representative Indemnified Persons.
- 7.3 The Bondholders' Representative shall indemnify the Bondholders against any loss, cost, damages, charge, expense, claim or demand (including, without limitation, any legal fees, all costs and expenses incurred in disputing, investigating, determining or defending any of the aforementioned on a full indemnity basis), which the Bondholders may suffer as a result of or in connection with the gross negligence, wilful misconduct, or breach of the terms and conditions of any of the Transaction Documents or any applicable laws and regulations, by the Bondholders' Representative or by any of the Bondholders' Representative Indemnified Persons.
- 7.4 Unless expressly provided otherwise in this Agreement or any other Transaction Documents, in no event shall any Party be liable to the other Party for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to loss of profits), whether or not foreseeable.

## **8 Amendment**

- 8.1** This Agreement may not be modified, amended, supplemented or terminated (other than in accordance with Clause 9) except by a written agreement executed by the Parties hereto and, so long as the CGIF Guarantee Agreement remains in effect, with a prior written consent of the Guarantor. In addition, if an amendment requires the approval of the Bondholders, the Bondholders' Representative shall not agree to the amendment unless and until it has been authorised by the Bondholders, in accordance with the Transaction Documents. However, subject to the Guarantor's prior written consent (to the extent the CGIF Guarantee Agreement remains in effect), the Conditions and applicable laws and regulations, the Bondholders' Representative and the Issuer may amend the terms and conditions of this Agreement without the approval of the Bondholders' meeting to the extent that such amendment does not materially prejudice the Bondholders' rights.
- 8.2** The Parties agree that if the CGIF Guarantee Agreement or the Conditions are amended or if there is any change in the SEC Act or any other relevant laws, notifications or orders of the SEC or any other competent authority, the Parties shall amend this Agreement to comply with the amended CGIF Guarantee Agreement, Conditions or change in laws.

## **9 Termination**

### **9.1 Termination of this Agreement**

- 9.1.1** Subject to Clause 9.3.1, unless otherwise provided in this Agreement, this Agreement shall terminate if any of the following events occurs:
- (i) the Bonds became due and payable in accordance with the Conditions and payments of all amounts owed by the Issuer and the Guarantor to the Bondholders and the Bondholders' Representative under the Transaction Documents have been made and the Bondholders' Representative has already performed all of its duties and obligations under the Transaction Documents;
  - (ii) all the Bonds have been repurchased and cancelled by the Issuer in full in accordance with the Conditions and the Guarantor has been fully released from its all obligations under the CGIF Guarantee Agreement;
  - (iii) for whatever reason, debt outstanding under the Bonds ceases to exist; or
  - (iv) subject to further agreement between the Issuer and the Bondholders' Representative, the Bonds are not issued on the Issue Date, and in such case, the Issuer shall not be required to pay any fee or expenses to the Bondholders' Representative.
- 9.1.2** Subject to Clause 9.3.2, the Parties agree to terminate this Agreement if any of the following events occurs:
- (i) the Bondholders' Representative delivers to the Issuer a written notice of its resignation as the Bondholders' Representative for 60 (sixty) days in advance;
  - (ii) the Issuer delivers to the Bondholders' Representative a written notice of termination of this Agreement 60 (sixty) days in advance; or

- (iii) the Bondholders vote in the Bondholders' meeting for a revocation or replacement of the Bondholders' Representative in accordance with the Conditions.

## 9.2 Removal of the Bondholders' Representative

9.2.1 Subject to Clause 9.3.2, the Issuer may, by delivering a notice in writing to the Bondholders' Representative, remove the Bondholders' Representative in any of the following circumstances:

- (i) the Bondholders' Representative becomes disqualified to act as a representative of Bondholders in accordance with applicable laws and such disqualification causes the SEC Office to prohibit it from acting as the Bondholders' Representative or suspend or revoke it from the list of persons qualified to act as a Bondholders' Representative and/or the conflicts of interest are not waived by the SEC Office;
- (ii) a Bondholders' meeting passes a resolution to terminate the appointment of the Bondholders' Representative due to its negligent performance or failure to perform its duties;
- (iii) the Bondholders' Representative is in breach of any provision of this Agreement or the Conditions and such breach has not been remedied within 30 (thirty) days from the date the Issuer or any one or more of the Bondholders holding together at least 25 (twenty-five) percent of the aggregate principal amount of the outstanding Bonds sends a written notice to the Bondholders' Representative demanding such remedy;
- (iv) any proceeding or other action is commenced by or against the Bondholders' Representative, seeking reorganisation, bankruptcy, receivership, liquidation, dissolution, winding-up, composition, and other similar events, or there is any order or judgment for dissolution or suspension of business by the court; and
- (v) the appointment of the Bondholders' Representative is terminated in accordance with the Conditions.

## 9.3 Consequences of Termination and Removal

9.3.1 Upon the termination or removal of the appointment of the Bondholders' Representative under the provisions of Clause 9.1 or Cause 9.2, unless otherwise directed by the Issuer, the Bondholders' Representative shall cease to use any information and documents provided by the Issuer and/or the Bondholders (the "**Documents**") and shall return, delete or destroy at the Issuer's direction all copies of the Documents. The Bondholders' Representative shall delete all copies of the Documents stored in any computer at the Bondholders' Representative's site. The Bondholders' Representative shall, within 30 (thirty) days from the effective date of the termination, certify in writing that all copies of the Documents have been returned, deleted or destroyed as directed by the Issuer.

9.3.2 Any termination or removal of the appointment of the Bondholders' Representative in accordance with Clause 9.1.2 or 9.2 shall not become effective until a successor Bondholders' Representative approved by the SEC Office has been appointed by the Issuer or the Bondholders in accordance with the Conditions, the CGIF Guarantee Agreement and applicable laws (the "**Successor Bondholders'**

**Representative**") and such Successor Bondholders' Representative accepts its appointment. The identity of any Successor Bondholders' Representative shall be notified promptly to the Registrar by the Issuer.

The Bondholders' Representative whose office has been terminated shall promptly hand over all assets, information and documents currently held by it to the Successor Bondholders' Representative and shall fully co-operate with the Successor Bondholders' Representative so as to ensure an orderly transition and the proper performance and assumption of duties by the Successor Bondholders' Representative.

**9.3.3** Upon the termination or removal of the appointment of the Bondholders' Representative under the provisions of Clause 9.1 or Cause 9.2, the Bondholders' Representative shall be entitled to receive, on the date such amounts would have fallen to be paid but for such termination, all fees and other monies (which, for the avoidance of doubt, shall continue to accrue up until the date such termination becomes effective) accrued up to the effective date of such termination in accordance with this Agreement.

**9.3.4** The Bondholders' Representative shall give notice to all Bondholders and the Guarantor of any replacement of the Bondholders' Representative including the name and address of the replacement Bondholders' Representative in accordance with the Conditions.

#### **9.4 Merger**

Any corporation into which the Bondholders' Representative may be merged or converted, or any corporation with which the Bondholders' Representative may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Bondholders' Representative shall be a party, or any corporation to which the Bondholders' Representative shall sell or otherwise transfer all or substantially all of its assets shall, on the date when such merger, consolidation or transfer becomes effective and to the extent permitted by the applicable laws, become the Successor Bondholders' Representative under this Agreement without the execution or filing of any paper or any further act on the part of any of the Parties hereto, provided that such corporation or entity shall have secured an approval by the SEC Office to operate as bondholders' representative pursuant to the Transaction Documents, unless otherwise required by the Issuer or a Bondholders' meeting, and after the said effective date all references in this Agreement to the Bondholders' Representative shall be deemed to be references to such corporation or entity. Written notice of any such merger, conversion, consolidation or transfer shall forthwith be given to the Issuer by the Bondholders' Representative.

#### **9.5 Obligations Surviving Termination**

The provision of Clauses 3.1, 6, 7, 9.3 shall survive the termination of this Agreement or the removal of the Bondholders' Representative.

### **10 Notices**

**10.1** Any notices or notification in any form to be given to any Party to this Agreement or the Guarantor shall be made in writing and in English and shall be (i) made by fax, (ii) made by email (subject to the terms of the CGIF Guarantee Agreement), (iii) delivered by hand or (iv) transmitted by postage prepaid registered mail or by professional courier to the following

addresses, or in the case of change of address, at the new address notified in writing to the other Party:

**The Issuer**

**VONGSAYAM KORSANG CO., LTD.**

Address: 111 Phahon Yothin 8, Phahon Yothin Road  
Sam Sen Nai, Phaya Thai  
Bangkok 10400, Thailand

Telephone: +662 272 6361

Fax: +662 272 6360-2

Email: bondvsk@vongsayam.co.th

Attention: Bond-VSK

**The Bondholders' Representative**

**DAOL Securities (Thailand) Public Company Limited**

Address: 87/2 CRC Tower, 9<sup>th</sup>, 18<sup>th</sup>, 39<sup>th</sup> and 52<sup>nd</sup> Floor  
All Seasons Place, Wireless Road  
Lumpini, Pathumwan Bangkok 10330

Telephone: 02-351-1801

Email: Legal@daol.co.th

Attention: Chief Executive Officer / Head of Legal Department

A notice to the Guarantor and the Registrar in accordance with this Agreement shall be sent to the following address, or in the case of change of address, at the new address notified in writing to the Bondholders' Representative:

**The Guarantor**

**CREDIT GUARANTEE AND INVESTMENT FACILITY,  
A TRUST FUND OF THE ASEAN DEVELOPMENT BANK**

Address: Asian Development Bank Building  
6 ADB Avenue, Mandaluyong City  
1550 Metro Manila, Philippines

Fax: +632- 5322-7661

Email: vsk.thb@cgif-abmi.org

Attention: CEO and Vice President, Operations

Any communication made or delivered by one person to another under this Agreement shall only be effective:

- (i) if sent by fax or email, when received in legible form;
- (ii) if delivered by hand, at the time of delivery; or

- (iii) if sent by post or courier, 48 (forty-eight) hours from the date of delivery to the courier service.

## **11 Assignment**

- 11.1 Unless otherwise permitted by the Transaction Documents, none of the parties may assign, transfer or discharge any of its rights and benefits in or under this Agreement.
- 11.2 This Agreement and all terms and conditions thereof are binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

## **12 Further Assurance**

The Parties agree that they shall cooperate fully to do all further acts and things and execute any further documents as may be necessary or desirable to give full effect to the permitted arrangements contemplated by this Agreement. Without prejudice to the generality of the foregoing, the Issuer shall give to the Bondholders' Representative without delay such further written authorisations, mandates and instruments as it may reasonably require to enable it to perform the services to be performed by it hereunder.

## **13 Waiver**

No failure or delay by any Party hereto or any Issuer Indemnified Person, Bondholders' Representative Indemnified Person or any person to be indemnified hereunder in exercising any right or remedy pursuant to this Agreement or provided by general law or otherwise shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

## **14 Confidentiality**

- 14.1 Subject to Clause 14.2, each Party agrees not to disclose to any person whatsoever any information relating to the business, finances or other matters of a confidential nature of the other Party which it may have obtained as a result of the execution of this Agreement or the other Transaction Documents or of which it may otherwise become possessed. The provisions of this Clause 14 shall survive for 2 (two) years after any termination of this Agreement.
- 14.2 The provisions of this Clause 14 shall not apply to:
  - (i) a disclosure of any information to any person who is a party to any of the Transaction Documents;
  - (ii) a disclosure of any information which is publicly available at the time of its disclosure under this Agreement or becomes publicly available following disclosure under this Agreement other than as a result of a breach of this Agreement by the receiving Party;
  - (iii) a disclosure of any information which was lawfully in the receiving Party's possession prior to disclosure under this Agreement (as can be demonstrated by the recipient's written records or other reasonable evidence) free of any restriction as to its use or disclosure;

- (iv) information which, following disclosure under this Agreement, becomes available to the receiving Party (as can be demonstrated by the receiving Party's written records or other reasonable evidence) from a source other than the disclosing Party, which source is not bound by any obligation of confidentiality to the disclosing Party in relation to such information;
- (v) a disclosure of any information which is required pursuant to any law or order of any court or pursuant to any direction, request or requirement (whether or not enforceable against the disclosing Party) of any central bank or any governmental entity, TSD, the SEC and ThaiBMA (including, but not limited to, any official bank examiners or regulators);
- (vi) a disclosure of information which is required by a Party for an exercise, protection or enforcement of any of its rights under any of the Transaction Documents, or for discharging its duties or obligations under or in connection with the Transaction Documents, as the receiving Party reasonably deems appropriate;
- (vii) a disclosure of any information to any affiliates, professional advisers or auditors who receive the same under a duty of confidentiality similar to this Clause 14;
- (viii) a disclosure of any information with the consent of all the other Party; and
- (ix) a disclosure of any information disclosed to a Successor Bondholders' Representative or their respective professional advisers (provided that it is disclosed on the basis that the recipient will hold it under a duty of confidentiality similar to this Clause 14).

## 15 Personal Data Protection

For the purposes of this Clause 15, "**Personal Data**" means any information relating to a person, which enables the identification of such person, whether directly or indirectly, but not including the information of the deceased persons in particular. This shall include the Personal Data as defined in the Personal Data Protection Act of Thailand B.E. 2562 (2019) and the relevant notification and/or sub-regulations, including official guidelines and interpretation thereof, as may be amended, supplemented or replaced from time to time.

- 15.1** Each Party has made available its privacy notice or policy to specify the purpose for collection, use, disclosure, process and/or cross-border transfer of Personal Data, including the relevant individual's rights as a data subject.

In this regard, each Party agrees and acknowledges such privacy notice or policy of the other Parties is available on their website, which, in respect of the Issuer, at <https://www.vongsayam.co.th/en/privacy-policy> and in respect of the Bondholders' Representative, at [<https://www.daol.co.th/personal-data-protection/privacy-notice>]. Each Party reserves the rights to amend or modify its privacy notice or policy as it deems appropriate without prior consent from the other Parties and shall inform the other Parties of such amendment in writing, post in a prominent position at its premise, or post on its website.

- 15.2** If any Party provides the other Party with Personal Data of any individual as required by this Agreement or as part of the transactions contemplated hereunder, such Party represents to the other Party that, to the extent required by law: (i) it has notified the relevant individual of the purposes for which Personal Data is to be collected, used, disclosed or processed and the other Party's privacy notice in Clause 15.1; and (ii) it has the lawful basis to, or has obtained such individual's consent for (if required), the collection, use, disclosure, process and/or

cross-border transfer of such individual's Personal Data by the Party, in each case, in accordance with or for the purposes of this Agreement or the transactions contemplated hereunder.

## **16 Severability**

If any provision in this Agreement shall be held to be illegal, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be deemed not to form part of this Agreement but the legality, validity and enforceability of the remainder of this Agreement shall not be affected. Each Party shall then use its best endeavours to replace the invalid, illegal or unenforceable provision with a valid provision having effect as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

## **17 Conflict**

In the event of a conflict between the terms of this Agreement and any provisions of the Conditions or the CGIF Guarantee Agreement, such provisions of the Conditions and the CGIF Guarantee Agreement (as the case may be) shall prevail.

## **18 Effectiveness**

This Agreement shall be effective on the date hereof.

## **19 Entire Agreement**

This Agreement constitutes the entire agreement between the Issuer, on the one hand, and the Bondholders' Representative, on the other hand, relating to the transactions contemplated by this Agreement, and supersedes and extinguishes any prior drafts, agreements, undertakings, understanding, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, relating to such matters as have been regulated by the provisions of this Agreement.

## **20 Governing Law and Dispute Resolution**

**20.1** This Agreement and any claim, counterclaim or dispute of any kind or nature whatsoever and any non-contractual obligations arising out of or in any way relating to this Agreement, directly or indirectly, shall be governed by, and construed in accordance with, the laws of the Kingdom of Thailand.

**20.2** Any dispute, controversy or claim of any kind or nature whatsoever arising out of or based upon this Agreement or the transaction contemplated hereby or the breach, termination or validity of this Agreement shall be referred to and finally settled by Thai court.

## **21 Counterparts**

This Agreement may be executed in 2 (two) identical counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

In witness whereof, the Parties hereto have executed this Agreement as of the date first written above.

**The Issuer**

For and on behalf of

**VONGSAYAM KORSANG CO., LTD.**

By: \_\_\_\_\_

Name: [●]

Title: [Authorised Director]

**The Bondholders' Representative**

For and on behalf of

**DAOL SECURITIES (THAILAND) PUBLIC COMPANY LIMITED**

By: \_\_\_\_\_  
Name: Mr. Nattapong Na Ranong  
Title: Authorized Director

By: \_\_\_\_\_  
Name: Mr. Chohnatee Sopark  
Title: Authorized Director

**Schedule 1**  
**The Conditions**